Resource Management and Regulation Committee

Tuesday 15 March 2016

1.00pm

In the

Council Chambers,
215 High Street, Rangiora

Members:

Cr Caroline Faass (Chairperson)
Cr Kirstyn Barnett
Cr Peter Allen
Cr Neville Atkinson
Cr Jim Gerard
Mayor David Ayers (ex officio)
The Chairman and Members  
RESOURCE MANAGEMENT AND REGULATION COMMITTEE

A meeting of the RESOURCE MANAGEMENT AND REGULATION COMMITTEE will be held in the COUNCIL CHAMBER, 215 HIGH STREET, RANGIORA, on TUESDAY 15 MARCH 2016 at 1.00PM.

Adrienne Smith  
Committee Advisor

Recommendations in reports are not to be construed as Council policy until adopted by the Council

BUSINESS

1. APOLOGIES

2. CONFLICTS OF INTEREST

Conflicts of interest (if any) to be reported for minuting.

3. CONFIRMATION OF MINUTES

3.1 Minutes of a meeting of the Resource Management and Regulation Committee held on 16 February 2016

RECOMMENDATION

THAT the Resource Management and Regulation Committee:

(a) Confirms as a true and correct record the minutes of a meeting of the Resource Management and Regulation Committee held on 16 February 2016.

4. MATTERS ARISING FROM THE MINUTES

5. PRESENTATION
6. REPORTS

6.1 Accelerated District Plan Review – Activities-based and Effects-based District Plan Approaches – Bev Bray – (Senior Policy Planner)

RECOMMENDATION

THAT the Resource Management and Regulation Committee

(a) Receives report no. 160210010374

(b) Approves a move to an activities-based plan during the plan review process to provide for greater certainty and ease of use for users of the District Plan.

6.2 Telescopic Pool Covers: Fencing of Swimming Pools Act 1987 – Stephanie O’Hara (General Inspector)

RECOMMENDATION

THAT the Resource Management and Regulation Committee:

(a) Receives report No. 160301017471.

(b) Resolves that in principle and as guidance, telescopic pool enclosures can be assessed by the exemption hearing committee in a similar way to lockable spa pool covers.

(c) Notes that the hearing committee can place conditions on any exemption.

(d) Notes that the Fencing of Swimming Pools Act 1987 does not have provision to grant general exemptions and each application would still be considered on its merits.

7. PORTFOLIO UPDATES

7.1 District Plan - Councillor Kirstyn Barnett

7.2 Environmental Health and Civil Defence – Councillor Caroline Faass

7.3 Kaiapoi and Rangiora Town Centres – Councillor Neville Atkinson

8. QUESTIONS

9. URGENT GENERAL BUSINESS
STAFF BRIEFING

At the conclusion of the meeting, there will be staff briefing on the following:

1. Natural Hazards Plan Change and Kaiapoi – Trevor Ellis
2. Harris Plan Change and fences – Matt Bacon
3. Contestable Fund – ring fence or allocate unclaimed funds – Matt Bacon
1. APOLOGIES

An apology was received and sustained from Councillor J Gerard.

2. CONFLICTS OF INTEREST

No conflicts of interest were noted.

3. CONFIRMATION OF MINUTES

3.1 Minutes of a meeting of the Resource Management and Regulation Committee held on 21 July 2015

Moved Councillor Allen seconded Councillor Barnett

THAT the Resource Management and Regulation Committee:

(a) Confirms as a true and correct record the minutes of a meeting of the Resource Management and Regulation Committee held on 21 July 2015.

CARRIED

3.2 Minutes of a meeting of the Resource Management and Regulation Committee held on 18 August 2015

Moved Councillor Allen seconded Councillor Atkinson

THAT the Resource Management and Regulation Committee:

(a) Confirms as a true and correct record the minutes of a meeting of the Resource Management and Regulation Committee held on 18 August 2015.

CARRIED
4. **MATTERS ARISING FROM THE MINUTES**

There were no matters arising.

