

SECTION 2 - POLICY AND LEGAL FRAMEWORK

1 STATUTORY PURPOSE AND PRINCIPLES

The Waimate District Council is required by the Resource Management Act 1991 to have a District Plan for its District. This Act sets out the Council's resource management functions and the matters which this Plan must and can address. The purpose of this District Plan is to assist the District Council to carry out its functions under the Resource Management Act, in order that it may achieve the purpose of the Act, which is to **"promote the sustainable management of natural and physical resources"**. Section 5 of the Resource Management Act (set out below) sets out in full the purpose of the Act. It is this purpose which provides the overall goal or guide for this District Plan.

"Section 5

5. Purpose

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) In this Act, "sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-

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

In achieving this purpose the District Plan and its administration must also recognise and provide for the following matters of national importance listed in Section 6 of the Act.

- "(a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;*
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;*

- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;*
- (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers;*
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga."*

Particular regard shall be had in the District Plan to the following matters in Section 7 of the Act.

- "(a) Kaitiakitanga (exercise of guardianship);*
- (b) The efficient use and development of natural and physical resources;*
- (c) The maintenance and enhancement of amenity values;*
- (d) Intrinsic values of ecosystems;*
- (e) Recognition and protection of the heritage value of sites, buildings, places, or areas;*
- (f) Maintenance and enhancement of the quality of the environment;*
- (g) Any finite characteristics of natural and physical resources;*
- (h) The protection of the habitat of trout and salmon. "*

In addition the District Plan and its administration shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) (Section 8 of the Act).

It is against this background of the Resource Management Act's purpose and principles that the resources of the District and the wellbeing of its people have been assessed to determine the significant resource management issues of the District.

2 OBLIGATION TO COMPLY

No person may use land in a manner that contravenes a rule in the District Plan, unless they have existing use rights or a resource consent granted by the Council (Ss 9 and 10). In the context of the Resource Management Act such use includes the use of the surface of lakes and rivers. No person may subdivide land in the District unless expressly allowed by a rule in the District Plan or a resource consent (S 11).

3 EXISTING USE RIGHTS

Sections 10 and 10A of the Act specify the circumstances when existing and continued use of land and the surface of water in a manner which contravenes a rule in the District Plan are permitted to continue.

4 STATUS OF ACTIVITIES

Within the context of this District Plan, "activity" shall be the use and subdivision of land (and the surface of water), and/or the erection and/or use of buildings or structures thereon.

Activities have been grouped according to their common characteristics, based on the premise that there is no need to distinguish between activities of similar environmental effects. For example, "residential activity" includes a range of uses from detached dwellings to apartments.

Within each zone, these activities are further classified according to their status under the Act, being either: permitted; controlled; discretionary; non-complying; or prohibited.

- Permitted activities are allowed by the Plan without a resource consent, providing they comply in all respects with the conditions specified in the Plan. In respect of any particular zone, these conditions include both the relevant site and zone standards.
- Controlled activities require a resource consent. They shall comply with any standards and terms specified in the Plan and will be assessed according to those matters in the District Plan over which the Council has reserved control. The Council must grant its consent to a controlled activity, but in granting its consent the Council may impose conditions relating to those matters specified.
- Discretionary activities require a resource consent, and may be subject to standards and terms specified in the Plan. Activities have been afforded such status where there is potential they may not be suitable in all locations in a zone; or where the effects of the activity on its environment are so variable that it

is not possible to prescribe appropriate standards and terms to cover all circumstances in advance of an application. Alternatively, activities may be listed as permitted activities but cannot meet all the site standards for that zone, in which case they shall be discretionary activities. The Council may grant or refuse consent to a discretionary activity and, if granting consent, may impose conditions.

- Non-complying activities are those which contravene a rule in the District Plan. A resource consent is required for a non-complying activity. The Council may grant or refuse consent to a non-complying activity and, if granting consent, may impose conditions.
- Prohibited Activities are those which the Plan expressly prohibits and describes as an activity for which no resource consent shall be granted; and includes any activity prohibited by Section 105(2)(b) of the Historic Places Act 1993.

5 TEMPORARY ACTIVITIES AND BUILDINGS

Notwithstanding anything to the contrary in this District Plan the following temporary activities and buildings shall be permitted in any zone.

