

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;*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development.*
- (g) *the protection of protected customary activities.*

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

- (a) *Kaitiakitanga (exercise of guardianship);*
- (aa) *The ethic of stewardship;*
- (b) *The efficient use and development of natural and physical resources;*
- (ba) *the efficiency of the end use of energy;*
- (c) *The maintenance and enhancement of amenity values;*
- (d) *Intrinsic values of ecosystems;*
- (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;*
- (i) *the effects of climate change;*
- (j) *the benefits to be derived from the use and development of renewable energy.*

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 RELATIONSHIP WITH OTHER PLANS AND POLICY DOCUMENTS

In preparing and reviewing the District Plan, the Council is required to consider a range of other plans and policy documents of relevance to the District. The Council is required under Section 55 of the Act, to implement any national policy statement, where directed to do so by the national policy statement. The District Plan must otherwise give effect to:

- any national policy statement or (ss 55 and 75(3)),
- the New Zealand Coastal Policy Statement, and
- any Regional Policy Statement.(s75(3))

The Council must also enforce any relevant National Environment Standard prepared under the Resource Management Act 1991. District Plan rules must not duplicate rules in a National Environment Standard, or be more stringent than them unless stated otherwise in the Standard. A District Plan rule must not be more lenient than a National Environmental Standard.

The District Plan must not be inconsistent with:

- any water conservation order;
- any regional plan covering its district (s75(4))

The Council will undertake Plan Changes, if necessary, where these plans or policy documents are prepared subsequent to this District Plan.

The Local Government Act 2002 allows the Council to set out its broad policies and objectives through its long-term plan, providing a clear statement of the community outcomes and the activities of the Council. This delivery of goods and services by the Council to achieve community outcomes can also be used to achieve sustainable resource management. To this extent the Council's District and Long-Term Plans can work together to provide a variety of means to achieve the purposes of the Resource Management Act.

3 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).

4 EXISTING USE RIGHTS

Sections 10, 10A and 10B of the Act specify the circumstances when the existing use of land, the continued use of land and the surface of water, and some building works are permitted to continue even though the use or works may contravene a rule in the District Plan.

5 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.
- Restricted Discretionary activities require resource consent and are subject to standards and terms specified in the Plan. Activities that may be listed as Permitted Activities but cannot meet all the site standards for that zone shall be restricted discretionary activities, with Council's discretion limited to the matter of non-compliance. The Council may grant or refuse consent to a restricted discretionary activity and, if granting consent, may impose conditions limited to matters over which they have discretion.
- 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. 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. Activities that may be listed as permitted activities but cannot meet all the zone standards for that zone shall be non-complying activities. The Council may grant or refuse consent to a non-complying activity and, if granting consent, may impose conditions.

6 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 restricted 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.

7 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

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 restricted discretionary 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 95A 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) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to:*
- (a) *any actual and potential effects on the environment of allowing the activity; and*
 - (b) *any relevant provisions of—*
 - (i) *a national environmental standard;*
 - (ii) *other regulations;*
 - (iii) *a national policy statement;*
 - (iv) *a New Zealand coastal policy statement;*
 - (v) *a regional policy statement or proposed regional policy statement;*
 - (vi) *a plan or proposed plan; and]]*
 - (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

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.

8 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 zoning 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.

9 HERITAGE PROTECTION 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.

10 INTERPRETATION OF PLANNING MAPS

The Planning Maps, which form part of this District Plan, contain 45 Planning Maps plus two index sheets. Thirty-five of these Planning Maps cover the whole district and contain the following notations:

<u>Zones</u>	Rural Zones (RUR) Residential 1 Zone (RES 1) Residential 2 Zone (RES 2) Residential 3 Zone (RES 3) Business 1 Zone (BUS 1) Business 2 Zone (BUS 2) Business 3 Zone (BUS 3)
<u>Notations</u>	Significant Natural Areas Designations Water Supply Protection Areas

Lakeside Protection Areas 1 and 2
Significant Natural Features
Outstanding Natural Landscapes and Features
Heritage Items
Commercial Frontage
Flight Protection Surface

There are two further planning maps that identify the Hill and High Country Subzone and the Outstanding Natural Landscapes and Features over topographical maps.

There are seven additional planning maps covering the majority of the District, which 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 Objectives and Policies in the Rural, Residential and Business Zones relating to natural hazards.

Refer clause 8 of this section for a description of designations.

11 ENFORCEMENT

The Waimate District Council has powers under Part 12 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 Environment Court 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.

12 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.

13 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, in Christchurch or Timaru.