TARARUA DISTRICT COUNCIL

PPC1: Section 32 RMA Evaluation Report

October 2016

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1 INTRODUCTION

This report provides a summary of the evaluation undertaken by the Council in accordance with S32 of the Resource Management Act 1991 (RMA or the Act), in relation to Proposed Plan Change No.1 (PPC1) to the Operative Tararua District Plan. It is to be read in conjunction with the detail of the changes proposed to the District Plan through PPC1, as publicly notified.

An iterative process of consideration, evaluation and decision-making has been undertaken by the Council which meets the requirements of S32 of the RMA.

2 PURPOSE AND SCOPE OF THE PROPOSED PLAN CHANGE

Review No.1 of the District Plan became operative on the 1st of September 2012. Since the Plan became operative a number of 'higher order' planning instruments have been introduced or become operative. The District Plan is required to be changed in accordance with any relevant regulations and to give effect to the policies and directions of 'higher order' instruments such as national and regional policy statements.

Also, the District Plan must not be inconsistent with the relevant provisions of a regional plan in relation to any of the land use control matters specified in Section 30 (functions of Regional Councils) of the RMA where these overlap with district functions. As the Manawatu-Wanganui Regional Council's (MWRC's) regional One Plan became operative on the 19th December 2014, it is now necessary to consider its provisions and make such changes as are necessary to the District Plan to avoid any inconsistencies and give effect to any regional policies.

Finally, there are a number of provisions identified by those persons using and administering the plan that require updating and minor errors or ambiguities corrected. In most instances where updating or correction of provisions is required, there is no real change to their content or context or their application.

Where new or substantially altered provisions are proposed, these are made explicit in the change and their purpose explained.

3 STATUTORY FRAMEWORK

Section 32 of the RMA sets out the requirements for preparing and publishing evaluation reports. An evaluation report must:

"(a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and

(b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by-

(i) identifying other reasonably practicable options for achieving the objectives; and

(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and

(iii) summarising the reasons for deciding on the provisions; and

(c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal." [cl.32(1)].

Section 32 also requires (inter alia) that any assessment under subsection (1)(b)(ii) must:

"(a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for-

(i) economic growth that are anticipated to be provided or reduced; and

(ii) employment that are anticipated to be provided or reduced; and

(b) if practicable, quantify the benefits and costs referred to in paragraph (a); and

(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions." [cl.32(2)].

An evaluation report prepared under this section [refer S32(1)(c)] must contain a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal (in this case a plan change). This evaluation report does this. As the majority of the proposed plan change is concerned with relatively minor matters of updating or clarifying existing rules, the evaluation report is necessarily and appropriately succinct and to the point.

Where new matters are proposed to be introduced to the District Plan (eg in respect of Screening Standards and Derelict Vehicles, Buildings and Sites) they are evaluated in greater detail.

4 POLICY DEVELOPMENT

4.1 Issue Identification

Various National Policy Statements, National Environmental Standards and the MWRC's Operative One Plan were analysed by the Council's planners and a list of issues for detailed consideration was prepared. Matters pertaining to the administration and application of the provisions of the District Plan were identified and clarified by discussion between Council staff and advisers. Having applied the RMA section 32 evaluation tests, to each of the matters raised, it was determined that District Plan provisions were not necessarily the most appropriate way to achieve many of the outcomes being sought. These matters were considered no further. The matters which could be considered as appropriate to manage by means of the District Plan were described and reported to the Council in an Issues Review Report.

There are six main phases involved in the plan change process, as follows:

1. Issue Review (Identification, Reporting and Confirmation)
2. Policy Development and Proposed Plan Change Preparation
3. Public Notification and Submissions
4. Hearing(s)
5. Appeal(s)
6. Making the Plan Change Operative.

Within each phase there are a number of steps and tasks which must be completed in order to justify the proposed change and satisfy the requirements of the RMA's 1st Schedule. This evaluation report covers Phases 1 and 2 of the process and the following iterative steps:

Phase 1 - Issue Review (Identification, Reporting and Confirmation)

Step
1. Consultation with Council staff re: issues or concerns relating to the interpretation, application or administration of the District Plan's provision.
2. Analysis of the Manawatu-Wanganui Regional Council's (MWRC's) Operative One Plan to determine matters to be given effect to by the District Plan or matters to amend to avoid any inconsistences between plans.
3. Analysis of central government legislation, policy statements and standards to determine which matters must be given effect to by the District Plan and what changes are required to the existing Plan provisions to avoid any inconsistencies or ambiguities with the central government instruments.

4. Consultation with RMA 1st Schedule (clause 2) parties as necessary and appropriate.
5. Preparation of a detailed list of significant issues/matters to be considered as necessary changes to the District Plan. This list was prepared in the form of an Issues Review Report to the Council.
6. Councillors and staff workshop held to consider the list of issues/matters and confirm, as appropriate, this list following discussion.
7. Revise list of issues/matters and analyse new matters for consideration as requested by Councillors.
8. Prepare a second, revised, Issues Review Report for Council consideration.
9. Councillors and staff workshop held to consider the revised list of issues/matters and to confirm the matters that are to be included in the Proposed Plan Change.

