

	<p style="text-align: center;">Resource Management Act 1991 Waimakariri District Council Waimakariri District Plan Plan Change Report</p>	<p style="text-align: center;">Plan Change 15</p>
<p style="text-align: center;">Proposed amendments to the explanations to policies and to change the status for erecting structures in the localised flooding area of the Rural Zone</p>		
<p style="text-align: center;">Waimakariri District Plan, Volume 1, Chapters 12, 14 and 27</p>		

1. **SUMMARY**

- 1.1 The purpose of this report is to provide background to Plan Change 15, provide a planning assessment of the proposed changes, outline the consultation undertaken and assess the proposal under sections 74 and 31 of the Resource Management Act 1991.
- 1.2 Plan Change 15 will introduce a new rule, changing the status of erecting a structure in the localised flooding area from discretionary (restricted) to discretionary. The explanations to Polices 12.1.1.3 and 14.1.1.3 will also be added to, providing a link between the Health, Safety and Wellbeing and Rural Zone Chapters and the Natural Hazards Chapter.
- 1.3 The Plan Change is considered appropriate and necessary as it will enable the decision maker/s to consider all the effects of erecting a structure in a localised flooding area and better fulfil the intention of the Plan's policy framework, therefore better implement the RMA purpose.

2. **PLANNING HISTORY**

- 2.1 Parts of the Waimakariri District are at risk from flooding, water inundation, ponding and potential river breakouts. These areas have been illustrated on the Planning Maps as "localised flooding areas". Building structures in these areas have the potential to risk life, physical resources and/or displace floodwaters to other areas and magnify the extent of effects. Erecting a structure in a localised flooding area needs resource consent as a discretionary (restricted) activity.
- 2.2 There have been a few examples of structures being erected in the localised flooding area with resource consents. Some dwellings have been approved with conditions that platforms or earth mounds be constructed so that the floor height is raised above flood levels. The District has experienced rapid growth in recent years, and there has been increased pressure for structures to be built in localised flooding areas.
- 2.3 Prior to the District Plan being made operative by the Environment Court, concerns had been raised by Resource Management and Regulation Committee (RMR) with regard to structures being erected in localised flood

areas, and the adverse effect artificial floor heights or building platforms can have on rural character and amenity. The rule status discretionary (restricted) does not list rural amenity and character as a matter of discretion to be considered when assessing an application for this activity.

- 2.4 A scoping report (no: 04081800032) on erecting structures in the localised flooding areas was presented to Resource Management and Regulation in September 2004. After some discussion, the Committee passed a resolution to change the Plan by amending the status of the activity from discretionary (restricted) to discretionary. This would enable a full range of matters, including rural amenity and character, to be considered and would better reflect the objectives and policies of the Plan for chapters Natural Hazards; Health; Safety and Wellbeing; and Rural Zones.
- 2.5 The recommendation from the Council was for a plan change so that the District Plan could be made operative without additional delay from the processing of a variation.

3. PLANNING ASSESSMENT

- 3.1 The policy structure of the District Plan is based on the purpose and principals of the Resource Management Act 1991 (RMA), and includes sustainable management of natural and physical resources while providing for the health, safety and well being of people and communities.
- 3.2 The objectives and policies of the Plan provide a strong basis for protecting people and communities from natural hazards, including floodwaters and ponding. The policies seek to avoid floodwaters entering residential, commercial and industrial buildings. The policies also recognise that activities in localised flooding areas can impede and redirect the movement of floodwaters and exacerbate the risks.
- 3.3 Objectives and policies for the Rural Zone, in which the localised flooding area is identified, and for the Health, Safety and Wellbeing chapter, seek to maintain and enhance rural amenities, characterised by paddocks, horticulture, agricultural and farming activities and to avoid the dominance of dwelling houses.
- 3.4 Together, the Rural Zone and Health, Safety and Wellbeing objectives and policies and the localised flooding area policy framework provides robust guidance for resource consent decision making. The current status of the activity however, does not adequately enable those objectives and policies to be fully implemented in an integrated manner.
- 3.5 The status of resource consent for structures in a localised flooding area is discretionary (restricted). The matters for discretion are narrow, and do not enable effects on the amenity of the Rural Zone to be considered, and therefore do not adequately canvas the issues identified in the Plan's policy framework.
- 3.6 In order to recognise and adequately implement the objectives and policies associated with erecting structures in the localised flooding area in the Rural