5. **PRESENTATION**

There were no presentations.

6. **REPORTS**


Mrs Beckingsale presented this report, seeking to revoke the District Plan Change – Recovery of Council’s Costs Policy, is deemed to be surplus to requirement. Fees and charges for District Plan changes are now covered in the Resource Management Act 1991 and charges are reviewed and set through the Annual Plan Process.

The report also noted the management team have approved the host Responsibility Policy which reflects the requirements of the Sale and Supply of Alcohol Act 2012.

Moved Councillor Allen seconded Councillor Atkinson

**THAT** the Resource Management & Regulation Committee recommends:

**THAT** the Council:

(a) Receives report No. 160113002006.

(b) Revokes the District Plan Changes – Recovery of Council’s Costs Policy

(c) Notes the Management Team have approved the Host Responsibility Policy

**CARRIED**

6.2 **Appointments of Malcolm Johnston and Murray Sinclair a CDEM Local Controllers – Brennan Wiremu (Emergency Management Advisor)**

Mr Brennan Wiremu presented this report, seeking approval to appoint additional CDEM Local Controllers. Currently the Council has four appointed CDEM Local Controllers but normally maintains five. This number has been sufficient to cover previous events in the District. Mr Wiremu noted having these two additional Local Controllers would enhance succession planning for the role. It is considered that the two candidates are well experienced in the field of civil defence and crisis management.

Moved Councillor Atkinson seconded Councillor Allen

**THAT** the Council:

(a) Receives report No. 140331032488
(b) **Appoints** Malcolm Johnston as a CDEM Local Controller

(c) **Appoints** Murray Sinclair as a CDEM Local Controller.

**CARRIED**

Councillor Atkinson agreed that these are both quality candidates for this position.

Mayor Ayers noted that it is important that Murray Sinclair is given the opportunity to familiarise himself with Council staff, especially those who would be involved in an emergency situation, prior to an emergency event occurring.

### 6.3 Draft Submission to the Local Government and Environment Select Committee on the Resource Legislation Amendment Bill – Geoff Meadows (Policy Manager)

Mr Geoff Meadows presented this report, seeking the approval of the Committee that this submission goes to Council for approval.

Mr Meadows advised he had attended a seminar on the Bill recently and has been working with other Canterbury Councils on a joint submission, noting that there is a fair amount of common ground with all these Councils. It was noted that there is a big cost impost to Councils having to amend their current District Plan.

Councillor Atkinson, re fixed charges, questioned should there be something in the submission regarding the legalities of these. Mrs Caseley said the fixed charge is for the cost of the Commissioner, not for the cost of the Hearing. The concern that she has on behalf of the Council, is that if there is a fixed fee for such Commissioners, it may create a shortage as some Commissioners may not make themselves available for hearings at the fee that is fixed. Any excess charges, if above the fixed fee, come under Administrative charges.

There was discussion on Section 3.3 of the Submission – National Planning Template and the concerns noted of the costs and inefficiency involved in amending and notifying existing documents to be consistent with the proposed requirements. An alternative is to amend current plans during the statutory plan review process over a longer timeframe. It was also noted that Canterbury Councils (through the RMA decision making process) reflect their communities and this could lead to differences between Councils approach for similar issues. It was noted that judgement calls will always need to be made.

Mr Palmer said a paper was brought to the Chief Executives forum, for which there was brief discussion, with further consideration to be given to this.

Moved Councillor Allen seconded Mayor Ayers

**THAT** the Council:

(a) **Receives** report No. 1601190035531

(b) **Endorses** the attached submission and;

(c) **Recommends** to Council the approval of the submission.

**CARRIED**
Councillor Allen noted a number of interesting proposed changes have been introduced and supports the Blue Skies approach.

Mayor Ayers said how the RMA is changed is very important to the country, is fundamental to the way our country operates. Mayor Ayers hopes that out of this process, some partnerships can emerge, so that every change of government does not impact on this.

