

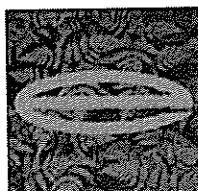
**RANGITIKEI DISTRICT PLAN.**

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**REVIEW OF PLAN EFFICIENCY  
AND EFFECTIVENESS.**

PREPARED FOR  
RANGITIKEI DISTRICT COUNCIL  
SEPTEMBER 2005

PREPARED BY  
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## EXECUTIVE SUMMARY

This report is an assessment of the performance of the Rangitikei District Plan to date 5 years after it was made operative. It has identified matters that need to be addressed in key areas of the Plan and whether these need to be advanced prior to or as part of the review of the District Plan due in 2009. Part of the context for the assessment is the State of the Environment Report prepared in 2004.

The assessment finds that the overall philosophy of the Plan is effective and efficient. However this does not preclude the possible need to classify certain activities as non complying activities if future policy development justifies this position.

A review of the appeals considered by the Environment Court did not identify any issues of significance regarding the approach or philosophy of the Plan.

The assessment has also concluded that to date the case law and consequent law changes associated with the permitted baseline concept have not resulted in any failure of the plan to be effective or efficient.

With regard to integration with regional functions the following recommendation is made:

***1. That Council engage with Horizons through the process of developing their 'One Plan' to seek efficient and effective integration of resource management responsibilities and to feed any arising changes into the Plan review process.***

The Resource Management Amendment Act 2005 has been reviewed and no urgent requirements to amend the Plan have been identified.

In summary recommended high priority projects are:

- Working with Horizons on the One Plan project to ensure integration of responsibilities.
- Contingency Plan Change on larger scale rural subdivision.
- Natural areas voluntary agreements.
- Policies and rules for high quality landscapes.
- Built heritage arising from the Built Heritage Strategy.
- Protection of cultural heritage.

Specific recommendations with regard to policy and regulatory areas of the Plan are as follows:

### ***Rural dwellings and Subdivision:***



2. That Council prepare a plan change to address policies and rules in relation to the effects of larger scale subdivisions (more than 5 lots) and protection of areas of high landscape value. That this work be given high priority but that it be implemented through the Plan review unless monitoring shows that earlier Plan Change is necessary.

#### **Urban Growth**

3. That as part of the Plan review work programme commencing in 2008 there be a specific project to review urban expansion land with landowners to provide a coordinated and efficient approach to urban growth.

#### **Natural Hazards:**

4. That Council continue to work with Horizons to provide more certainty around natural hazard risks and integrated management of development leading up to the District Plan review.

#### **Natural Features and Landscapes:**

5. That a joint project with Horizons be established to achieve agreement with landowners of areas identified in the District Plan as to how management, enhancement and protection of these areas will be achieved. This to include the development of a toolbox on possible measures and aimed at achieving voluntary agreements with landowners of areas recommended for protection by 2008.

6. That a project be established to develop a policy and methods framework for management of potential effects on high quality landscapes in the District. This is to be given high priority and should be integrated with the plan change for rural subdivision and dwellings.

#### **Built Heritage:**

7. That Plan Changes to strengthen the District Plan approach to built heritage be actioned once the Built Heritage Strategy has been completed and approved.

#### **Heritage Trees:**

8. That a project be established to survey townscape trees that should be recognised and protected and appropriate methods established. Also that there be an opportunity to nominate rural individual tree specimens for consideration as part of this project.

#### **Hazardous Substances:**



**9. That no changes to the District Plan need be considered at this stage but that this section be further reviewed at the time of Plan review.**

**Cultural Heritage:**

**10. That the current efforts to improve the Plans protection of cultural heritage be continued as a high priority and that resulting Plan Changes be actioned.**

**Financial Contributions:**

**11. That the financial contributions and development contributions policies be reviewed in 2008 as part of the Plan review based on reviewed asset management plans.**

**On Site Water Systems:**

**12. That greater certainty be provided for officers and applicants by referencing suitable technical guidelines for design of on site water systems at the time of Plan review.**

**Use of Surface Water:**

**13. That review of the control on power boating between Mangarere Bridge and Mokai be undertaken as part of the Plan review to provide more effective rules for controlling the intensity of motorised craft.**



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## 1. INTRODUCTION

Rangitikei District Council has embarked on the monitoring and review of its District Plan in a planned and staged fashion. In 2003 Environmental Management Services Ltd prepared a framework report on the Council responsibilities for monitoring the "state of the District's environment". This had regard to a range of overlapping and interrelated responsibilities and plans including the Long Term Council Community Plan and review of the District Plan.

