

Submission No. 8

25 November 2016



Private Bag 11025
Manawatu Mail Centre
Palmerston North 4442

P 06 952 2800
F 06 952 2929

www.horizons.govt.nz

Craig Lunn
Manager Regulatory Services
Taranua District Council
PO Box 115
DANNEVIRKE 4942

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Delivered via Email to:
info@tararua.govt.nz

Dear Craig

TARARUA DISTRICT COUNCIL PROPOSED PLAN CHANGE 1 (PC1)

Please find attached Horizons Regional Council's submission on the Taranua District Council's Proposed "Tidy-up" Plan Change (PC1).

Horizons wishes to be heard in support of this submission.

While Horizons is generally in support of the Proposed Plan Change there are some specific areas of concern which are outlined in the attached submission.

We welcome the opportunity to work with the Taranua District Council to narrow or resolve these issues prior to the hearing, either informally or at officer level or through a prehearing process.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Lisa Thomas".

Lisa Thomas
COORDINATOR DISTRICT ADVICE

Encls. Horizons submission on PC1

Kairanga

Marton

Palmerston North

Tairāpapa

Taumarunui

Wanganui

Woodville

Submission on the Proposed “Tidy-Up” Plan Change to the Tararua District Plan

To: Tararua District Council
PO Box 115
DANNEVIRKE 4942

From: Manawatu-Whanganui Regional Council (Horizons)
Private Bag 11025
Manawatu Mail Centre
PALMERSTON NORTH 4442

1. Thank you for the opportunity to submit on the Proposed “Tidy-up” Plan Change to the Tararua District Plan (PC1). Our submission points are detailed below, along with the decisions sought from the Tararua District Council (TDC).
2. Horizons could not gain an advantage in trade competition through this submission.
3. Horizons wishes to be heard in support of this submission. If others make a similar submission we would be willing to consider presenting a joint case with them to any hearing.
4. Horizons provided feedback on the draft version of this Plan Change on 9 September 2016. A number of our recommended changes have been adopted by TDC in the notified version of this Plan Change. However, some matters remain that require further discussion to ensure alignment with the objectives, policies and rules of the One Plan. We would welcome any opportunity to attend informal or formal pre-hearing meetings with TDC and other parties to discuss these remaining matters.

HORIZONS’ SUBMISSION ON THE PROPOSED (“TIDY-UP”) PLAN CHANGE 1

5. The following submission focuses principally on the relationship between Horizons’ One Plan (combined regional policy statement (RPS) and regional plans), and the need for the District Plan to give effect to the regional policy statement components and not be inconsistent with regional plan provisions, as set out in section 75 of the Resource Management Act 1991 (RMA).

Renewable Energy Generation

6. Horizons supports the proposed changes to Standard 5.3.7.2(a), including the additional standard relating to domestic scale electricity generation from renewable energy sources. We consider that these provisions will give effect to Policy 3-6(b) of the One Plan, which states that “the Regional Council and Territorial Authorities must generally not restrict the use of small domestic-scale renewable energy production for individual domestic use.”

Decision Sought:

- That the proposed changes to Standard 5.3.7.2(a), following the 'Note' on page 5 – 66 be retained as drafted in PC1.

Hazardous Substances

7. Horizons generally supports TDC's proposal to amend the hazardous substances provisions in Section 5.1.8 of the District Plan. However, we do have some reservations about the extent of the amendments and their timing.
8. While Horizons generally supports the proposed introduction text in Section 5.1.8.1, we have some concerns about TDC's conclusion that there is "no need or justification to provide any further regulations (rules) or other provisions in the District Plan in order to exercise its RMA S31(1)(b) functions." TDC is correct that the RMA provides for regional councils to have a function in relation to hazardous substances. However, the One Plan policy framework clearly allocates responsibility for controlling land use in relation to storage, use and transportation of hazardous substances to territorial authorities as set out below; Horizons has responsibility for controlling land use in relation to disposal. This allocation of responsibility through the Regional Policy Statement is required by section 62(1)(i)(ii) RMA.
9. Thus, One Plan Part I (Regional Policy Statement) includes Objective 3-5 (ii), which sets out that the Regional Council and territorial authorities will be responsible for working together in a regionally consistent way to:

- (ii) *manage adverse effects from the use, storage, disposal and transportation of hazardous substances.*

It is our view that these provisions do not preclude a Territorial Authority in the Region from providing for land use in relation to hazardous substances as a permitted activity.