Councillor Atkinson, in supporting the submission, has concerns with the changes with the RMA, which can lead to its interpretation and delivery being more confused. The RMA is there to help people, though not all people see it that way. Councillor Atkinson suggests that any change to the RMA will make the process more difficult and complicated and cost more.

Councillor Barnett expressed thanks to the staff for sifting through this information and presenting the submission. It was noted that there are more and more costs being pushed back on local government, rather than pushed on to the end user where it should be. Councillor Barnett would like to see more collaboration with local Canterbury Councils to have consistency in the district and region as a whole, though did acknowledge the difference between the urban environment of Christchurch and the rural environments in Selwyn and Waimakariri. Councillor Barnet believes there is serious undermining of the RMA.

Councillor Faass also thanked staff for their work on this submission.

7. MATTERS TO BE CONSIDERED WITH THE PUBLIC EXCLUDED

Section 48, Local Government Official Information and Meetings Act 1987

Moved Councillor Allen seconded Councillor Atkinson

THAT the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution, are as follows:

<table>
<thead>
<tr>
<th>Item No</th>
<th>Minutes/Report of:</th>
<th>General subject of each matter to be considered</th>
<th>Reason for passing this resolution in relation to each matter</th>
<th>Ground(s) under section 48(1) for the passing of this resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.1</td>
<td>Minutes of the Public Excluded portion of the meeting of the Resource Management and Regulation Committee of 21 July 2015</td>
<td>Confirmation of minutes</td>
<td>Good reason to withhold exists under Section 7</td>
<td>Section 48(1)(a)</td>
</tr>
</tbody>
</table>

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987, and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public are as follows:

<table>
<thead>
<tr>
<th>Item No</th>
<th>Reason for protection of interests</th>
<th>Ref NZS 9202:2003 Appendix A</th>
</tr>
</thead>
</table>
7.1 Protection of privacy of natural persons
To carry out commercial activities without prejudice

A2(a)
A2(b)ii

CARRIED

Closed Meeting

Resolution to resume in Open Meeting

Moved Councillor Atkinson seconded Councillor Allen

THAT open meeting resumes and the business discussed with the public excluded remains public excluded.

CARRIED

Open Meeting

8. PORTFOLIO UPDATES

8.1 District Plan - Councillor Kirstyn Barnett

No further update.

8.2 Environmental Health and Civil Defence – Councillor Caroline Faass

Councillor Faass noted thanks to the staff for the prompt email messages that came out following the earthquakes on Sunday. This was well received and appreciated.

8.3 Kaiapoi and Rangiora Town Centres – Councillor Neville Atkinson

Councillor Atkinson noted that the progress of the town centres is evident to see. It was noted that though there is general community approval of the work currently underway to improve the main street in Kaiapoi, there has been concerns raised from some business owners that the disruption is impacting on their businesses. These concerns were acknowledged as valid but the work is progressing to the planned timetable. Councillor Atkinson noted that there is good progress for the future of both towns.

9. QUESTIONS

There were no questions.

10. URGENT GENERAL BUSINESS

There was no urgent general business.

There being no further business, the meeting closed at 1.46pm.

CONFIRMED

___________________________
Chairman

___________________________
Date
STAFF BRIEFING

At the conclusion of the meeting, Trevor Ellis conducted a staff briefing on the District Plan Review.
1. SUMMARY

1.1 The purpose of this report is to recommend to the Resource Management and Regulation Committee that the accelerated District Plan Review changes from the current effects-based plan to an activity based plan.

1.2 Most ‘first generation’ district plans are either effects-based, activities-based, or a hybrid of these approaches. Generally, effects based plans are more complex, provide greater flexibility by setting out the control or standards that need to be met and closely reflect the effects-based nature of the Resource Management Act 1991. Activities based plans provide greater certainty for the community and developers by effectively listing activities, and are therefore more concise, easier to use, and also meet the purpose of the Act.