Phase 2 - Policy Development

Step 1. Drafting of the Proposed Plan Change documents.
2. Councillor and staff workshop to consider and confirm the draft documents.
3. Consultation with RMA 1st Schedule (clause 3) parties whom the Council considers may be affected by the Proposed Plan Change.
4. Preparation and presentation of the final proposed plan change documents to the Council for resolution to adopt and publicly notify them.

4.2 Evaluation

This report contains a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal [see RMA S32(1)(c)]. With the exception of changes proposed to the Screening Standards in respect of 'Derelict Vehicles, Buildings and Sites', there are no changes proposed to the objectives and policies of the District Plan. For the most part, therefore, PPC1 does not propose to change current objectives. That being the case, this report deliberately does not examine the extent to which the objectives identified in the Proposed Plan Change under evaluation are the most appropriate way to achieve the purpose of the Act [see RMA S32(1)(a)]. Its focus is on whether the provisions (mainly rules) are the most appropriate way to achieve current objectives. Examination of the need for and appropriateness of the provision, encompasses consideration of reasonably practicable alternatives for achieving the objectives, their likely efficiency and effectiveness in achieving the objectives, the likely benefits and costs arising from their implementation and the risk of acting or not acting (i.e. making changes), particularly if information about the subject matter is lacking.

An evaluation of each of the substantive changes proposed to the District Plan's provisions is as follows:

NES FOR TELECOMMUNICATION FACILITIES (2008)

A comprehensive evaluation under Section 32 of the RMA has not been undertaken in respect of this matter as the proposed change to the provisions of the District Plan involves only updates to make reference the 2008 Telecommunication Facilities Act not the Telecommunications Act 1987.

NPS FOR RENEWABLE ELECTRICITY GENERATION 2011 (NPSREG)

Proposed Change

As detailed in Section 3.2.1 (page 5) of PPC1, changes are required to the provisions of the District Plan in order to give effect to the National Policy Statement for Renewable Electricity Generation 2011 (NPSREG).

The District Plan currently provides policies and rules in respect of electricity generation from renewable energy sources, in particular wind farms, to the extent applicable to the district.

What the District Plan has not yet given effect to is Policy F of the NPSREG, which states as follows:

> *"Policy F*
>
> *As part of giving effect to Policies E1 to E4, regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance and upgrading of small and community-scale distributed renewable electricity generation from any renewable energy source to the extent applicable to the region or district."*

The NPSREG defines 'small and community-scale distributed electricity generation' as follows:

> *"Small and community-scale distributed electricity generation means renewable electricity generation for the purpose of using electricity on a particular site, or supplying an immediate community, or connecting into the distribution network."*

Appropriateness

- *Reasonably Practicable Alternatives*

Making provision for small and community-scale renewable electricity generation activities necessitated the development and consideration of a number of reasonably practicable District Plan change alternatives, ranging from "do nothing" (i.e. retain the status quo) to making all small and community-scale distributed electricity generation activities permitted as-of-right.

Doing nothing is not a viable option, given that the Council has a mandatory statutory obligation ("…district plans shall include…" – refer Policy F of the NPSREG) to provide for the development, operation, maintenance and upgrading of small and community-scale distributed renewable electricity generation from any renewable energy source. At the other end of the spectrum of practicable possibilities is the option to make all small and community-scale generation activities permitted as-of-right.

Renewable electricity generation activities can create adverse effects on the environment, depending on the nature, scale and location of the generating activities. These adverse effects can range from nuisance noise to electromagnetic interference to blade glint and shadow flicker, to (solar) panel reflections and adverse visual impact. The District Plan contains provisions designed to avoid, remedy, or mitigate such effects in-order to maintain or enhance amenity values. Within the District, five broad categories of land type (i.e. Rural, Residential, Settlement, Commercial and Industrial) have been identified, described and delineated. The acceptability of the environmental effects of different land use activities varies with the type of area in which it is located. Accordingly, the need to assess the nature and degree of environmental effect from area to area in relation to amenity values and the anticipated environmental results (or outcomes) being sought for a particular area necessitates a case by case, area by area, assessment. This approach is recognised in the objective, policies and methods outlined in section 2.8.4 of the District Plan. Hence, providing for all small scale and community scale distributed electricity generation activities as permitted activities would be contrary to the whole management approach adopted by the Plan and would not, therefore, be a viable means of enabling such activities.

The Council considers that wind energy provides significant potential for electricity generation at a community (settlement) scale given the nature and size of the District and the costs and losses associated with the transmission of electricity over long distances. Solar photovoltaics and biomass may also provide opportunities for community scale electricity generation in the future. Community scale generation activities have the potential to generate adverse effects on the environment which are typically felt at a local level. Such effects can create conflict at the local level between those advocating for renewable electricity generation by and for the local community and those who consider the location and scale of effect of such generation activities would be contrary to community amenity values. The generation of adverse biophysical effects on the environment may also be a possibility when generation is to occur at a community scale. This being the case, the Council considers that community-scale renewable electricity generation activities ought to be provided for as a full discretionary activity under existing Rule 5.3.7.2(b).

This status would enable any community conflicts to be made explicit and determined by means of due process and decision-making under the RMA.