Zone, unrestricted discretion is desirable. This will enable the decision maker/s to consider all the effects of erecting a structure in a localised flooding area and better fulfil the intention of the Plan's policy framework. The status change will allow for more holistic and integrate decision making, and therefore better implement the RMA purpose.

- 3.7 In addition the current standard requiring discretionary (restricted) resource consent for structure in the localised flooding area has an exemption from the need for affected party approvals. Better decision making would be possible if affected parties could be identified and considered.
- 3.8 This Plan Change (Appendix 1) will add a new paragraph to each of the explanations to Policies 12.1.1.3 and 14.1.1.3 to provide better linking between the Health, Safety and Wellbeing and Rural Chapters with the Natural Hazards Chapter. The Plan Change will also introduce new Rules 27.3 and 27.3.1, which will provide for erecting structures in a localised flooding area in the Rural Zone as a discretionary activity.

4. CONSULTATION

- 4.1 The Council has consulted with:

External

- Environment Canterbury

Internal

- Planning Unit
- Manager Resource Management and Regulation
- Manager District Plan
- Resource Management Planners

Other affected parties will be given the opportunity to make submissions during the Plan Change process.

- 4.2 On public notification of the Plan Change, the submission, further submission and hearing process will be activated and the wider community will be provided the opportunity to comment on the Plan Change. This process includes the ability to appeal to the Environment Court.

5. MATTERS TO BE CONSIDERED (See Table 1)

- 5.1 Section 74 of the Resource Management Act requires that the Council, when considering a Plan Change, have regard to its functions under section 31, the provisions of Part II of the Act, and its duties under section 32.
- 5.2 Section 31 of the Act requires that a territorial authority have the following functions in giving effect to the Act:

- Integrated management of effects of the use, development or protection of land;
- Control of the effects of the use, development or protection of land;
- Control and mitigation of the effects of noise;

- Control or activities on the surface of water.

- 5.3 Plan Change 15 provides for the integrated management of the effects of erecting structures in the localised flooding area in a Rural Zone, and seeks to enable the effects of such activities to be managed in an integrated manner, thereby meeting the Council's obligations under section 31.
- 5.4 Part II sets out the purpose and principals of the Act, including the sustainable management of natural and physical resources, efficient use and development of natural and physical resources, maintenance and enhancement of amenity values and the principals of the Treaty of Waitangi. The Plan Change addresses matters set out in section 5 by managing environmental effects, and managing the use, development and protection of resources to enable people and communities to provide for their health and safety. The Plan Change will enable the quality of the rural environment and the amenity of the Rural Zone to be maintained and enhanced, and will not be contrary to the principals of the Treaty.
- 5.5 The Plan Change is consistent with the Canterbury Regional Policy Statement and Regional Plans. Policies 16.2 and 16.3 of the Regional Policy Statement devolve the responsibility of hazard management to District Councils and require a precautionary approach to managing natural hazards. There are no other relevant statutory documents of which regard should be made.

6. CONCLUSION

- 6.1 The purpose of the Plan Change is to fortify the District Plan in relation to the environmental effects associated with building structures in a localised flooding area in the Rural Zone. The changes will enable the policy framework of the Plan to be achieved in an integrated manner.
- 6.2 Plan Change 15 meets the purpose and principals of the Resource Management Act 1991, is consistent with sections 31 and 74 of the Act and is not inconsistent with the Regional Policy Statement.
- 6.3 Notifying the Plan Change will achieve sustainable management of natural and physical resources.