1.3 Moving from an effects-based approach to an activities-based approach would enable the plan to meet the outcome of being clearer, more concise, and easily understood. A key benefit is to know whether a proposed activity is anticipated or not, which allows for enhanced strategic planning to be factored into the plan. This approach also aligns with the second generation plans of neighbouring territorial authorities allowing for greater consistency in approach.

Attachments:

i. Examples of effects and activities-based plans.

2. RECOMMENDATION

THAT the Resource Management and Regulation Committee:

(a) Receives report No 160210010374.

(b) Approves a move to an activities-based plan during the plan review process to provide for greater certainty and ease of use for users of the District Plan.
3. **ISSUES AND OPTIONS**

3.1 **Types of District Plan - Background**

3.2 First generation District Plans developed under Resource Management Act 1991 (RMA or the Act) generally fall into one or more of the following types:

- Area-based plans – comprising a series of sub-plans based on geographical areas.
- Self-contained zone plans – similar to a series of small plans that can be read without cross referencing.
- Activity-based plans – focus on known activity types or clusters of activities and their management. These plans often combine with zone or topic-based plan formats. This approach recognises that certain effects are known to be associated with certain activities and lists specific activities as permitted or requiring resource consent. Activities are defined where necessary. Permitted activities still need to comply with performance standards (such as height and setbacks) and district wide rules (such as heritage or transport).
- Effects-based plans - focus on management of environmental effects rather than the activities that generate them, and may be based around issues e.g. water, health and safety. An effects based plan does not list specific permitted activities, but sets out standards that must be met to achieve permitted status.
- Hybrid plans (the most common type of plan) - these may be a mixture of zone-based and activity-based organisation styles and a mixture of effects and activity based provisions.

3.3 The Waimakariri District Plan (a first generation plan operative in 2005) is a ‘hybrid’ plan that is organised by both zones and issue, with mainly effects-based planning provisions.

3.4 **Effects-Based Plans - Advantages and Disadvantages**

3.5 Effects-based plans are consistent with the philosophy of the RMA, which is an effects based statute. Such plans also provide high levels of flexibility for activities on specific sites, providing their effects are managed in accordance with the plan.

3.6 The disadvantages of this style are that:

- it can be difficult to determine whether an activity is permitted because activities need to comply with all effects listed in different parts of the plan, including consideration of rules for exemptions to standards and listings of effects that trigger resource consent;
- there may be a lack of certainty for applicants where they do not understand or have information available on all the effects that relate to their proposal;
- in order to ensure robust management of development, all possible effects and their appropriate thresholds need to have been accurately identified in the plan to ensure undesirable activities are not permitted by an oversight;
- this plan type generally provides lower levels of certainty as to what can or cannot be done with a property; and
- strategic planning for growth and development can be more difficult to achieve where a concise understanding of what is sought is not provided.

3.7 **Activities-Based Plans - Advantages and Disadvantages**

3.8 Many territorial authorities have reviewed, or are currently reviewing their district plans and are opting to move to an activity-based plan. Examples of this are Hamilton, Queenstown-Lakes, Ashburton, Auckland, Hurunui and Christchurch City or District Councils. Selwyn District is at the early stages of review and has resolved that they will
also move to an activities-based district plan.

3.9 Activities-based plans can provide a user friendly format through clear identification of activity consent status and any relevant performance standards, which also facilitates the administration of the plan. Activities are identified based on the experience from administering the plan, as a response to issues, and by recognising the effects that are generated by specific activities.

3.10 An activities-based approach meets the requirements of the RMA in regard to the management of effects by identifying and managing effects that are known, or are likely to be associated with, a particular activity. Where an activity is not listed, a rule can determine that consent is required. Most significantly, this approach provides greater certainty that activities will either be permitted or require consent, and also greater certainty in regard to the sort of activities that may establish in particular locations. This is useful for Council in regard to strategic planning for the future, for members of the community to provide a clearer idea of the type of activities that may be established in their immediate and wider environment, and for developers when assessing suitable locations for a specific activity or what activities may be appropriate on a particular site.