Likewise, there is a range of renewable energy technologies which can be utilised at a domestic/household scale, including solar (photovoltaics and thermal water heating), wind generators and micro hydro. These technologies are typically located on or near buildings and could be utilised throughout the District provided that any adverse effects on the environment arising from their use can be avoided, remedied or mitigated such that the effects are no more than minor.

Following consideration of the options, the Council considered that it ought to provide for small scale electricity generators as a permitted activity in the District Plan, subject to meeting specified permitted activity criteria, and community scale generators as full discretionary activities. Such provision requires a distinction to be made between "small" and "community scale" distributed electricity generators, in the District Plan. It also necessitates the addition of policies, rules and definitions to various sections of the Plan as detailed in section 3.2.3 of the Proposed Plan Change.

- *Efficiency and Effectiveness*

In terms of the efficiency and effectiveness of the proposed provisions, the provisions are designed to enable renewable electricity generation activities subject to any adverse effects on the environment of such activities being able to be avoided, remedied or mitigated. The provisions applying to commercial scale windfarms, for example, have proven to be an efficient and effective way of providing for this scale of renewable electricity generation and there is no apparent reason why this should also not be the case for community (i.e. smaller) scale generation activities.

Providing for domestic scale generation activities as a permitted activity subject to meeting specified performance criteria is the most effective and efficient way of enabling domestic scale distributed electricity generation on the one hand whilst also recognising that such generation activities can have an adverse effect on the environment. Providing for domestic scale generation activities puts the onus on the generator to assess the offsite effects of their proposed activity early in the planning stages of the project rather than as an afterthought. If the permitted activity amenity standards in Part 5.4 of the District Plan are not able to be met, the generator is then able to incorporate this fact into the business case for the activity and decisions can be made as to whether to proceed to lodge a discretionary activity resource consent application or not. In most instances, such a process is the most efficient and effective way of reconciling the benefits of the renewable electricity generated with the adverse environmental (in particular amenity value) effects arising from the generation activities.

- *Costs and Benefits*

The relative costs and benefits of providing for small and community scale renewable electricity generation in the manner proposed is set out in Table 1 below.

Table 1: Costs and Benefits

Benefits	Costs
Environmental	
• The provisions proposed recognise that adverse effects on the environment can occur and require assessment and management thereby avoiding the risk of adverse effects being generated. • Enabling the generation of renewable electricity will reduce the need to consume electricity generated from fossil fuels, thereby reducing the environmentally harmful effects of the use of fossil fuels.	• Providing for community scale renewable electricity generation as a discretionary activity could be construed as not making it easy to give effect to the NPSREG.
Economic	
• Enabling renewable, distributed electricity generation activities can lead to energy cost savings for individuals and communities, particularly if feed-in tariffs reward the producers and users of electricity generated locally by renewable means. • Rules provide a level of certainty to all parties such that a business case for establishing a domestic scale renewable electricity generation activity is able to be developed with a reasonable degree of certainty.	• The time and costs involved in applying for resource consent(s) for community scale generators could be significant and make the investment payback term too long to be economic, particularly if an application were to be publicly notified. • The Council could incur costs associated with the processing of resource consent applications and the monitoring and enforcement of consent conditions and District Plan rules.
Socio-Cultural	
• Providing for community scale renewable electricity generation has the potential to bring a community closer together and to make it more resilient.	• Providing for community scale renewable electricity generation activities as a discretionary activity requiring a resource consent application could cause conflict in the community in circumstances where the majority of the community are advocating for the generation and a small minority are opposed to it and prepared to advocate to prevent consent being granted.

- *Risk* (of acting or not acting where there is uncertain or insufficient information)

To a certain degree, information about renewable electricity generation activities is uncertain. The transition from large scale fossil fuel based electricity generation to small and community scale distributed electricity generation is occurring rapidly. There will be electricity generating, storing and distributing technologies available to use at the local and domestic scale, which are yet to be invented or see the commercial light of day, which will be subject to the proposed provisions. As we don't know what these technologies are, or what effects on the environment they may generate, it is not possible to manage these effects in a direct and certain way. As the NPSREG requires small and community scale distributed electricity generation to be provided for, it follows that not acting is not an option. It also follows that a precautionary, generic, approach to managing the adverse effects (of whatever generation may occur) is required and this is what is being proposed in PPC1.

HAZARDOUS SUBSTANCES

Since the District Plan became operative a number of new statutes and regulations dealing specifically with hazardous substances have been implemented. Specific District Plan controls (rules) regarding hazardous substances are no longer necessary in light of the changed statutory environment applying to such substances. The changes proposed to the District Plan involve removing all the rules applying to the control of hazardous substances and amending the introduction to Section 5.1.8 of the Plan to recognise and explain how hazardous substances are being managed in the District. A summary of the reasons for the change is set out in Section 3.3.1 of the Proposed Plan Change.

