

Title: Adoption and Operative Date for Plan Changes to Tairāwhiti Plan
Section: Strategic Planning
Prepared by: Keriana Wilcox-Taylor (Senior Planner)
Meeting Date: 17 May 2018

Legal Financial Significance = low

Report to COUNCIL for decision

SUMMARY

This report seeks Council adoption and operative dates for three plan changes to the Tairāwhiti Resource Management Plan (the Plan). These plan changes aim to streamline the Plan and address 'silly rules'.

Proposed Plan Change 1 sought to rationalise the text of the Plan by combining similar provisions and deleting provisions that do not assist with interpretation and implementation of the Plan. It is part of a larger project to combine Council's seven resource management plans into one.

Two submissions were received and Council decided to make minor changes in response to these submissions. The submitters supported the changes and no appeals were received. Council has already approved Plan Change 1 and now needs to set an operative date.

Proposed Plan Change 2 clarifies the landscaping rules commercial and industrial zones. It seeks to address the above issues without changing the intent or outcome of the original rules. One submission was received in support so a hearing was not required. Council can now adopt Proposed Plan Change 2 and notify submitters for appeals. It is unlikely submitters will appeal. If no appeals are received, Council can set an operative date.

Proposed Plan Change 3 seeks to correct a number of plan errors and ambiguous rules that cause uncertainty and confusion for plan users and have resulted in several unnecessary resource consent applications due to difficulties with interpretation. One submission was received. Council decided to make minor changes in response to this submission. The submitter supported the changes. Council can now adopt Proposed Plan Change 3 and notify submitters for appeals. It is unlikely submitters will appeal. If no appeals are received, Council can set an operative date.

Officers suggest an operative date of 30 July, provided no appeals are received on Proposed Plan Change 2 and Proposed Plan Change 3.

The decisions or matters in this report are considered to be of **low** significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS

That the Council:

1. Notes the contents of this report.
2. Adopts the provisions in Proposed Plan Change 2 to the Part Operative Tairāwhiti Resource Management Plan.
3. Adopts the provisions in Proposed Plan Change 3 to the Part Operative Tairāwhiti Resource Management Plan.
4. Instructs staff to affix the Council seal electronically and notify an operative date of 30 July 2018 for Plan Change 1/Variation 1, Plan Change 2 and Plan Change 3 to the Part Operative Tairāwhiti Resource Management Plan, provided submitters do not appeal the decisions of Council.

Authorised by:



Yvette Kinsella
Strategic Planning Manager



Keita Kohere
Director Transformation & Relationships

BACKGROUND

1. The plan changes proposed to the Tairāwhiti Resource Management Plan (the Plan) are made under the Resource Management Act 1991 (the RMA). The process for making and/or amending RMA plans is prescribed in the RMA.
2. The steps in a plan change process are:
 - prepare proposed changes including an evaluation of the efficiency and effectiveness of the proposed changes (as per section 32 of the RMA)
 - publicly notify the proposed changes for submissions
 - public notify the submissions received and call for further (or cross) submissions from relevant parties
 - hold a hearing if submitters wish to be heard
 - make decisions (full Council) on submissions and further submissions and notify the decisions to submitters for an appeal period of 30 days
 - respond to the Environment Court direction if any appeals are received
 - make the final changes to provisions operative.

DISCUSSION

Proposed Plan Change 1/Variation 1

3. The Plan was created in June 2017 through the merger of Council's resource management plans into one document. At the same time, but as a distinct process, Proposed Plan Change 1 / Variation 1¹ (Plan Change 1) was notified for submissions. It rationalises the Plan by combining similar provisions and deleting those that do not aid in the interpretation of the Plan.
4. The merger and rationalisation process aims to deliver the following benefits:
 - better integration of provisions
 - a shorter plan that is easier to use - reducing the words in the main body of the plan (not appendices) by 27% and reducing the Plan by 150 pages
 - the ability to review all provisions on the same topic at one time.
5. Two submissions were received on Plan Change 1. These matters were accommodated through minor amendments and Council's decisions were notified in December 2017. No appeals were received. Council can now make Propose Plan Change 1 operative.

Proposed Plan Change 2

6. The purpose of Plan Change 2 is to improve and clarify the landscaping rules for commercial zones and industrial zones and Appendix H12 of the Plan. The changes are:
 - clarifying when the rules apply by integrating them into the relevant zone chapters of the Plan and making improvements to the wording to improve legibility
 - that Appendix H12 (previously Appendix 32) will now only contain the diagrams for the landscaping types and a descriptive table that clarifies the landscaping rules for the Rural Industrial A Zone and Aviation Commercial Zone

¹ Technical note: A plan change is a proposed amendment to operative provisions of a plan. A variation is a proposed amendment to provisions that are not yet operative. Some of the provisions the plan change affects are operative and some are not hence the title. This is a technical planning term and has no impact on this decision.

- the rules for landscaping requirements for the Aviation Commercial Zone have been clarified and are now the same as the landscaping requirements for the Rural Industrial A Zone as originally intended.
7. One submission was received in support of Plan Change 2. No amendments were requested by the submitter and they have requested not to be heard.
 8. Council can now adopt Proposed Plan Change 2 and notify the submitter of its decision for appeals.