- **Temporary offices, storage sheds, builders' workshops, accommodation buildings, and other similar buildings and uses, which are incidental to a building, development or construction project. These are permitted however only for the duration of the project or twelve months whichever is the lesser.**
- **Temporary uses and buildings for such purposes as carnivals, cultural festivals, sports meetings, bazaars, public meetings and the like. These are permitted however only for a period not exceeding eight days at any one time, and for no more than six times in any one year.**
- **Temporary military training activities where:**
 - **The written consent of the owner has been obtained; and**
 - **No permanent structures are constructed; and**

- **The activity does not require excavation (permanent or mechanical), unless provided for in this District Plan; and**
- **Flying activity is in compliance with civil aviation regulations or in agreement with the local controlling authority; and**
- **The activity is limited to a period not exceeding 31 days; and**
- **Noise from any temporary military training activity measured from a line 20 metres from and parallel to the facade of any residential unit or the legal boundary where this is closer to the residential unit shall not exceed the following limits:**

Time (Any Day)	Limits (dBA)		
	L10	L95	LMax
0630-0730	60	45	70
0730-1800	75	60	90
1800-2000	70	55	85
2000-0630	55		
Impulse Noise resulting from the use of explosives and small arms is not to exceed 122dBC.			

Notwithstanding anything to the contrary in this District Plan the following temporary activities shall be Controlled Activities in any zone:

- **Temporary Military Training activities not provided for as Permitted Activities**

Matter over which the Consent Authority has Reserved Control to place conditions:

- **the avoidance, remediation or mitigation of any adverse effects**

Non-Notified Resource Consents

Resource consents in relation to the following matters shall be non-notified, and the written approval of affected persons is not needed to be obtained:

Controlled Activities:- Temporary Military Training Activities

6 CERTAIN EXISTING BUILDING WORKS ALLOWED

Notwithstanding any rule in this District Plan land may be used in a manner that contravenes a rule in this district plan where -

- a The use is a building work as defined in section 2 of the Building Act 1991; and**
- b The use was a permitted activity or otherwise could have been carried out without a resource consent before the proposed plan was notified; and**
- c A building consent under the Building Act 1991 was issued for the building work before the proposed plan was notified; and**
- d The use complies with the building consent; and**
- e The building consent still has effect.**

7 SITE AND ZONE STANDARDS

This District Plan adopts a two tier system of standards in most of the zones - that is Site Standards and Zone Standards. Some General Rules which apply across the District also contain Site Standards and Zone Standards.

Site Standards are specified in relation to matters which tend to impact on the use of the particular site and adjacent areas. These Site Standards have been derived after consideration of their costs and benefits and in relation to the effects of activities on the surrounding environment. In general they are considered important in achieving a satisfactory environmental standard in the immediate vicinity of an activity. While these standards are important, they are not considered fundamental to the integrity of an area and so are set in a way that if development does not comply with these standards the Council will consider the matter of non-compliance by way of a resource consent for a discretionary activity. This enables the Council to consider the implications of non-compliance on the use and enjoyment of the site being developed and on the surrounding environment.

Zone Standards are standards which are more important to the environmental standard or character which is sought to be attained for a zone, area, or some component of the zone. These standards relate to matters which can have widespread or cumulative effects on the wider zone or area, such as noise and traffic generation or to matters which have effects on significant aspects of the zone environment e.g. impacts on sites of natural significance. Within the Rural Zone there are few zone standards because the effects on the fundamental environmental character of the zone which can be realistically controlled by District Plan rules are limited. Because of their importance, all activities which fail to meet these standards are non-complying activities which face a rigorous test if they are to obtain resource consent.

8 RESOURCE CONSENTS

The District Plan provides for two types of resource consent: land use and subdivision. Discharge, water, coastal and land use consents are issued by the Environment Canterbury; restricted coastal activities consents are issued by the Minister of Conservation.

A resource consent from the Waimate District Council is required by any person proposing to undertake an activity classified in the District Plan as:

- a controlled activity;
- a discretionary activity; or
- a non-complying activity.

An application for resource consent must be made in accordance with the Resource Management Act. Forms for land use and subdivision consent applications are available from the Waimate District Council office, accompanied by an explanation of the information to be submitted with the application. This includes an Assessment of Effects on the Environment prepared in accordance with the 4th Schedule of the Act.

Section 94 of the Resource Management Act prescribes when applications need not be publicly notified. In many situations this requires the written approval of affected persons. The District Plan in the Rules specifies those resource consents which shall be non-notified.