INDIGENOUS VEGETATION PROVISIONS

The District Plan must give effect to the relevant policy provisions of the Regional Policy Section of the One Plan. Currently the District Plan is inconsistent with Policy 6-1(b)(i) which directs that provisions not be for the purpose of protecting significant indigenous vegetation and significant habitats of indigenous fauna. The set of District Plan rules contained in section 5.5.4 (pages 5 - 110 to 5 - 114) and the schedule of significant indigenous vegetation and significant habitats of indigenous fauna contained in Schedule 3.2 of Appendix 3, are designed to protect significant indigenous vegetation and significant habitats of indigenous fauna. This being the case the Council proposes to remove these provisions from the District Plan in order to comply with the One Plan's Policy 6-1(b)(i) directive. The Schedule of Significant Trees (Appendix 3.1) and its attendant provisions in Rule 5.5.3.2 will remain in the District Plan for amenity value reasons.

As these changes are required as a consequence of a Regional Policy Statement directive, no evaluation of alternatives is necessary.

MINIMUM LOT SIZES FOR WASTEWATER DISPOSAL

With the exception of the land within the urban buffer areas identified on the District Plan maps, the District Plan does not specify minimum lot sizes for subdivision. Instead it requires that each lot is created so that it is of sufficient size and shape to contain the intended activity/development in a manner that complies with all relevant environmental standards in the District Plan, including sewage disposal requirements. This approach is not considered to be inconsistent with the Regional Plan.

The MWRC's One Plan contains minimum lot sizes for wastewater disposal within its Chapter 14 rules. Rule 14-14 provides for new and upgraded discharges of domestic wastewater as a permitted activity provided that certain conditions are met. A number of these conditions depend on the land area of the subject property and require a higher level of treatment and different application systems and rates for smaller land areas. The smallest land area permitted is 5,000m^2 for properties created by subdivision after 31 August 2012. There are a number of other requirements as well, including that the activity cannot take place in a rare, threatened or at risk habitat or on land containing any historic heritage identified in a district plan or regional plan. If the discharge activity cannot comply with the standards in Rule 14-14 it becomes a restricted discretionary activity under Rule 14-15.

To avoid any inconsistency between Regional and District provisions, it is proposed that an advisory note be added to standard 5.1.2.2(c)(i) which makes it clear to prospective subdivision applicants that for any allotment of less than 5,000m^2 in land area the Council will require sufficient information to be supplied to it to demonstrate that the One Plan's Rule 14-14 permitted activity conditions are able to be met or, if not, that a Regional Council resource consent has been obtained to permit any wastewater discharge.

This is considered to be the most appropriate and practicable way of avoiding any inconsistency between plan provisions.

A further inconsistency with the One Plan's domestic wastewater rules appears to be the statement in Rule 5.1.2.2(c)(i) [page 5-3] of the District Plan that says:

> *"A drainage easement over adjacent land shall be an acceptable means of compliance with this standard where there is insufficient area of land within the Certificate of Title concerned".*

Rule 14-14(e)(i) of the One Plan refers to "the property" in which a wastewater discharge is to occur and sets conditions on the minimum area of this 'property' that must be met for the activity to be deemed a permitted activity. 'Property' in the One Plan is defined as "one or more adjacent allotments that are in the same ownership" and includes a legal road.

The key words are "in the same ownership". Rule 5.1.2.2(c)(i) of the District Plan enables a drainage easement to be registered over adjacent land, irrespective of ownership, as an acceptable means of compliance with the rule. As there does not appear to be any flexibility within the regional rules to allow drainage easements to be registered on adjacent land in different ownership, it is necessary to remove this ability to do so from the District Plan's rules so as not to be inconsistent with the regional rules. This appears to be the only way that the inconsistency can be removed from the District Plan.

NATURAL (FLOOD) HAZARDS

Proposed Changes

As detailed in Section 4.3.1 of the Proposed Plan Change, Policy 9-1 of the One Plan (Regional Policy Statement Section) sets out the responsibilities for hazard management within the Region. Amongst other things, this Policy directs that Territorial Authorities must be responsible for:

> *"(c) (ii) identifying floodways (as shown in Schedule J1) and other areas known to be inundated by a 0.5% annual exceedance probability (AEP) flood event on planning maps in district plans, and controlling land use activities in these areas in accordance with Policies 9-2 and 9-3."*

None of the floodways as shown in Schedule J1 of the One Plan are within the Tararua District. That notwithstanding, the One Plan's Policy 9-2(b) 'Development in areas prone to flooding' states that:

> *"(b) Outside of a floodway mapped in Schedule J the Regional Council and Territorial Authorities must not allow the establishment of any new structure or activity, or an increase in the scale of any existing structure or activity, within an area which would be inundated in a 0.5% AEP (1 in 200 year) flood event[2] unless:*
>
> *(i) flood hazard avoidance is achieved or the 0.5% AEP (1 in 200 year) flood hazard is mitigated, or*
>
> *(ii) the non-habitable structure or activity is on production land, or*
>
> *(iii) there is a functional necessity to locate the structure or activity within such an area,*
>
> *in any of which cases the structure or activity may be allowed."*

The District Plan contains rules that limit (in order to avoid) development in such flood prone areas (Standard 5.1.7.2) but they only apply to activities on land identified (on the planning maps) as a 'natural hazard area'. There are no 'natural hazard areas' currently shown on the planning maps.

The District Plan does, however, contain flood maps which show areas of land which could potentially be adversely affected by flooding and ponding. It is not clear whether these depict the areas known to be inundated by a 0.5% annual exceedance probability (AEP) flood event or not.

