

	<p style="text-align: center;">Resource Management Act 1991 Waimakariri District Council Waimakariri District Plan Section 32 Report</p>	<p style="text-align: center;">Plan Change 26</p>
<p style="text-align: center;">Vehicle Access to Ashley/Rakahuri River Mouth</p>		

This report assesses proposed Plan Change 26 in terms of Section 32 of the Resource Management Act 1991; it should be read in conjunction with the Plan Change Report.

Section 32 requires Territorial authorities to:

- A. Examine:
 - 1. The extent to which each objective (in the plan) is the most appropriate way to achieve the purpose of the Act, and
 - 2. Whether, having regard to their efficiency and effectiveness, the Policies, rules, or other methods are the most appropriate for achieving the Objectives.

- B. Take into account in the course of that evaluation:
 - 1. The likely benefits and costs of Policies, Rules, or other Methods, and
 - 2. The risk of acting or not acting if there is uncertain or insufficient information.

1.0 **THE PURPOSE OF THE ACT**

The purpose of the Resource Management Act 1991 is contained in Section 5 of the Act and is stated as being:

‘.....to promote the sustainable management of natural and physical resources’.

“...sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well being, and for their health and safety while –

- (a) *Sustaining the potential of natural and physical resource (excluding minerals) to meet the reasonable foreseeable needs of future generations; and*
- (b) *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

The Waimakariri District Plan sets out the resource management issues of the District. Relative to the identified issues are appropriate Objectives and Policies. The Objectives and Policies in the District Plan should represent the most suitable mechanisms by which to promote the sustainable management of natural and physical resources within the District, and thereby to achieve the purpose of the Act. If they do not, it is appropriate to change them so that they do.

In addition Sections 6 (Matters of national importance) and 7 (Other matters) set out certain matters that are to be addressed in the process of achieving sustainable management of natural and physical resources.

2.0 EXTENT TO WHICH THE RELEVANT OBJECTIVE ACHIEVES THE PURPOSE OF THE ACT

The relevant Objectives in the District Plan are Objectives 7.1.1 and 7.2.1, which state:

7.1.1 The protection and enhancement of the natural character of the coastal environment.

7.2.1 The maintenance and enhancement of existing legal public access to and along the landward edge of the Coastal Marine Area unless conservation values, cultural values, the rights of private property owners or public safety are significantly compromised.

Objectives 7.1.1 and 7.2.1 collectively provide for the community's social and cultural wellbeing, and health and safety while safeguarding the life supporting capacity of, and avoiding or mitigating adverse effects on, ecosystems in the coastal environment. They provide for the health, safety and wellbeing of the community by seeking to avoid or mitigate potential adverse environmental effects on what to many is an iconic and highly valued scenic and recreational area, and by providing the framework to stop access to an unsafe area. This approach addresses the relevant core factors of Section 5 of the Act, and specifically Sections 6(a), 6(d), 7(b), 7(d), 7(f), and is therefore considered an appropriate approach to achieve sustainable management of the coastal environment resource within the District (see Table 1).

2.1 Appropriateness of the Policies, Rules, or Other Methods in achieving the Objective.

In assessing whether the Policies, Rules, or Other Methods are appropriate, the Council must have regard to the efficiency and effectiveness of those Policies and rules in achieving the Objective:

- *Effectiveness* refers to the chosen option being a practical and workable solution with the potential to generate desired environmental, economic and social outcomes, as determined by the Objectives of the District Plan.
- *Efficiency* refers to the ratio of benefits to costs of a particular option. The option that produces the greatest level of environmental, economic and social net benefits to the community is the most efficient option. Efficiency is measured in both monetary and non-monetary terms.

The relevant Policies in the District Plan are Policies 7.1.1.1, 7.1.1.3, 7.1.1.5, 7.2.1.2 and 7.2.1.3.

Policy 7.1.1.1: Avoid, remedy or mitigate the adverse effects of subdivision, use and development, and public access, on the integrity, functioning and resilience of coastal environment habitats, ecosystems and coastal processes.

Policy 7.1.1.3: Avoid, remedy or mitigate the adverse effects of subdivision, use and development on the scenic, recreational, historic, scientific, and open space values, and wahi taonga areas in the coastal environment.