Section 104 sets out those matters to which the Council must have regard, in considering a resource consent application:

- "(1) Subject to Part II, when considering an application for a resource consent and any submissions received, the consent authority shall have regard to:*
- (a) any actual and potential effects on the environment of allowing the activity; and*
 - (b) any relevant regulations; and*
 - (c) any relevant national policy statement, New Zealand coastal policy statement, regional policy statement, and proposed regional policy statement; and*
 - (d) any relevant objectives, policies, rules or other provisions of a plan or proposed plan; and*
 - (f) any relevant regional plan or proposed regional plan, where an application is made in accordance with a district plan; and*
 - (g) any relevant water conservation order or draft water conservation order; and*
 - (h) any relevant designations or heritage orders or relevant requirements for designations or heritage orders; and*
 - (i) any other matters the consent authority considers relevant and reasonably necessary to determine the application."*

The Council will reach a decision on the application in accordance with Section 105 of the Act. The District Plan includes assessment matters which the Council will have regard to when considering resource consents. Section 106 specifies circumstances whereby the Council shall not grant subdivision consent, this being for any land, structure on that land or subsequent use of the land subject to or likely to cause or accentuate material damage by erosion, falling debris, subsidence, slippage or inundation from any source.

The Council may impose conditions on consents in accordance with Sections 108 and 220 of the Act, in restricting or prohibiting certain aspects of the proposal to ensure it complies with the Resource Management Act and the District Plan.

9 DESIGNATIONS

A designation is a provision made in the District Plan to give effect to a requirement made by a requiring authority. These requirements apply to a public work or a particular project or utility operation.

Any Minister of the Crown or local authority is automatically a requiring authority. Other network utility operators (as defined in Section 166 of the Resource Management Act) may apply to the Minister for the Environment for approval as a requiring authority. A requiring authority may give notice to the Council in respect of a requirement. Although the Council has called for such notices in preparing the District Plan, the Act makes provision for similar procedures throughout the life of the operative District Plan.

Designations are shown on the Planning Maps, with an indication of the requiring authority which has the benefit of the designation. These designations override the provisions of the Plan and any resource consent. They enable the use of the land by a requiring authority for the designated purpose but they may also limit the use of the land where this would conflict with the designated purpose. The provisions of the Plan for the underlying zone apply in relation to any land that is subject to a designation where the land is used for a purpose other than the designated purpose.

All designations shall have the underlying zoning of the zones in which they are located and for all designations other than those for roads or the railway, this underlying is listed in Appendix A for each designated site. All legal roads are deemed to be designated and shall have the underlying zoning of the zones in which they are located.

Designations are not the only means of providing for public works or utility operations. The District Plan contains general rules for utilities not designated, providing for these in a manner similar to other general activities.

10 HERITAGE ORDERS

A heritage order is a provision in the District Plan to give effect to a requirement made by a heritage protection authority (Section 187). Similar provisions apply as for requiring authorities, except that this authority also extends to the New Zealand Historic Places Trust.

A heritage order is issued to protect features or places of special interest, character, intrinsic or amenity value or visual appeal, or of special significance to the tangata whenua, and such area of land surrounding these places as is necessary to protect and afford

reasonable enjoyment of them. No person may undertake work in a manner contrary to the heritage order.

11 INTERPRETATION OF PLANNING MAPS

The Planning Maps, which form part of this District Plan, contain 42 Planning Maps plus an index sheet. Thirty-five of these Planning Maps cover the whole district and contain the following notations:

<u>Zones</u>	Rural Zones (RUR) which includes a Hill and High Country Subzone Residential Zone (RES) Business 1 Zone (BUS 1) Business 2 Zone (BUS 2) Business 3 Zone (BUS 3)
<u>Notations</u>	Sites of Significant Natural Conservation Value Designations Water Supply Protection Areas Lake Side Protection Areas 1 and 2 Significant Natural Features Heritage Items Commercial Frontage Flight Protection Surface

Seven maps covering the majority of the District identify “Flood Areas”. These maps indicate vulnerability regardless of zone and are included to address matters associated with the effects of flooding as a natural hazard. The Plan also contains Issues, Objectives, Policies and Methods in the Rural, Residential and Business Zones relating to natural hazards. Included in the methods are rules which set standards to avoid or mitigate the effects of flooding.

Refer clause 9 of this section for a description of designations.

12 ENFORCEMENT

The Waimate District Council has powers under Part XII of the Resource Management Act to require persons to cease or not commence an activity which is or is likely to:

- contravene the Act, any regulations, a rule in the District Plan, or any resource consent; or
- be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment.

Any person may apply to the Planning Tribunal for a declaration or enforcement order to, among other things, obtain compliance with District Plan provisions or resource consent conditions, or require adverse effects on the environment be remedied or mitigated.