The reason for this is that the flood maps only show areas potentially adversely affected by flooding or poor drainage resulting in surface ponding. They have been prepared using a variety of sources, such as photographs of and reports about flood events, anecdotal information and field visits. Whilst considerable care has been taken in the preparation of these maps it is important to note that they are indicative only. They have been compiled for the sole purpose of showing the areas in which further investigation of the risk of flooding may be necessary prior to subdivision or new land use activities being undertaken.

The District Plan currently has an advisory note attached to the District Plan's Flood Maps which directs those persons planning to develop or purchase a property within an area identified on the maps as being floodable, to contact the MWRC for assistance in obtaining more detailed, site specific information on the flood hazard identified.

Appropriateness

- *Reasonably Practicable Alternatives*

In the absence of any definitive 0.5% AEP flood event modelling and mapping for the District, it is considered that an updating of the Introduction (5.1.7.1) to the Natural Hazards section of the District Plan is the most appropriate response to the Policy 9-1 directives, at this time. The Council does not consider it feasible to make any changes in the absence of any flood modelling and mapping of areas in the Tararua District likely to be inundated in a 0.5% AEP flood event.

The Council considers it appropriate to continue to use the District Plan's current flood maps as a trigger for further investigation and response prior to making any subdivision or development decisions under the RMA or issuing building permits under the Building Act 2004. This process enables a thorough analysis of the risk of inundation and allows a case to be made for the establishment of a new structure or activity, or an increase in the scale of an existing structure or activity, based on the exclusions specified in (b)(i) to (iii) of Policy 9-2(b) of the One Plan.

- *Risk* (of acting or not acting where there is uncertain or insufficient information)

Acting now to include the flood maps in the Plan, thereby linking them to the rules (e.g. 5.1.7.2), would pose an unacceptable risk if the veracity of the 0.5% AEP flood mapping were to be called into question. The MWRC's Long Term Plan makes provision for LiDAR mapping and the review and updating of flood information in the Tararua District over the next six to seven years. Specific reports that are scheduled for the Tararua District include:

- 0.5% AEP flood modelling of the Upper Manawatu/Awapikopiki Stream confluence in year 4 (2018-19)
- Seismic study for Pahiatua in year 5 (2019-20)
- Additional flood mapping for Woodville in year 6 (2020-21)
- 0.5% AEP flood modelling for Wainui Stream (near Herbertville) in year 7 (2021-22).

Once this work is complete, the Council will review the District Plan's provisions and the District's Flood Maps in light of MWRC's updated flood information and determine whether District Plan map changes are required to give effect to Policy 9-1(c)(ii).

SIGNS

Council Advisory/Warning Signs

From time to time, the Council is required to erect advisory or warning signs in or around the urban areas of the District. Rule 5.4.3.2(b) of the District Plan provides for a range of directional and advisory signs as permitted activities. Neither this rule [i.e. the 'permitted activities (signs) in all Management Areas' rule] generally, nor Rule 5.4.3.2(b)(iv) "Temporary Signs for Statutory Notice…" specifically, appear to permit such signs, as-of-right. Therefore, as the rules presently apply, Council officers have only two options if they wish to erect an advisory/warning sign which is not a traffic or directional sign. The first is to make a resource consent application (under rule 5.4.3.3) to seek consent to erect the sign(s). As the application would be considered as a discretionary activity, it would necessitate the preparation of a full S88 application including an assessment of effects on the environment prepared in accordance with the requirements of the 4th Schedule of the RMA. It would also require the commitment of not insignificant resources to prepare the application and pay the costs associated with the consent authority's processing of the application and the subsequent monitoring of any terms and conditions of consent. It would also

take time to prepare a RCA and have it processed. This time may not be available, if the advisory or warning sign is required to be erected within a limited timeframe (e.g. within, say, 24 hours).

The second option is to just go ahead and erect the sign in contravention of the rules. Clearly, this option would not be acceptable. For the Council to contravene the rules in its own District Plan would not only be unlawful but it would also mean that the District Plan could no longer be deemed 'an honest document'.

Given that the District Plan provides for the erection of Council road signs [5.4.3.2(b)(i)], other temporary signs [5.4.3.2(b)(iv)] and signs on public open space land, reserves and recreational facilities [5.4.3.2(b)(v)], it would not be contrary to the Council's objectives and policies to enable a further category of signs (Council advisory/warning) to be included in the permitted activities (signs) category in all management areas of the District. Providing for Council advisory or warning signs, as a permitted activity throughout the District, is therefore considered to be the most efficient and effective way of enabling the erection of warning or advisory signs, as and when necessary, in the exercise of Council's statutory functions.

Off-Site Signs Rules

This proposed change is required to assist in the monitoring and enforcement of the off-site signs rules in the District Plan. As stated in Section 5.2.1 of the Proposed Plan Change, off-site signs in the Rural Management Area of the District are subject to a 1km separation distance permitted activity rule [5.4.3.2(d)(iv)].

Signs not located on the site to which they relate are a permitted activity provided they meet a number of specified performance standards concerning size, content and location.