3.11 Disadvantages associated with the activities-based approach are that it is potentially less flexible to consider activities not listed as permitted activities and that activities may trigger the need for consent where they may have otherwise complied with an effects-based assessment for permitted status.

3.12 Operative Waimakariri District Plan

3.13 The difficulties associated with predominantly effects-based plans have become apparent during the life of the current plan as issues of complexity and lack of certainty have emerged. Examples of this are the inclusion of specific standards for newly zoned areas and that permitted activities have been able to establish under the plan which have affected amenity, for example truck depots and firewood merchants in the Rural Zone.

3.14 The approach of the current plan has meant that strategic management of growth and development is more difficult. For example, within the Business 1 and 2 Zones, a range of activities have been able to establish with issues emerging relating to the placement of retail activities, and large format retail activities in particular, and the effect that this development may have on the long term sustainability of town centres and the character of the Business 2 Zones.

3.15 The review process has also become increasingly complex, and as plan changes have progressed, the more exemptions for rules have been required, resulting in significant exemptions sections for some Rules chapters. Cross referencing reviewed provisions has also become a complex task.

3.16 Change to Activities Based Plan

3.17 It has been identified that the reviewed district plan should be clear, concise, effective and easily interpreted by a range of plan users. To achieve this, a shift away from purely effects-based rules to activity based is recommended, to provide greater clarity and certainty. Improving the structure of plan chapters and their layout will also assist in achieving this goal.

3.18 In forming this view, recently reviewed district plans have been considered for both content and ease of use, and examples are provided in Attachment 1 to illustrate the current Waimakariri District Plan structure, and some possible alternatives. The advantages and disadvantages of effects versus activity based plans were subject of a briefing with the Committee in February 2016 and the Committee favoured an activities
based approach, principally for development certainty reasons.

3.19 It is considered that a shift to an activities based format would, overall, benefit the review process as it would:

- enable a simpler plan structure that is easier to use and administer;
- provide higher levels of certainty for the community and council in regard to strategic management of growth and development;
- be more flexible to incorporate changes over the life of the plan; and
- be consistent with other second generation district plans.

3.20 The district plan is a community and corporate document used by the general public and businesses (who may be considering applying for resource consent for the first time), developers, consultants, surveyors, architects, lawyers, judges, commissioners, various environmental or business interest groups. The level of knowledge and regularity of use by each of these parties varies widely but catering to their need for quick and easy access to the information they need from a plan will benefit all.

4. COMMUNITY VIEWS

4.1 None sought at this time. The district plan review will be subject to public notification under the RMA and the Committee has indicated a preference to towards early engagement, including opportunities for comment on draft provisions.

5. FINANCIAL IMPLICATIONS AND RISKS

5.1 There are no identified specific financial risks associated with moving towards an activities based plan. It should be noted that the structure of the plan will be developed with and take advantage of the opportunities provided by a web based electronic district plan format, subject to budget confirmation through the Annual Plan.

6. CONTEXT

6.1 Policy

This matter is not a matter of significance in terms of the Council’s Significance Policy.

6.2 Legislation

Section 79 of the RMA requires the Council to undertake a review of the District Plan at least every 10 years. Schedule 1 of the RMA applies in relation to the preparation of changes to the District Plan.

The purpose of a district plan under the RMA is to assist a territorial authority to carry out its functions in order to achieve the purpose of the Act (sections 63 and 72).

6.3 Community Outcomes

This report links to the following community outcomes:

- There is a safe environment for all
- There are areas of significant indigenous vegetation and habitats for indigenous fauna
- The community’s cultures, arts and heritage are conserved and celebrated
- Transport is accessible, convenient, reliable, affordable and sustainable
- Public effect is given to the spirit of the Treaty of Waitangi
- The distinctive character of our towns, villages and rural areas is maintained.
- Businesses in the District are diverse, adaptable, and growing
- There are wide ranging opportunities for people to contribute to the decision making by local, regional and national organisations that affects our District.