10. Horizons acknowledges the proposal to remove the RMA legislative framework around hazardous substances through the first reading of the Resource Legislation Amendment Bill. This Bill includes the proposed repeal of sections 30(1)(c)(v) and s31(b)(ii) RMA, which give regional and territorial authorities functions around controlling land use for the purpose of avoiding adverse effects from storage, use, disposal and transportation of hazardous substances (as well as section 62(1)(i)(ii), referred to in paragraph 8).
11. The recent decision in relation to Christchurch Replacement District Plan also lends weight to a more permissive approach to controlling land use to manage hazardous substances in district plans. However, it is our understanding that this decision recognises that there are still circumstances where it may be appropriate to control the location of major hazardous substances facilities, for example in relation to their proximity to sensitive land uses, or to manage reverse sensitivity by controlling the establishment of sensitive land uses close to these facilities¹. We are concerned that

¹ Randal, D. (August 2016). Are RMA planning controls for hazardous substances necessary? A case study from the Christchurch Replacement District Plan process. *Resource Management Journal*, 22-29.

controls in areas prone to natural hazards may also warrant, but may not have been given, consideration.

12. Bearing in mind emerging changes to the legislative framework and planning practice, we support the deletion of Standards Standards 5.1.8.2, 5.1.8.3 and 5.1.8.4. However, the final form of the Resource Legislation Amendment Bill is uncertain and removing all land use controls from the District Plan may be premature. It is also unclear from the PC1 document and associated Section 32 report whether consideration has been given to the appropriateness of including specific controls around major hazardous substances facilities and other sensitive land uses or areas prone to natural hazards.
13. We would be very happy to discuss this matter further to ensure we fully understand TDC's rationale for removing all controls in relation to hazardous substances, and to work with you to look at whether there is a way forward that will achieve the desired efficiencies while giving full effect to the RPS.

Decisions sought

- That TDC consider retaining some control over land use to address adverse effects of the storage, use or transport of hazardous substances in relation to (but not limited to) sensitive areas and activities, land prone to natural hazards, or reverse sensitivity.
- Any alternative relief that gives effect to the One Plan policies for management of hazardous substances.

Indigenous Vegetation Provisions

14. Horizons agrees with the assessment on page 13 of the PC1 document, that the Operative Tararua District Plan does not give effect to One Plan Policy 6-1(b)(i). We support the proposed deletion of the District Plan rules in Section 5.5.4 and Schedule 3.2 of Appendix 3, as these provisions relate to matters that are the responsibility of the Regional Council (as set out in accordance with section 62(1)(i)(iii)). Horizons also supports the retention of the Schedule of Significant Trees (Appendix 3.1) and Rule 5.5.3.2 where these provisions are for the purpose of recognising amenity, intrinsic and cultural values.
15. Horizons supports the proposed changes to the Section 2.6.4.3 explanation, the 2.6.4.4 methods, the Section 5.5.1 introduction, the heading for Rule 5.5.3.2 and Table One in Rule 5.5.3.4, and the deletion of Rule 5.5.4 and Schedule 3.2 in Appendix 3. We consider that all of these proposed changes are will give effect to One Plan Policy 6-1. We also note and support TDC's intention to retain Policy 2.6.4.2, which supports Rule 5.2.3.2(c) (Subdivision dimension and design). Rule 5.2.3.2(c) requires that design take into account "*environmental features identified as requiring protection from development and/or land use activities, including heritage items and archaeological sites*". It is appropriate that TDC is able to consider effects on indigenous biodiversity of activities that Horizons has no decision-making function or responsibilities for, such as subdivision.

16. In Horizons feedback on the draft plan change we noted that PC1 does not include any amendments to the natural features and landscapes provisions. Horizons acknowledges that the Operative Plan includes a policy and regulatory framework to protect these areas, including Policy 2.6.4.2 (which largely reflects the criteria for assessing outstanding natural features and landscapes in One Plan Policy 6-7) and Schedule 3.3. However, One Plan Policy 6-6 (made operative in December 2014) includes an amendment to the Proposed One Plan policy, and now states *"the natural features and landscapes listed in Schedule G Table G.1 must be recognised as regionally outstanding and must be spatially defined in the review and development of district plans [emphasis added]."*
17. Horizons recognises that, unless a variation to this plan change is initiated, it is now too late for TDC to incorporate mapping of the outstanding natural features and landscapes in the District, and any consequential amendments to the policy and rule framework, as part of this plan review. However, we take this opportunity to reiterate that the current District Plan provisions do not fully give effect to One Plan Policy 6-6, and that we would welcome the opportunity to further discuss this matter with TDC.

Decisions sought

- That the rules in Section 5.5.4 and Schedule 3.2 of Appendix 3 be deleted from the District Plan as proposed in PC1.
- That the proposed changes set out in Section 4.1.3 of the Plan Change document be retained as drafted.
- Any alternative relief to give effect to the One Plan policy framework for maintaining and enhancing indigenous biological diversity.