In situations where two signs are erected within 1km of each other, it is difficult for Council officers to determine which of the two signs has been erected lawfully and which hasn't, unless a building consent or other Council regulatory mechanism is triggered which requires a construction or completion date to be provided to the Council. This being the case, and to resolve this problem, the Council proposes to add a further performance standard to Rule 5.4.3.2(d)(iv) requiring written notice to be provided to the Council in respect of a sign's location, planned date of construction and date of completion.

EARTHWORKS

Management of the effects on the environment of earthworks is one of these matters where there is a jurisdictional overlap between the respective functions of regional and district (territorial) authorities. As outlined in Section 5.3.1 of the Proposed Plan Change, the provisions (especially the rules) relating to earthworks in Part 2 (the Regional Plan section) of the Operative One Plan appear to give effect to Part 1 (the RPS) of that Plan. It is duplicative to have the District Plan including similar rules. The current earthworks rules in the District Plan are, for the most part, complementary to the regional rules and are in place to address other issues (primarily amenity related) that can arise from earthworks. However, the Council considers that some of the Rural Management Area standards (rules) appear to be unreasonably restrictive particularly as they apply to a number of rural activities from which few adverse effects on the environment would actually arise.

That being the case, the Council has considered a number of possible options to relax these restrictions. These options include providing further exemptions from the 200m^3 limit (e.g. for building foundations), increasing the limit to say, 1,000m^3, or removing the restriction on earthworks in the Rural Management Area entirely.

It resolved that increasing the earthworks limit to 1,000m^3 would be appropriate and reasonable, particularly since it would (from a cross-boundary consistency perspective) be the same limit as applies in the Council's neighbouring authority of Palmerston North City. No other changes to the provisions are proposed.

OUTDOOR LIVING COURTS

This proposed change is a simple one that provides greater certainty as to what structures are allowed in an outdoor living court.

Existing Rule 5.4.5.2(c) of the District Plan allows structures in an outdoor living court that are designed to provide for the use and enjoyment of the space (e.g. pergolas). The intent of the outdoor living court is to provide for sunlight and privacy in an outdoor space close to a dwelling house. However, the rules are silent on deck structures. Such structures are increasingly popular and could potentially be the major component of an outdoor living court. This being the case, the Council proposes to make it explicit in the District Plan that a ground level deck is a structure that is designed to enhance the use and enjoyment of an outdoor living court.

SCREENING STANDARDS AND DERELICT VEHICLES, BUILDINGS AND SITES

Proposed Change

As detailed in Section 5.5.1 of the Proposed Plan Change, Derelict sites, buildings and vehicles can be unsightly and are widely considered by the community to be "eyesores". In District Plan terms, they are considered to detract from "amenity values".

The policy section of the District Plan, has a section (2.6.2) concerning "Maintenance and Enhancement of Environmental Quality and Amenity". This section applies to derelict buildings, sites and vehicles, amongst other things.

One of the Plan's stated methods for implementing Objective 2.6.2.1 and Policy 2.6.2.2 is method 2.6.2.4(b), 'abatement and enforcement procedures', which states that *"The Council shall, where appropriate, take action in respect of activities which contravene the District Plan rules. Where appropriate, it shall also use the provisions of the RMA in respect of other nuisances or environmental quality problems."*

The Council has considered a number of regulatory instruments which Council officers could use to remove any “detractions from amenities” (i.e. ‘eyesores’). These instruments have included bylaws and rules in the District Plan. The Council now seeks to strengthen and enable the District Plan’s provisions to become a more effective means of managing identified community ‘eyesores’.

To increase the chances of successfully seeking an Enforcement Order, a specific set of District Plan provisions, designed to cover all of these eyesores either individually or collectively, is being proposed. Such provisions would involve an addition to the Policy section (2.6.2) of the District Plan, a new 'Amenity' rule (in 5.4) in Part 5 (Environmental Standards) of the Plan and new definitions in section 6.1 Definitions.

Appropriateness

- *Reasonably Practicable Alternatives*

Three areas of investigation and analysis were pursued as reasonably practicable alternatives available to address the detraction from amenity values created by derelict sites, buildings and vehicles in the District, namely:

- Applying the existing District Plan provisions
- Developing and applying bylaws promulgated under the Local Government Act 2002, the Building Act 2004 and the Health Act 1956
- Developing and applying a new set of District Plan provisions directed specifically at avoiding or remedying the adverse effects of these eyesores.

Application of Existing Provisions

As stated above, the provisions of Section 2.6.2 of the Operative District Plan can be applied to 'the problem' of derelict sites, buildings and vehicles.

The key to managing (i.e avoiding, mitigating or remedying) the problem, is the availability of a dedicated Council Compliance Officer. This person requires a combination of "people skills", statutory knowledge and perseverance in order to achieve the outcome the community is seeking (i.e an absence of eyesores).

Determining the root cause of the problem, which led to the existence of an eyesore, is the key to identifying possible solutions. As solutions will vary significantly, it is essential that the problem be clearly defined. Problem and solution identification requires someone with the 'right' personality and knowledge to effect change. The District Plan already anticipates such an approach (in Section 2.6.2.5) where it states that "… the Council shall attempt to negotiate with those concerned in an effort to achieve a satisfactory outcome."