In 2004 this was followed by the gathering of relevant data, analysis and reporting on the State of the Districts Environment. This focussed on what is known now and what needs to be done to improve understanding in key areas.

This report focuses on the efficiency and effectiveness of the District Plan. It looks in more detail at the policies, methods and rules and poses the questions:

- How well is the District Plan performing?
- What matters, if any, need to be addressed urgently?
- What areas of investigation and policy development need to be given priority prior to the formal review of the District Plan?

The Rangitikei District Plan was made operative in July 1999. It is now halfway through its life and a comprehensive review will need to be actioned in 2009. The Council has made provision for review of the District Plan over the years 2008-2010. The Rangitikei District Plan was amongst the earliest group of District Plans to become operative, some are still not operative even now.

The concept of sustainable management embodied in the RMA is a complex and technically challenging goal. The responsibility for that goal is shared between territorial local authorities, regional councils and central government. The first generation of District Plans have not in general had the time or resources to develop strong policies based on robust research. This includes the Rangitikei District Plan which inevitably had to prioritise areas of investigation for its "First Generation" Plan. The Plan does, however, specifically identify areas where further investigations are to be pursued during the life of the Plan.

The challenge of sustainable management means there is need for continual improvement in all resource management plans, not only in the policy base of the plan, but also in response to new or changing issues.



Section 35 of the RMA specifies the duties of the Council to gather information, monitor and keep records. In particular s35(2) requires every local authority to monitor the efficiency and effectiveness of policies, rules or other methods in its policy statement or plan for its region or district.

Under section 35(2A) local authorities are required to prepare a report at least every five years on the results of their monitoring under section 35(2)(b) for policy and plan efficiency and effectiveness. This report meets the requirements of this duty.

There is also a relationship to s32 of the RMA which places responsibility on local authorities before adopting or changing a district plan to evaluate *"whether having regard to their efficiency and effectiveness, the policies, rules or other methods, are the most appropriate for achieving the objectives"*.

The State of the Environment Report identified a number of areas where further information on the environment was required including built heritage and cultural heritage. It also commented on the need to monitor rural subdivision on high quality soils and to work with landowners on the active management of areas of high natural value.

This report seeks to focus on the key policy areas of the Plan rather than be a laborious assessment of each Plan provision. Initially the report records recent plan changes that have been actioned and the key findings of the SoE report in terms of pressures arising on the environment and natural resources of the District. The overall Plan philosophy is then reviewed before considering some of the more significant law changes that have occurred since the Plan was developed. Brief consideration is then given to the current 2004 RMA Amendment before a discussion of the issue of integration with regional functions.

The report then considers specific issues associated with key policy and regulatory positions in the Plan including:

- Rural subdivision
- Natural hazards especially flooding and landslip
- Natural Features and landscapes
- Built heritage
- Heritage trees
- Hazardous substances
- Cultural heritage
- Financial contributions
- Vehicle access parking and loading
- On site waste water systems.
- Use of surface water



## 2. RECENT PLAN CHANGES AND THE REVIEW PROCESS

Since the District Plan was made operative in 1999 a total of 20 Plan Changes have been promulgated. The most recent have been Plan Changes 12 to 22 which covered the following matters:

|                 |                                     |
|-----------------|-------------------------------------|
| Plan Change 12: | Dwelling Separation – Rural Zone    |
| Plan Change 13: | Natural Hazards                     |
| Plan Change 14: | Signage                             |
| Plan Change 15: | Relocated Dwellings (Rural Zone).   |
| Plan Change 16: | Vehicle Access Parking and Loading. |
| Plan Change 17: | Farm Dams (Rural Zone).             |
| Plan Change 18: | Noise.                              |
| Plan Change 19: | Regional General Authority.         |
| Plan Change 20: | Heritage Sites.                     |
| Plan Change 21: | Future Roding Patterns              |
| Plan Change 22: | Definitions – Ancillary Activity    |

The scope of these changes as they relate to specific issues will be discussed in later sections of the report.