Policy 7.1.1.5: Maintain and enhance the sand dune ecosystems and the ecological integrity of areas of significant indigenous vegetation and habitats of indigenous fauna in the coastal environment.

Policy 7.2.1.2: Existing opportunities for access to and along the landward edge of the Coastal Marine Area should be maintained and where appropriate, access to the Coastal Marine Area should be enhanced.

Policy 7.2.1.3: Legal access to and along the Coastal Marine Area should only be restricted where it is necessary to protect significant natural values, sites, resources, and wahi taonga of significance to Maori, public health or safety.

An analysis of the appropriateness of the Policies, Rules and Other Methods in achieving the Objectives of the District Plan is set out in Table 2. Overall, the Policies, Rules and other Methods are appropriate in achieving the Objectives as set out in the Plan. However, it is considered that recent changes to access arrangements in the Ashley/Rakahuri River mouth area have resulted in outcomes that will not achieve the public access component of the Objectives. An additional Rule could be provided which would more efficiently and effectively provide for public access to the Ashley/Rakahuri River mouth, while also ensuring the natural character of the coastal environment and ecosystems contained within it are protected.

The current Rule (26.2.1) in the District Plan states:

In the coastal environment the use of any motorised vehicle on any active dune, or on the wetland margins of water bodies, is a discretionary activity.

While the Policies and this current Rule appropriately achieve the Objectives in a general sense, the existing vehicle access arrangements in the Ashley/Rakahuri River mouth area, combined with the boundaries and location of the Coastal Marine Area, mean that vehicle access to the Ashley/Rakahuri River mouth is currently, for all practical purposes, unavailable. This results in Objective 7.2.1 and Policy 7.2.1.2 not being met in this particular location.

The proposed Rules will read as follows:

26.1.1.1 The use of any motorised vehicle on any active dune within the identified vehicle track shown in Figure 26.1 is a permitted activity.

26.2.1 In the coastal environment the use of any motorised vehicle on any active dune, or on the wetland margin of water bodies, that does not comply with Rule 26.1.1.1, is a discretionary activity.

These proposed rules will achieve the outcomes sought by the relevant Objectives and Policies by ensuring previously existing access opportunities are provided for, while also identifying a fixed access route for vehicles which avoids ecologically sensitive or significant areas, and areas particularly susceptible to erosion or instability.

3.0 THE PLAN CHANGE - EVALUATION OF OPTIONS

3.1 Benefits and costs

The Council is required to evaluate the proposed Plan Change in terms of the potential costs and benefits to the community (s32(4)(a)).

Table 3 contains an analysis of the potential benefits and costs of vehicle access to the Ashley/Rakahuri River mouth relative to the relevant Objectives and Policies of the District Plan.

Option 2 is considered to provide the greatest benefit to cost ratio because it will provide legal access for people to the coastal area, but will ensure that access is restricted to a particular location. The potential outcome is the provision of vehicle access while environmental damage will be avoided or mitigated.

Option 1 is considered to provide a high level of protection for the natural environment, but an unnecessarily high social cost. The proposed vehicle route through the dunes does not impact on ecologically sensitive areas, and the relevant objectives and policies are clear that where adverse effects can be avoided, existing opportunities for public access should be maintained, and where appropriate, enhanced.

Option 3 is likely to result in a high level of environmental cost coupled with a high level of social and potentially economic costs. The high costs will result from physical damage to the ecosystem, flora and fauna, and the potential for large numbers of vehicles accessing the coastal area from a large number of access points.

Overall, the benefits of the Plan Change are considered to be greater than the costs.

3.2 The risk of acting or not acting

The Council is required to evaluate the risk of acting or not acting if there is uncertain or insufficient information (s32(4)(b)).

The key uncertainty in relation to providing for vehicle access to the Ashley/Rakahuri River mouth is the difficulty of ensuring people drive only along the identified access track within the active dune area, or access the dune area from the coast. However, this uncertainty can be removed if the route selected is the most logical and/or some form of physical constraint is put in place, for example, fences, and an effective method of monitoring and enforcement is adopted, for example a ranger or warden. An additional method to reduce the level of uncertainty is to limit access via a locked gate and require all those with vehicle access to obtain a permit. This would provide opportunities for the provision of information relating to the requirements to, and reasons for, keeping vehicles within the access corridor, and also for removal of the access right if vehicles are used in an environmentally harmful manner.