Appointing such a person is the singular most effective means of maintaining amenity values, irrespective of the regulatory mechanism that is being used (e.g rules in a District Plan, RMA enforcement provisions or a Council Bylaw) to manage adverse effects on amenity values.

However, the Council also considers that, even with the 'right' person in the job, enforcement action may still be necessary and that such action necessitates a strengthening of the rules under which enforcement action could be pursued. Thus replying on existing provisions to manage the problem is not the Council's preferred option.

Bylaws

For derelict buildings, in particular, it would seem (based on a representative sample survey of 12 territorial authorities throughout New Zealand in August – September, 2015) that the use of bylaws is the preferred approach of many territorial authorities. However, as evidenced by the investigations carried out by the Rotorua[1] and South Wairarapa District[2] Councils (in particular), there is a need for territorial authorities to have a mechanism for defining and then dealing with buildings and/or sites that are in a derelict condition but are not substandard enough to be dealt with currently under the Building Act 2004 or the Health Act 1956. Under this current legislation, territorial authorities are limited in the actions they can take to compel owners to clean up their properties and deal with (upgrade or demolish) derelict buildings. Both the Rotorua and South Wairarapa District Council's investigations concluded that the current law would need to be changed by central government, in order to widen the enforcement scope (via the use of bylaws) of the provisions in the Building and Health Acts to encompass the amenity value aspects of derelict sites and buildings (compared with dangerous or insanitary ones). The Council supports initiatives taken by the Rotorua District Council and other Councils in this regard. Council officers recommended that bylaws be the primary means of enforcement by the Council but only if changes were to be made to the relevant statutes by central government to enable derelict buildings and sites to be dealt with effectively.

Given that it could be some considerable time, if ever, that such changes would occur, the Council considered that pursuing the use of bylaws as the most effective and efficient way of managing the problem at this time, was not its preferred option.

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1 'Defining and Dealing with Derelict Properties', Rotorua District Council 1st April, 2014, Doc No. RDC-442870 (by Debbie Cossar, Research Analyst).

2 'Consideration of Unoccupied Commercial Buildings Bylaw', Report to South Wairarapa District Council (Agenda Item C3), 23 April, 2014.

New District Plan Provisions

As the Council's preferred option, a new set of District Plan provisions was drafted and presented to the Council for its consideration. The Council recognised and accepted that whilst these provisions may have a strong degree of community support, it is doubtful whether they could be totally relied upon (either legally or practicably) to "fix the problem" in its entirety. As with bylaws, 'laying an information' in respect of enforcement action under the RMA requires a high standard of proof which is typically difficult to meet. That being the case, an unsuccessful enforcement proceeding could expose the Council to substantial costs, if not further legal challenge to the process and/or the Plan provisions themselves.

That is not to say it cannot be successfully done. The Council is aware that the Dunedin City Council (DCC) recently took a case to the Environment Court[3] seeking an Enforcement Order to have 16 derelict vehicles removed from a residential property in the hill suburb of Mornington in Dunedin. The Court determined that the visual effects of the vehicles were offensive and objectionable to such an extent that they were considered to be having an adverse effect on the local environment contrary to section 17 of the RMA. The Court ordered the landowner to remove 11 vehicles by November 10, 2015 and a further 6 by March 14, 2016. If he failed to comply he would be faced with paying the costs of the DCC removing the vehicles from the site on his behalf.

To increase the chances of successfully taking a prosecution or seeking an Enforcement Order, a specific set of District Plan provisions, designed to cover all of these 'eyesores' either individually or collectively, is now proposed. Such provisions will include an addition to the Policy section (2.6.2) of the District Plan, a new 'Amenity' rule (in 5.4) in Part 5 (Environmental Standards) of the Plan and new definitions in section 6.1 Definitions.

- *Efficiency and Effectiveness*

As described in the abovementioned options considered by the Council, only the introduction and application of new District Plan provisions is considered to be an efficient and effective means of managing the problem. Whilst it is evident that it is possible to successfully seek an Enforcement Order from the Environment Court (refer DCC v Osborne [2015] NZEnvC 175), it is apparent from the Court's decision in this case that specific activity status provisions in a District Plan would make prosecution or enforcement procedures easier to pursue and increase the likelihood of them being effective.

- *Costs and Benefits*

All three options considered by the Council necessitate a competent and experienced Monitoring and Enforcement Officer being able to negotiate with any landowner not complying with the requirements of the District Plan, the RMA or a bylaw. The costs are likely to be similar in all cases. However, the primary benefit of pursuing the preferred option of introducing new District Plan provisions, is that it affords the Council an opportunity to pursue either the laying of an information (i.e. prosecution for breaching the rules) or seeking an abatement notice or enforcement order based on a specific breach of the District Plan's rules rather than a failure to comply with the RMA's more general (Section 17) duty to avoid, remedy, or mitigate adverse effects.

- *Risk*

From the Council's perspective, by acting in the manner proposed the risk of not achieving a successful outcome is decreased (i.e. when the District Plan's provisions are specific to the management of the problem, the identification and management of the problem is more certain).

UPDATING AND MINOR CORRECTIONS OF EXISTING PLAN PROVISIONS

As these are minor changes or corrections resulting in no changes to the content, such as to warrant a consideration of alternatives or their appropriateness, no S32 evaluation has been undertaken on these matters.