Minimum Lot Sizes for Wastewater Disposal

18. Horizons supports the acknowledgement of the minimum lot size requirements set out in One Plan Rule 14-14 for new and upgraded discharges of domestic wastewater. We support the retention of the advisory note following clause (b) of Subdivision Standard 5.2.3.2, subject to removal of the word 'Proposed' that precedes the 'One Plan.'
19. Horizons also supports the proposed advisory note to be added to Rule 5.1.2.2(c)(i) and considers that it will benefit plan users. However, as the minimum lot size varies depending on whether the parcel was created before or after One Plan Rule 14-14 became operative (31 August 2012), a resource consent will not always be required. We therefore request that the word "likely" be added after "will," as follows:

"Note: Where an area of land of less than 5,000m² is to be used to build a dwelling with associated domestic wastewater disposal, a resource consent will likely be required from MWRC prior to the installation of the wastewater disposal system and for any future upgrades to that system. The Council will require sufficient information to be presented to it to demonstrate that the site will be able to properly dispose of effluent within its boundaries in compliance with the requirements of One Plan Rule

14-14 and the Manual for Onsite Wastewater Systems Design and Management (Horizons Regional Council, 2010)."

This will alert plan users to the potential requirement for a discharge permit, depending on the size of the lot and when the parcel was created, and will enable confirmation of this to be made in consultation with Horizons.

20. Horizons is neutral with respect to the deletion of the statement in Rule 5.1.2.2(c)(i) that allows for drainage easements as a means of achieving compliance with the domestic wastewater standards. For clarity, One Plan Rule 14-14 refers to the 'property' within which the discharge occurs. The One Plan definition of 'property' refers to one or more adjacent allotments that are in the same ownership. The One Plan does not specifically provide for easements as a means to achieve compliance with the wastewater standards. However, a legally established easement may be the only suitable option when there is insufficient land area available within a property. The need for a discharge permit is more often caused by non-compliance with the minimum lot size requirements of One Plan Rule 14-14, rather than being specifically related to having a drainage easement on a neighbouring property.

Decisions sought:

- That the advisory note following clause (b) of Subdivision Standard 5.2.3.2 be retained, subject to removal of the word 'Proposed' that precedes the 'One Plan.'
- That the proposed advisory note to be added to Rule 5.1.2.2(c)(i) be retained as drafted, subject a minor amendment to include the word "likely" after "will," as follows:

"Note: Where an area of land of less than 5,000m² is to be used to build a dwelling with associated domestic wastewater disposal, a resource consent will likely be required from MWRC prior to the installation of the wastewater disposal system and for any future upgrades to that system. The Council will require sufficient information to be presented to it to demonstrate that the site will be able to properly dispose of effluent within its boundaries in compliance with the requirements of One Plan Rule 14-14 and the Manual for Onsite Wastewater Systems Design and Management (Horizons Regional Council, 2010)."

Flood Hazard

21. The One Plan policy framework for the management of natural hazards in the Region (specifically Policy 9-1(c)) states that

"Territorial Authorities must be responsible for developing objectives, policies and methods (including rules) for the control of the use of land to avoid or mitigate natural hazards"...and for "identifying 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 Policy 9-2 and 9-3."

This allocation of responsibility is required by s62(1)(i)(i) RMA.

22. The 0.5% AEP standard was set to provide for a 1% AEP (1 in 100 year) standard with climate change through the estimated 50 year life of a building (based on the mid-IPCC scenarios).

23. It is our view that PC1 does not give effect to One Plan Policy 9-1(c) and does not provide TDC with the ability to control land use activities in flood prone areas in accordance with Policy 9-2. Horizons does not support TDC's proposal to delay the inclusion of known floodable areas on the District Plan Maps and flood hazard provisions in the District Plan until the completion of additional flood modelling through the Hazards Upgrade project.

24. Page 2-39 of the Operative Tararua District Plan states that:

"Regulation, through District Plan rules, is considered by the Council to be an appropriate method of implementation for this policy where natural hazard risk can be accurately quantified and mapped. Rules have been developed to ensure that further development in identified "natural hazard areas" such as flood prone areas is limited."

25. While Section 5.1.7 of the District Plan includes standards to manage development within "natural hazard areas," no such areas are currently identified on the planning maps. Due to differences in terminology, properties identified as being within a "Flooding Potential Areas" on the planning maps are not subject to these hazard provisions.

26. The TDC District Plan flood maps show "Flooding Potential Areas" which appear to be generally consistent with Horizons 'indicative' flood information. While we agree that this 'indicative' information is not sufficiently accurate to be relied upon for land use decisions, it is useful in identifying areas where further assessment of flood risk is warranted. Horizons supports the proposed retention of an advisory note on the District Plan's Flood Maps that direct plan users with an interest in land within a floodable area to contact Horizons for more detailed information on the flood hazard. However, as these potentially floodable areas are not identified as "natural hazard areas" we understand that the rules in Section 5.1.7 do not apply.