The process of reviewing the effectiveness and efficiency of the District Plan has included the following:

**Public consultation:** A public notice was placed in relevant local newspapers in February 2005 requesting input to the study process from any interested parties.

**Stakeholder consultation:** Consultation meetings have been held with specific stakeholders including Federated Farmers, Department of Conservation and Good Health Wanganui.

**Iwi Consultation:** Issues of concern regarding Plan effectiveness have been raised with Te Roopu Ahi Kaa and feedback sought.

**Liaison with Horizons:** This has included liaison over issues of relationship between resource management plans, technical information and the One Plan Project.

**Review of the effects of case law and RMA amendments:** This has included identification of relevant issues and consideration in terms of the efficiency and effectiveness of the Plan.

**Review of relevant resource consent processes:** Review of a range of consents processed by Council in recent years and the issues raised.



**Review of the Plan non regulatory methods:** The Plan includes a large number of commitments to investigate non regulatory methods during the life of the Plan.

**Liaison with consents staff, assets staff and specialist advisers:** Identification of issues in administering the Plan and input of effectiveness. Includes legal advisers and hazardous substances specialists.

This report documents the outcome of the above review process.

### 3. RECENT DEVELOPMENT TRENDS

The last five years have seen a period of relatively low growth in the Rangitikei. The State of the Environment Report investigated and analysed recent development trends in detail. The report summarised the key pressures on the District as follows:

**Rural Environment:** Pressure is generally low with little subdivision and new dwellings. However, there is potential for future agricultural intensification and pressure from forestry harvesting. There are also indications of future growth in demand for lifestyle size blocks particularly in the southern part of the district.

**Urban Environment:** There is little development pressure, the existing pressure is in fact a negative pressure from a loss of population.

**Natural Hazard:** The District faces a wide range of natural hazards which are random in nature but have potentially catastrophic effects. The 2004 flood provided an example of the effects that can occur.

**Natural Features and Value:** On the evidence available, pressure from logging of native forest is low, however, threats from pests and weeds are significant.

**Built and Cultural Heritage:** There is some development pressure affecting existing recognised heritage sites but the pressure on other sites is unknown. Sites of significance to iwi are at risk from day to day activities because of a lack of knowledge and active protection.

**Waste and Waste Management:** Pressure on the environment is decreasing through remediation and monitoring where required.

**Waterways:** Pressure is arising from demand for use of the Rangitikei River and associated groundwater for irrigation and from the effects of agricultural run off.



Since the Plan was prepared there have been amendments to the Resource Management Act in 2003 and 2004. Of note is the amendment to section 6 which concerns matters the Council must have particular regard to in carrying out its functions. The matters have been added to include:

- *The effects of climate change.*
- *The benefits to be derived from the use and development of renewable energy*

The effects of climate change affect policy and methods related to hazard management and the coastal environment. While a key area of renewable energy is wind power which has seen significant growth in the Manawatu and Tararua Ranges. This is explored in more detail later in the report.

#### **4. THE OVERALL PLAN PHILOSOPHY**

In developing the rules in the plan, an activity, or the effect of an activity, can be classified as follows:

A Permitted Activity – Can be carried out as of right as long as it complied with a permitted activity conditions.

A Controlled Activity – Subject to compliance with any controlled activity conditions. Requires a resource consent but discretion is limited to setting condition on aspects specified in the plan. Consent cannot be declined.

A Restricted Discretionary Activity - Similar to a Controlled Activity except that consent may be declined.

A Discretionary Activity – This allows all aspects of an application to be considered and judged against section 104 of the RMA including the policies of the Plan and effects on the environment.