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[3] Dunedin City Council v Osborne [2015] NZEnvC 175 (13 October 2015).

5 COUNCIL CONSIDERATION AND DECISIONS: A SUMMARY

Section 4.1 of this evaluation report sets out the policy development process, the issue identification process and the clarification and confirmation process applied to the issues identified. Evaluation of the proposed plan change matters involved the Council's elected representatives at four stages in the process.

Stage One involved a workshop held in July 2015 to consider the list of issues/matters to be investigated in detail based on an Issues Review Discussion Report. In addition to the matters confirmed as necessary matters for inclusion in the proposed plan change, it was requested that a number of other matters be included on the list. These matters included derelict buildings, vehicles and properties, cattle underpasses, urban stormwater channels, the use of drones and a contestable RMA fund. It was considered that the latter two matters were not ones which would fall within the ambit of the District Plan.

Stage Two involved a workshop in December 2015 to consider and evaluate the additional matters raised at the July workshop. The management of Derelict Sites Buildings and Vehicles was confirmed as being a key matter for the proposed plan change but Stock Crossings and Underpasses was not. It was determined in the latter case that this was best managed by way of a by-law. A further matter considered in some detail was the requirement in the MWRC's One Plan (RPS Policy 6-6) that the outstanding natural features and landscapes (ONFLs) listed in Schedule G (Table G.1) of the One Plan be spatially defined on the District Plan's Planning Maps. It was considered that to delineate the ONFLs on the District Plan Maps is not just a simple matter of drawing a line on a planning map. Policy 6-7 of the One Plan requires that the Council must carry out a process of identification and assessment which takes into account a range of criteria, as set out in Table 6.1 'Natural Feature and Landscape Assessment Factors', as follows:

Assessment factor	Scope
(a) Natural science factors	These factors relate to the geological, ecological, topographical and natural process components of the natural feature or landscape: (i) Representative: the combination of natural components that form the feature or landscape strongly typifies the character of an area. (ii) Research and education: all or parts of the feature or landscape are important for natural science research and education. (iii) Rarity: the feature or landscape is unique or rare within the district or Region, and few comparable examples exist. (iv) Ecosystem functioning: the presence of healthy ecosystems is clearly evident in the feature or landscape.
(b) Aesthetic values	The aesthetic values of a feature or landscape may be associated with: (i) Coherence: the patterns of *land*^ cover and *land*^ use are largely in harmony with the underlying natural pattern of landform and there are no, or few, discordant elements of *land*^ cover or *land*^ use. (ii) Vividness: the feature or landscape is visually striking, widely recognised within the local and wider community, and may be regarded as iconic. (iii) Naturalness: the feature or landscape appears largely unmodified by human activity and the patterns of landform and *land*^ cover are an expression of natural processes and intact healthy ecosystems. (iv) Memorability: the natural feature or landscape makes such an impact on the senses that it becomes unforgettable.
(c) Expressiveness (legibility)	The feature or landscape clearly shows the formative natural processes or historic influences that led to its existing character.

(d) Transient values	The consistent and noticeable occurrence of transient natural events, such as daily or seasonal changes in weather, vegetation or wildlife movement, contributes to the character of the feature or landscape.
(e) Shared and recognised values	The feature or landscape is widely known and is highly valued for its contribution to local identity within its immediate and wider community.
(f) Cultural and spiritual values for *tangata whenua*^	Māori values inherent in the feature or landscape add to the feature or landscape being recognised as a special place.
(g) Historic Heritage values	Knowledge of historic events that occurred in and around the feature or landscape is widely held and substantially influences and adds to the value the community attaches to the natural feature or landscape. Heritage features, *sites** or structures that are present and add to the enjoyment and understanding of the feature or landscape.

Such an assessment requires the expertise of a landscape architect experienced in carrying out such assessments. Expressions of interest are to be sought to carry out a landscape assessment of ONFLs which would clearly indicate the scope of work required, its cost and the time required to complete the work. Confirmation will then be sought from Councillors that the delineation of ONFLs is a significant resource management issue for the District and that formal proposals be sought to carry out the required (One Plan Policy 6-6 and 6-7) landscape assessment.

As it was considered that this process would take several months (from the drafting of a brief, to the issuing of a RFP, evaluation and acceptance of a preferred landscape architect, to completion of the task) it was determined that this matter ought to be the subject of a separate plan change.

Stage Three involved a third and final workshop in July 2016 to consider and confirm a draft of Proposed Plan Change No.1, prior to it being sent to RMA 1st Schedule parties for comment. Minor changes were made to draft PPC1 as a consequence of its consideration at this workshop.

Stage Four involved final consideration and confirmation of PPC1 by the Council at its meeting in September, 2016.

Development of PPC1 was an iterative process, involving Councillors and senior Tararua District Council staff in decision-making at regular intervals. The requirements of RMA S32 were an integral part of the decision-making process. A detailed outline of the consideration and evaluation involved in the substantive policy changes are outlined in this report. All changes proposed by way of PPC1 have been made for the purpose of enabling more efficient and effective management of the effects of land use activities within the District and to meet the purpose of the RMA.