27. In the absence of rules controlling development in floodable areas, the hazard provisions of the Building Act 2004 will apply. However, the Building Act only requires avoidance or mitigation of the 1 in 50 year flood. This is a considerably lower standard than that provided for in the One Plan policy framework. It is therefore not clear how the District Plan currently provides TDC with the ability to require developments to avoid or mitigate flood hazard in accordance with One Plan Policy 9-2.

28. Horizons has previously provided the Tararua District Council with a copy of our 0.5% AEP (1 in 200 year) flood modelling for the Upper Gorge (including Woodville), Mangatainoka, Pahiatua and Herbertville. Also provided was 1% AEP (1 in 100 year) flood modelling for coastal inundation at Akitio. This is for current sea levels and forecast sea levels with climate change to 2050 and 2110. This information is sufficiently accurate to be included on the District Plan maps as "natural hazard areas." Horizons uses these models when providing site-specific information and advice to TDC when assessing subdivision, land use and building consent applications within

floodable areas. Horizons' 0.5% AEP modelled flood information has already been added to maps in District Plans throughout the Region through recent Plan Changes.

29. As noted in the draft plan change document, there are additional areas within the Tararua District that will be modelled for a 0.5% AEP flood event as part of the hazards upgrade project set out in Horizons' Long Term Plan 2015-25. This additional modelling includes the Upper Manawatu/Awapikopiki Stream (2018-19), additional modelling for Woodville (2020-21) and the Wainui Stream near Herbertville (2021-22). New flood information could be incorporated onto the District Planning Maps as part of a future plan change. However, even following this additional modelling there will still be areas within the District that may be inundated during a 0.5% AEP flood event that Horizons does not hold information for. The current information gaps should therefore not be used as justification for not including any known floodable areas on the District Plan maps.

30. Horizons recognises that, unless a variation to this plan change is initiated, it is now too late for TDC to include those areas known to be at risk of flood in a 0.5% AEP flood event on the planning maps, and to undertake any consequential amendments to the policy and rule framework, as part of this plan review. However, we are happy to work with the Tararua District Council to explore alternative means of ensuring that the District Plan gives effect to One Plan Policy 9-1.

31. The natural hazard provisions in Section 5.1.7 of the District Plan currently rely on the mapping of natural hazard areas. While this provides some certainty for developers around when the provisions will apply, it is also inflexible should a property be found through site-specific assessment to not be at risk of natural hazards (particularly within those areas that we currently only hold indicative flood information for).

32. Rather than relying on mapping of floodable areas, one suggested approach to achieve better alignment with One Plan Objective 9-1 and Policy 9-2 is to add a definition of "natural hazard areas" that references those areas likely to be inundated during a 0.5% AEP (1 in 200 year) flood event. Possible wording for this definition is as follows:

Natural Hazard Area (Flooding) means *Land at risk of inundation during a 0.5% Annual Exceedance Probability (1 in 200 year) flood event.*

33. The Rangitikei District Council took a similar approach in their recent Plan Change by including definitions for natural hazard areas and an advice note that gives the definitions priority over mapped areas. The amended provisions became fully operative on the 14th of November 2016.

34. Horizons also has mapped coastal erosion hazard zones for Akitio and Herbertville out to 2110 and inundation modelling for Akitio that identifies areas at risk of inundation to 2110. As with flood hazard, unless a variation to this plan change is initiated, it is now too late for these coastal hazard areas to be included on the planning maps. However, Horizons is keen to work with TDC to identify alternative means of achieving better alignment of the District Plan with One Plan Objective 9-1 and Policy 9-4. Until such time as the information can be incorporated through a future plan change, we request that an advice note be included to encourage plan users to contact Horizons for coastal hazard information.

Decisions sought:

- That a definition of “natural hazard areas” be added to the District Plan that references those areas known to be at risk of inundation in a 0.5% AEP flood. Possible wording is as follows:

Natural Hazard Area (Flooding) means *Land at risk of inundation during a 0.5% Annual Exceedance Probability (1 in 200 year) flood event.*

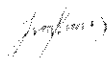
- Any alternative relief to give effect to the One Plan policy framework to manage development in areas prone to flooding.
- That an advice note be included for plan users to encourage plan users to contact Horizons for coastal hazard information.

Updating of Outdated References

35. Horizons supports the proposed changes in Section 6.4.3 of the Plan Change that seek to amend outdated references to Horizons’ Regional Policy Statement and Plans and the Proposed One Plan, and recommends that they be retained as drafted.

Thank you again for the opportunity to provide feedback on this proposed Plan Change. Please do not hesitate to contact me (email: lisa.thomas@horizons.govt.nz) if you would like to discuss or clarify any aspect of this submission.

Yours sincerely



Lisa Thomas
COORDINATOR DISTRICT ADVICE