6.4 Delegations

The Resource Management and Regulation Committee has delegation S-DM 1026 to approve processing of reviews of the District Plan and consultation with the community on matters related to the Committees activities.

- The initiation and processing of reviews of the District Plan.

Bev Bray
Senior Policy Planner
Appendix 1: Examples of Different Plan Styles and Formats

1. Effects Based Rules – Current Waimakariri District Plan

(The objectives and policies are contained in several different chapters. Permitted activities are not listed and any land use is permitted if it can meet the standards and is not listed as another class of activity. This provides for a range of possible land uses to possibly be permitted, but it requires considerable assessment of provisions in several chapters to identify the status of an activity.)

Retail Activities and Traffic Matters

31.21 Permitted Activities

Any land use is a permitted activity if it:

i. is not otherwise listed as a controlled, discretionary (restricted), discretionary or non-complying activity under Rules 31.22, 31.23, 31.24 or 31.25;

ii. complies with the conditions under Rule 31.21.1; and

iii. complies with all the conditions and provisions for permitted activities in this and all other chapters.

31.21.1 Conditions

31.21.1.1 Buildings in the Business 1 Zones (Rangiora and Kaiapoi), with road frontage shown by Figure 31.2 and District Plan Map 178 shall:

a. be built up to the road boundary;

b. occupy the full frontage of the site, except where necessary to provide pedestrian access to the rear of the site

c. contain clear glazing to a minimum of 60% and a maximum of 90% of the ground floor frontage for the display of goods and services;

d. contain clear glazing to a minimum of 20% and a maximum of 90% on any upper floor frontage;

e. include a verandah on the road frontage for the full width of the building;

f. include pedestrian access directly from the road boundary and any public open space; and

g. demonstrate modulation where frontages exceed 8m in length.
2. Activities-Based Rules – Ashburton District Plan (Operative August 2014)

4.8.2 Permitted Activities

The following activities shall be Permitted Activities, provided that they comply with all of the relevant Site and Zone Standards below, all relevant District Wide rules, and are not specifically listed as Discretionary, Non-Complying or Prohibited Activities:

a) Residential Activities;

b) Home Occupations;

c) Recreational Activities; limited to:
   - outdoor recreation activities on public reserves;

d) Visitor Accommodation; limited to:
   - home stays accommodating no more than 5 visitors at any one time.

e) Commercial Activities in the Residential D zone; limited to group visits.

f) Farming; limited to pastoral farming.

4.8.4 Discretionary Activities

The following activities shall be Discretionary Activities, provided that they comply with all of the relevant Zone Standards.

a) Community Activities;

b) Pre-schools;

c) Commercial Activities in the Residential A, B and C zones, limited to group visits;

d) Farming; limited to livestock farming and not including intensive farming;

e) Boarding of animals in the Residential D zone;

f) Forestry Activities in the Residential D zone;

g) Any Other Activity, which is not listed as a Permitted, Restricted Discretionary or Non-Complying Activity.
3. Activities Based Rules and General Standards – Queenstown Lakes Proposed District Plan

(Activity-based plan with a table format for rules and standards. The status of the activity when the rule is not complied with is listed immediately adjacent to the rule for ease of use)