Table 1: Matters to be considered by the Waimakariri District Council when undertaking Plan Change 15 to the Waimakariri District Plan.

	Proposed Plan	Plan Change 15
<p>In fulfilling its functions under section 31 of the Act [s74]:</p> <ul style="list-style-type: none"> a. Integrated management of effects. b. Control of effects of the use, development or protection of land, especially relating to natural hazards and hazardous substances. d. Control and mitigation of the effects of noise. e. Control of the effects of activities in relation to the surface of waters. f. Other function specified in the Act. 	<p>Current rules address:</p> <ul style="list-style-type: none"> a. No b. Yes – in part c. NA e. NA f. NA 	<p>Plan Change rules address:</p> <ul style="list-style-type: none"> a. Yes b. Yes d. NA e. NA f. NA
<p>The provisions of Part II of the Act [s74]: In achieving the sustainable management of natural and physical resources in the District.</p> <p>Relevant sections:</p> <p>5 a,b,c 6 a 7 b,c,f,i 8</p>	<p>Current rules address sections:</p> <p>5 a, b, c (in part) 6 a (in part) 7 b, i 8 NA</p>	<p>Plan Change rules address sections:</p> <p>5 a, b, c 6 a 7 b, c, f, i 8 NA</p>
<p>In accordance with any Regulations [s74]:</p>	<p>NA</p>	<p>NA</p>
<p>Must State [s75(1)]:</p> <ul style="list-style-type: none"> a. Objectives for the District. b. Policies to implement the objectives. c. Rules to implement the policies. 	<p>States:</p> <p>a, b</p>	<p>States:</p> <p>a, b, c</p>
<p>Shall have regard to [s74(2)(a),(b), (c) & 2A]:</p> <ul style="list-style-type: none"> a. Any proposed regional policy statement or regional plan on a matter of regional significance in respect of its district. b. Any: <ul style="list-style-type: none"> i. Management plans and strategies prepared under other Acts; and ii a Relevant entry in the Historic Places Register. iii Regulations relating to the conservation or management of taiapure or fisheries. c. Consistent with plans or proposed plans of adjacent territorial authorities. 2A. Any relevant planning document recognised by an iwi authority, and lodged with the authority, to the extent that its content has a bearing on resource management issues of the district. 	<p>Has regard to:</p> <p>a Yes bi NA biia NA biii NA c Not inconsistent 2A NA</p>	<p>Has regard to:</p> <p>a Yes bi NA biia NA biii NA c Not inconsistent 2A NA</p>

APPENDIX 1

Proposed Amendments to the District Plan

APPENDIX 1: PROPOSED AMENDMENTS TO THE DISTRICT PLAN

Add the following paragraph to the end of the explanation under Policy 12.1.1.3;

In order to avoid the effects of dwellings dominating land and having an adverse effect on rural amenity and rural character, methods employed to avoid the effects of floodwaters on structures are assessed as a discretionary activity. Policy 12.1.1.3 recognises that dwellings can dominate land, and artificially raising ground heights by earth mounds, poles, piles or other methods are not always appropriate in the Rural Zone.

Add the following paragraph to follow on from the fourth paragraph of the explanation under Policy 14.1.1.3;

Policy 14.1.1.3 recognises that maintenance and enhancement of natural features are an integral aspect of the Rural Zone. This is an important consideration when assessing structures in the localised flooding area that propose to employ methods such as earth mounding, poles or piles to avoid the effects of flood waters on property.

Amend Rule 27.2.2 as follows:

27.2.2 Except as provided by Rule 27.3, or where exempted under Rule 27.1.2, any land use that does not comply with one or more of the conditions under Rule 27.1.1 is a discretionary activity (restricted).

Add a new Rule 27.3 to read as follows:

27.3 Discretionary Activities

27.3.1 Any land use which does not comply with Rule 27.1.1.15 (construction of any structure in a localised flooding area) is a discretionary activity.

CROSS REFERENCE: Policies 12.1.1.3, 14.1.1.3 and Chapter 8 Natural Hazards