13 CHANGES TO THE PLAN

The Council is committed to a Plan that is current and relevant and which addresses issues and concerns as they arise. Therefore, the provisions of the Plan may be varied as necessary. Such changes may be in response to revised or up-dated National or Regional Policy Statements or Regional Plans. Further, as the development of the District takes place, the Plan will be subject to continuous review by the Council, so that on-going and evolving resource management requirements of the community may be acknowledged and provided for.

Any person may formally request the Council to change the Plan. The procedure is set out in the First Schedule to the Act. Applications must clearly define the proposed change, so that it can be readily understood, and describe the environmental results anticipated from the implementation of the change.

14 REGIONAL RULES

The Council holds copies of the Environment Canterbury's regional rules affecting land within Waimate District. These rules may also be relevant, in addition to the rules in the District Plan, to land use activities undertaken within the boundaries of Waimate District.

In respect to further interpretation and clarification of the regional rules, inquiry should be made to the offices of the Environment Canterbury, 58 Kilmore Street, Christchurch (Phone (03)365-3828, Fax (03)365-3194) or 75 Church Street, Timaru (Phone (03)688-9069, Fax (03)688-9067).

15 GENERAL NOISE CONTROLS

The following rules relate to noise in all zones:

a Measurement and assessment of general environmental noise

Except where expressly provided elsewhere in this Plan, noise shall be measured in accordance with the provisions of NZS 6801:1991 *Measurement of Sound* and assessed in accordance with the provisions of NZS 6802:1991 *Assessment of Environmental Sound*.

b Exemptions

Noise limits in any part of the Plan shall not apply:

- (i) In any residential zone to activities of a normal recreational nature, such as sporting events, that do not involve powered motorsport, powered aviation, gunfire or amplified music.
- (ii) In any part of the District, where the noise source is a warning device used by emergency services.

c Construction noise rules - all zones

Construction noise in any zone shall not exceed the recommended limits in and shall be measured and assessed in accordance with the provisions of NZS 6803P:1984 *The Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work*. Discretionary adjustments provided in clause 6.1 shall be mandatory within the District.

d Noise associated with helicopter landing areas

- (i) Any proposed new activity within the scope of NZS 6807:1994 *Noise Management and Land Use Planning for Helicopter Landing Areas*, shall be a discretionary activity in all Zones
- (ii) Noise associated with helicopter landing areas shall not exceed the limits in Table 1 below and shall be measured and assessed in accordance with the provisions of NZS 6807:1994 *Noise Management and Land Use Planning for Helicopter Landing Areas*, substituting Table 1 below for Table 1 in the Standards (NZS6807:1994).

Table 1 - Limits of acceptability for helicopter area noise

Zone	Edn (night*-weighted sound exposure) Pa²s	Ldn (day-night average sound level) dBA	L _{max} (night-time maximum sound level) dBA
Business 3 Zone (Industrial)	1000	75	n/a
Business 1&2 Zones	100	65	n/a
Residential Zone (at site boundary) Rural Zone (at notional boundary)	3.5	50	70
Residential (internal)	0.3	40	55

* The hours for night time L_{max} shall be 10:00 pm to 7:00 am the following day for the purpose of this section.

e Blasting

- (i) Vibration from a site due to blasting shall not exceed a peak practice velocity of 5mm/sec provided this level may be exceeded on up to 5% of the total number of blasts over a period of 12 months. The level should not exceed 10mm/sec at any time.
- (ii) Airblast overpressure from blasting on any land shall not exceed a peak non-frequency weighted (linear or flat) level of 115dB, provided this level may be exceeded on up to 5% of the total number of blasts over a period of 12 months. The level should not exceed 120dBA (Ln Peak) at any time.

f Watercraft Noise

- (i) Powered watercraft shall be fitted with effective mufflers during all movement on water and shall not exceed the following noise limits at any point within the notional boundary of any residential dwelling:

On any day	
7.00am to 9.00pm	Sound Exposure Level (SEL) 85dBA
9.00pm to 7.00am the following day	Sound Exposure Level (SEL) 78dBA

Providing no motorcraft shall emit noise in excess of a Sound Exposure Level of 90dBA in any single driveby measured at any stationary point more than 25m from the line of travel of the craft.

- (ii) Sound exposure levels shall be measures in accordance with the provisions of NZS 6801:1991 *Measurement of Sound*.

Provided further that on four occasions in any 12 month period, the noise limit may be unrestricted for any portion of waterway for the purpose of an approved special event.