<table>
<thead>
<tr>
<th>Table 1</th>
<th>Activities - Rural Zone</th>
<th>Activity Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>21.4.1</td>
<td>Any activity not listed in tables 1 to 10.</td>
<td>NC</td>
</tr>
<tr>
<td></td>
<td>Farming Activities</td>
<td></td>
</tr>
<tr>
<td>21.4.2</td>
<td>Farming Activity that complies with the standards in Table 2.</td>
<td>P</td>
</tr>
<tr>
<td>21.4.3</td>
<td>Construction or addition to farm buildings that comply with the standards in Table 4.</td>
<td>P</td>
</tr>
<tr>
<td>21.4.4</td>
<td>Factory Farming that complies with the standards in Table 2.</td>
<td>P</td>
</tr>
<tr>
<td></td>
<td>Residential Activities, Subdivision and Development</td>
<td></td>
</tr>
<tr>
<td>21.4.5</td>
<td>The use of land or buildings for residential activity except as provided for in any other rule.</td>
<td>D</td>
</tr>
<tr>
<td>21.4.6</td>
<td>One residential unit within any building platform approved by resource consent.</td>
<td>P</td>
</tr>
<tr>
<td>21.4.7</td>
<td>The construction and exterior alteration of buildings located within a building platform approved by resource consent, or registered on the applicable computer threshold register, subject to compliance with the standards in Table 3.</td>
<td>P</td>
</tr>
<tr>
<td>21.4.8</td>
<td>The exterior alteration of any lawfully established building located outside of a building platform, subject to compliance with the standards in Table 3.</td>
<td>P</td>
</tr>
<tr>
<td>21.4.9</td>
<td>The identification of a building platform not less than 70m² and not greater than 1000m².</td>
<td>D</td>
</tr>
<tr>
<td>21.4.10</td>
<td>The construction of any building including the physical activity associated with buildings including roading, access, lighting, landscaping and earthworks, not provided for by any other rule.</td>
<td>D</td>
</tr>
<tr>
<td>21.4.11</td>
<td>Domestic Livestock.</td>
<td>P</td>
</tr>
<tr>
<td>21.4.12</td>
<td>Residential Flat (activity only, the specific rules for the construction of any buildings apply).</td>
<td>P</td>
</tr>
<tr>
<td></td>
<td>Commercial Activities</td>
<td></td>
</tr>
<tr>
<td>21.4.13</td>
<td>Home Occupation that complies with the standards in Table 5.</td>
<td>P</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 2</th>
<th>General Standards</th>
<th>Non-compliance Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>21.5.1</td>
<td>Setback from Internal Boundaries</td>
<td>RD</td>
</tr>
<tr>
<td></td>
<td>The minimum setback of any building from internal boundaries shall be 15m.</td>
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</tr>
<tr>
<td></td>
<td>Discretion is restricted to all of the following:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Rural Amenity and landscape character.</td>
<td></td>
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<tr>
<td></td>
<td>• Privacy, outlook and amenity from adjoining properties.</td>
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<td></td>
<td>Except this rule shall not apply within the Rural Industrial Sub Zone. Refer to Table 8.</td>
<td></td>
</tr>
<tr>
<td>21.5.2</td>
<td>Setback from Roads</td>
<td>RD</td>
</tr>
<tr>
<td></td>
<td>The minimum setback of any building from a road boundary shall be 20m, except, the minimum of any building setback from State Highway 6 between Lake Hayes and Frankton shall be 50m. The minimum setback of any building for other sections of State Highway 6 where the speed limit is 70 km/hr or greater shall be 40m. Discretion is restricted to all of the following:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Rural Amenity and landscape character.</td>
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<td></td>
<td>• Open space.</td>
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<td></td>
<td>• The adverse effects on the proposed activity from noise, glare and vibration from the established road.</td>
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</table>
1. SUMMARY

1.1. The purpose of this report is to advise Councillors of the introduction of telescopic pool enclosures into the district for covering private swimming pools (and spas). This was discussed at a pool fence hearing 16 February and the hearing committee recommended that guidance be sought from the Resource Management & Regulation Committee as the hearing committee was concerned about consistency of decision making, having regard to similar circumstances presented by lockable spa pool covers.

1.2. Telescopic pool enclosures when shut form an enclosed room around the pool. When the retractable compartments are open the pool is open-air which then raises fencing compliance questions in terms of the Fencing of Swimming Pools Act 1987 (FOSPA).

1.3. Spa pools that have lockable lids that when closed provide a secure safety barrier, however when open the pool needs increased awareness and supervision by owners. Decisions by exemption committees nationally have accepted that lockable lids can be an appropriate means of exemption.

1.4. While the spa pool lockable lid is similar in concept for a telescopic pool enclosure, it is less certain if the level of risk is similar as each type of pool has its own circumstances such as an ability to be easily supervised, or is it in ground or above ground.