Proposed Plan Change 3

Plan change purpose

9. Proposed Plan Change 3 corrects errors and rules related to Network Utility Activities in Part C2 of the Plan that result in interpretation difficulties, uncertainty for the public and Council and in unnecessary resource consent. The matters in Proposed Plan Change 3 were identified through consultation with local consultants that frequently use resource management plans as well as through consultation with Council's consent planners.
10. The National Environmental Standards for Telecommunication Facilities 2008 (NESTC) has rules relating to telecommunications infrastructure which take precedence over the rules for the same activities in C2 of the Plan. If a telecommunication structure or facility is permitted under the NESTC, the rules in C2 of the Plan do not apply. If a telecommunication structure or facility is not permitted under the NESTC, the Plan rules in C2 apply. The changes proposed do not conflict with the NESTC.

Submission points and recommendations

11. Proposed Plan Change 3 was notified for submissions on 30 June 2017. One submission was received from Radio NZ Ltd. No further submissions were received.
12. The table below shows summaries of the submission points received and staff recommendations in response. Staff support all submission points from the submitter, Radio NZ Ltd, in full.

Submitter: Radio NZ Ltd
Plan Section: C3.14.3(12) and C9.1.6(53) Restricted discretionary rule.
Submitter Decision Sought: Support proposed changes with amendment to clarify status of existing versus new telecommunication and radio communication lines.
<p>Recommended Decision: Accept Submission. Amend rules as shown below (with underlining) to clarify existing use rights in relation to these rules:</p> <p>Rule C3.14.3(12):</p> <p><i>Subject to Rule C3.4.3(13), and outside of legal road and road reserve, establishment and operation of telecommunication and radio communication lines and cables <u>other than those lawfully established as at 30 June 2017</u>, located below ground, including associated vegetation clearance and land disturbance, where the construction corridor exceeds 2 metres in width.</i></p> <p>Rule C9.1.6(53):</p> <p><i>Subject to Rule C3.4.3(13), and outside of legal road and road reserve, establishment and operation of telecommunication and radio communication lines and cables, cables <u>other than those lawfully established as at 30 June 2017</u>, located below ground, including associated vegetation clearance and land disturbance, where the construction corridor exceeds 2 metres in width.</i></p>
Plan Section: Part E Definitions, definition of "support structure".

Submitter: Radio NZ Ltd

Submitter Decision Sought: Support proposed changes with amendment to definition of "support structures".

Recommended Decision: Accept submission. Amend Definition as shown below with underlining to clarify application of the definition:

Definition of "support structure":

Means a pole, pylon or mast used for network utility activities or on which antennas, dishes, aerials or network utility structures are located.

Section 32AA requirements

13. The RMA requires council to re-evaluate the efficiency and effectiveness of proposed changes following a Council decision.
14. Given the minor nature of the submission received for Proposed Plan Change 3 there are no changes to the original section 32 evaluation provided to support notification of the changes. There are no changes to the intent or effect of the provisions through the plan change process. These amendments will enable better interpretation of the plan and provide clarity to plan users and Council.
15. Proposed Plan Change 3 represents the most appropriate way to achieve the purpose of the RMA. It meets the sustainable management purpose of the RMA while ensuring the plan provisions continue to manage the adverse environmental effects from the use and development of natural and physical resources in the Gisborne region.

NEXT STEPS

16. Plan Change 1 is beyond challenge. It just needs a Council decision on an operative date.
17. Council can now adopt Proposed Plan Change 2 and Proposed Plan Change 3 and notify the submitters of its decision for appeals. It is unlikely that submitters will appeal the Council decisions. The submitters supported the plan changes. Staff have incorporated amendments from the submitter on Proposed Plan Change 3 into the recommendations to Council in this report.
18. However Council is still required to provide 30 days for appeals before formally making provisions operative.
19. For efficiency, staff recommend Council stipulate an operative date subject to not receiving any appeals from submitters. If appeals are received, the matter will come back to Council.

ASSESSMENT OF SIGNIFICANCE

Criteria	This Report	The Process Overall
The effects on all or a large part of the Gisborne district	Low	Low
The effects on individuals or specific communities	Low	Medium
The level or history of public interest in the matter or issue	Low	Low
Inconsistency with Council's current strategy and policy	Low	Low
Impacts on Council's delivery of its Financial Strategy and Long Term Plan.	Low	Low

20. The decisions or matters in this report are considered to be of **low** significance in accordance with Council's Significance and Engagement Policy.

COMMUNITY ENGAGEMENT

21. Community engagement was undertaken through the Schedule 1 process in the RMA) as well as engagement with plan users prior to notification.

CONSIDERATIONS

Financial/Budget

22. There are no financial or budget implications identified with the approval and making operative of the proposed changes. Minor advertising costs are involved.

Legal

23. The proposed changes were prepared in accordance with Schedule 1 of the RMA.

POLICY and PLANNING IMPLICATIONS

24. The proposed changes will assist the Council to carry out its functions in the sustainable management of natural and physical resources within the Gisborne District under the RMA.

RISKS

25. No risks are identified.

NEXT STEPS

Date	Action/Milestone	Comments
18 May 2018	Council decisions on the proposed changes are notified to relevant parties.	
3 July 2018	Appel period closes.	Appeal period is 30 working days
23 July 2018	Confirm no appeals received from Environment Court.	
30 July 2018	Provisions become operative.	