Therefore, the risk of undertaking the Plan Change is that there may be some adverse effects on the natural character, ecology and stability of the active dune area. However, the adverse effects are likely to be very restricted in both nature and extent given the relatively narrow access corridor. Ongoing enforcement and education will also contribute to prevention of vehicles accessing the dunes from the seaward side after accessing this area via the approved access route.

The risk of not undertaking the Plan Change is that other illegal points for vehicle access may be identified and used. This may result in more widespread damage to the natural character, ecology and stability of the active dune area. In addition, ongoing conflict between those administering and enforcing the District Plan provisions and those wishing to access the Ashley/Rakahuri River mouth area by vehicle, particularly for whitebaiting, will continue with associated costs and lack of beneficial outcomes. Overall it is considered not undertaking the proposed Plan Change will not achieve the outcomes sought in the Objectives and Policies, and will not achieve section 6(d) and risk not achieving section 6(a).

3.3 Is the Plan Change method an appropriate means to achieve efficient and effective outcomes?

The Council is required to determine whether, having regard to efficiency and effectiveness, the Rule change is appropriate to achieve the Objectives of the District Plan.

In order to ensure and enable comparative analysis, three alternative rule options have been proposed. Table 3 contains a comparative analysis of the efficiency and effectiveness of these options.

The option considered to best achieve Objectives 7.1.1 and 7.2.1 and Policies 7.1.1.1, 7.1.1.3, 7.1.1.5, 7.2.1.2 and 7.1.2.3, and therefore to be the most appropriate, is Option 2. This is because it is the option most likely to achieve both the efficient access to the coastal environment and effective protection of the ecology of the area.

Option 1 is considered undesirable as it will not provide for access to the Coastal Marine Area and will potentially generate adverse effects to the active dune area in other locations. Option 3 is considered to be neither effective nor efficient because it will not achieve the outcomes sought in either Objective 7.1.1 or 7.2.1, and would not meet the requirements of Policies 7.1.1.1, 7.1.1.3, 7.1.1.5 or 7.2.1.3. Policy 7.2.1.2 may be met by Option 3 due to the unrestricted opportunities for vehicle access.

TABLE 1: ANALYSIS OF THE EXTENT TO WHICH THE RELEVANT OBJECTIVE ACHIEVES THE PURPOSE OF THE ACT

Section 5	Management of the use, development or protection of natural and physical resources.	Social, economic and cultural well being.	Protecting health and safety.	Sustaining the potential of natural and physical resources.	Safeguarding the life-supporting capacity of air, water, soil and ecosystems.	Avoiding, remedying or mitigating adverse effects on the environment.			
Objective 7.1.1	✓	✓	✓	✓	✓	✓			
Objective 7.2.1	✓	✓	✓	✓	✓	✓			
Section 6	Preservation of the natural character of the coastal environment, wetlands, lakes and rivers and their margins.	Protection of outstanding natural features and landscapes.	Protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.	Maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers.	Maintaining the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.	Protection of historic heritage.	Protection of recognised customary activities.		
Objective 7.1.1	✓	✓	✓	NA	NA	NA	✓		
Objective 7.2.1	✓	✓	✓	✓	✓	NA	✓		
Section 7	Kaitiakitanga / the ethic of stewardship.	Efficient use and development of natural and physical resources.	Efficiency of the end use of energy.	Maintenance and enhancement of amenity values.	Intrinsic values of ecosystems,	Maintenance and enhancement of the quality of the environment	Any finite characteristics of natural and physical resources.	The effects of climate change.	The protection of the habitat of trout and salmon.
Objective 7.1.1	NA	✓	NA	✓	✓	✓	NA	NA	✓
Objective 7.2.1	NA	NA	NA	NA	NA	✓	NA	NA	NA
Section 8	Takes into account the principles of the Treaty of Waitangi.								
Objective 7.1.1	NA								
Objective 7.2.1	NA								