2. RECOMMENDATION

THAT the Resource Management & Regulation Committee:

(a) Receives report No. 160301017471.

(b) Notes that as guidance, telescopic pool enclosures can be assessed by the exemption hearing committee in a similar way to lockable spa pool covers.

(c) Notes that the hearing committee can place conditions on any exemption.

(d) Notes that the Fencing of Swimming Pools Act 1987 does not have provision to grant general exemptions and each application would still be considered on its merits.
3. **ISSUES AND OPTIONS**

3.1. At the pool fencing exemption hearing 16 February 2016, staff sought guidance on whether future swimming pool exemption hearing panels would consider exempting swimming pools or spa pools which have telescopic pool covers or enclosures under FOSPA.

3.2. A telescopic pool enclosure is a retractable room that has compartments which slide back to convert a pool area from enclosed to open air.

3.3. Telescopic pool enclosures have not been considered to date by the Council for an exemption under FOSPA. As the exemption hearing panel’s membership can change for different hearings, for consistency it was thought that future pool exemption hearing panels should gain guidance from the Resource Management and Regulation Committee. In this context the 16 February Hearing Committee resolved that:


3.4. The mechanism for the Committee to consider this is a Special Exemption under section 6 of FOSPA (see para 6.2). Here the territorial authority has the option of granting an exemption with or without conditions. An exemption must be considered in the circumstances of each pool. A general exemption is not possible.

3.5. The issues for pool owners contemplating a pool enclosure are compliance and cost. When the enclosure is shut the pool is not accessible and generally complies with FOSPA (assuming doors and windows are compliant). The enclosure also helps maintain pool water quality and temperature.

3.6. When the enclosure is open there is direct access to the pool. In some ways this is a similar situation to a spa pool where a lockable lid is used as an alternative to fencing. This analogy makes an assumption that closing a pool enclosure is as simple and quick as lowering a spa pool lid. Note that hearing panels are now granting exemptions for lockable lids on spa pools.
3.7. A condition of granting an exemption for a telescopic enclosure could be that any doors or openings that give access when the cover is closed be made to comply with FOPSA, or, if unable to be made to comply, that the locking mechanism for opening the cover not be easily operated by a child 6 years or younger.

3.8. The Management Team/CE has reviewed this report and supports the recommendations.

4. COMMUNITY VIEWS

4.1. Community views have not been sought. The Act does not require consultation on how a territorial local authority decides its application.

5. FINANCIAL IMPLICATIONS AND RISKS

5.1. FOSPA requires that owners fence pools appropriately with the objective of reducing the risk of drowning to young children. An enclosed pool could be as effective as a pool with a complying fence. However when the enclosure is open the pool is effectively unfenced with the associated risk.

5.2. Every territorial authority shall take all reasonable steps to ensure that FOSPA is complied with within its district.

6. CONTEXT

6.1. Policy

This is not a matter of significance in terms of the Council’s Significance Policy.

6.2. Legislation

The Fencing of Swimming Pools Act 1987 Section 6:

Special exemptions

(1) A territorial authority may, by resolution, grant an exemption from some or all of the requirements of this Act in the case of any particular pool where the territorial authority is satisfied, having regard to the particular characteristics of the property and the pool, any other relevant circumstances, and any conditions it imposes under subsection (2), that such an exemption would not significantly increase danger to young children.

(2) In granting an exemption under subsection (1), the territorial authority may impose such other conditions relating to the property or the pool as are reasonable in the circumstances.

(3) Any exemption granted or condition imposed under this section may be amended or revoked by a territorial authority, by resolution.

6.3. Delegation.

Delegation S-DM 1026 states “The Resource Management and Regulation Committee shall enjoy all the powers granted to a standing committee under this Manual and shall be responsible for the following activities:"

- Fencing of private swimming pools

6.4. Community Outcomes

The community told us a priority is that there is a safe environment for all and that “Harm to people from natural and manmade hazards is minimised.”