TABLE 2: ANALYSIS OF EFFICIENCY AND EFFECTIVENESS OF POLICIES, RULES, OR OTHER METHODS IN ACHIEVING THE OBJECTIVE

Part 1: Analysis Criteria – Policies

	Contributes to maintenance of amenity values.	Contributes to maintenance of the quality of the environment	Contributes to protecting health, safety and well being of people and communities	Contributes to avoiding or mitigating adverse effects of access on coastal environment habitats, ecosystems and coastal processes.
Policy 7.1.1.1	✓	✓	NA	✓
Policy 7.1.1.3	✓	✓	✓	✓
Policy 7.1.1.5	✓	✓	NA	✓
Policy 7.2.1.2	NA	✓	✓	✓
Policy 7.2.1.3	✓	✓	✓	✓

Part 2: Analysis Criteria – Rules and Other Methods

	Dependable	Acceptable	Enforceable	Monitoring feasible/affordable	Practically feasible	Minimal time required to take effect	Low financial cost of implementation	Equitable
Option 1 – Existing Rule	✓	✗	✓	?	✓	✓	✓	✓
Option 2 – Insert new permitted standard rule for vehicle access within the active dune area	✓	✓	✓	✓	✓	✓	✓	✓
Option 3 – No rule relating to vehicle access in the active dune area	NA	✗	NA	NA	✓	✓	✓	✓
Enforcement and Abatement notices	✓	✗	✗	✗	✗	✓	✗	✗
Liaison	?	?	NA	NA	✓	✗	✗	?
Monitoring	✓	✓	NA	NA	✓	✗	?	✓

TABLE 3: Environmental benefits and costs of Options relative to the Objectives and Policies of the District Plan.

APPROACH	Environmental Benefits	Environmental Costs	Economic & Social Benefits	Economic & Social Costs
OPTION 1 – Existing rule	Potential adverse effects of motorised vehicle activity on active dune areas are avoided, remedied or mitigated.	None	Provides for maintenance or enhancement of the natural qualities of the coastal environment and recreation.	Reduction in recreational opportunities due to access difficulties.
OPTION 2 – Provide identified and restricted access point to Ashley/Rakahuri River mouth	Potential adverse effects of motorised vehicle activity on active dune areas are avoided, remedied or mitigated.	May result in some environmental damage within the immediate area of the vehicle access point.	Will provide for vehicle access and therefore increased and more easily accessed recreational opportunities.	May result in adverse effects to coastal zone amenity, natural values, character, ecological integrity, habitats, coastal processes, and scenic values in the immediate area of the vehicle access point. May result in an unusable access point at some time in the future.
OPTION 3 – No rule constraining vehicle access in the active dune area	None	Potential for extensive damage to occur to the active dune area. Adverse effects to natural character, amenity, ecological integrity, habitat and coastal processes would not be avoided, remedied or mitigated.	People would be able to access the coastal zone with no impediments to the use of vehicles.	Adverse effects to coastal zone amenity, natural values, character, ecological integrity, habitats, coastal processes, and scenic values would not be avoided, remedied or mitigated

4.0 CONCLUSION

Sustainable management of natural and physical resources is dependent on efficient and effective management of those resources. Objectives 7.1.1 and 7.2.1 and the associated relevant Policies set the framework for effective and efficient management of the coastal area and require an outcome that provides for access while avoiding, remedying or mitigating ecological effects. This does not result in a requirement to unduly restrict access, or in particular vehicle use, in the coastal environment. Rather it requires that any proposal be assessed appropriately, and this assessment is currently triggered by the use of a motorised vehicle on any active dune. However, in order to more efficiently and effectively meet the intention of the Objectives and Policies, this Plan Change provides for vehicle use in the active dune area as a permitted activity provided the use occurs along defined paths with low ecological value where environmental impacts will be avoided, remedied or mitigated.

While the current structure of the District Plan achieves an appropriate outcome, other approaches in certain, defined areas may achieve a more appropriate benefit/cost ratio, and a more effective, or more efficient outcome.

The proposed provision of vehicle access through the active dune area to the coastal area of the Ashley/Rakahuri River mouth, as set out in Option 2, is considered to be such a case. It is considered that a defined vehicle access path through the active dune area can be provided which will avoid, remedy or mitigate the potential adverse effects of vehicle use in this particular area. This approach is also likely to result in a net social benefit due to the increased ease of access to the Ashley/Rakahuri River mouth for recreational purposes.