A Non Complying Activity – This involves the additional gateway tests that either the effects are less than minor, or the activity will not be contrary to the objectives and policies of the Plan.

A Prohibited Activity – This can only be authorised by a change to the Plan.

The classes of activity can be likened to increasing heights of “hurdles” that need to be jumped to authorise an activity.

The overall philosophy of the framework of the rules in the Plan is based around the following approach:

- Permitted and Controlled Activities are specifically identified.



- Conditions for Permitted and Controlled Activities are specifically identified.
- Any activity that fails to comply with required conditions is classed as a **Discretionary Restricted Activity** with discretion being limited to the effects of the specific non compliances.
- Any activity not provided for as a Permitted Activity is classed a **Discretionary Activity**.
- There are no Non Complying Activities and no Prohibited Activities.

The exclusion of any non Complying Activities was a matter extensively debated at the time of initial development of the Plan. Many district plans have included Non Complying Activities where they have wished to send a signal that an activity or an effect is unlikely to be acceptable.

The Rangitikei District Plan, however, chose to retain greater flexibility to be able to determine any proposal in terms of the Plan policies and effects on the environment without first having to pass additional hurdles.

The evidence to date suggests that this has been an effective and efficient approach. It reflects an approach of minimising regulation which is fundamental to the intent of the RMA. While it has been described as something of an "avant garde" approach by some commentators it has proved to be effective in addressing the resource management issues arising this far.

While it provides a more flexible consent regime it arguably could make it more difficult for Council to refuse and defend refusal of an application. An applicant may argue that as a discretionary activity the Plan contemplates the possibility of that activity occurring. However, the Act clearly provides for refusal of a discretionary activity.

In developing policies and rules each and every provision must be carefully justified in terms of the requirements of Section 32 of the Act. This section has been modified in the last amendment. The requirements now are that the Council must carry out an evaluation that must examine:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act; and
- Whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objectives.

The evaluation must take into account:

- The benefits and costs of policies, rules or other methods; and



- The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

A report must document this evaluation and must be publicly available and a further evaluation or update of the evaluation is required before making decisions on submissions.

District Plans tend to come under most thorough scrutiny when a matter is determined through a hearing at the Environment Court. This has occurred on only 4 occasions to date since the Plan was made operative.

The appeals are

1. PT and TP Ropata v Rangitikei District Council
2. AA Catchpole and JM Faulkner v Rangitikei District Council
3. Te Runanaga O Ngati Apa Inc v Manawatu - Wanganui Regional Council and Rangitikei District Council
4. NZ Environmental Education Trust et al v Manawatu - Wanganui Regional Council and Rangitikei District Council and Canterbury Meatpackers.

Three of these involved hearings and decision and one (No 3 above) involved a consent order associated with the Bonny glen landfill. These decisions have been reviewed to identify any Plan effectiveness and efficiency issues.

The first case above related to the establishment of the Britton Housemovers site in Bulls. The decision does not raise any issues for the Plan the Court found that the rules were appropriate for the circumstances and generally supported the extensive use of discretionary activities.

The second case related to frost fan noise. The appeal focussed on the effectiveness of consent conditions rather than the Plan rules. However it was acknowledged that the noise rules at the time could be improved and these have since been the subject of a Plan Change.

The third case was a consent order which did not involve a full hearing and therefore did not provide the Court the opportunity to hear argument on the Plan provisions.

Finally, the Canterbury Meatpackers case, this was a complex consent with contested issues revolving largely around the effects of water takes and discharge of wastewater. The case identified the need to amend the noise rules and these have already been amended through Plan Change 18. It also demonstrated the importance of consistent regional and district rules



associated with odour. This is a matter that is discussed further later in this report in relation to the integration with regional functions and plans.

Although the Plan has come under limited Environment Court scrutiny to date there is no evidence that there are any efficiency and effectiveness issues arising from these decisions. The general response from the Court in the written decisions is that the Plan is both coherent, efficient and comprehensible.

This assessment concludes that the approach to reliance on discretionary activities has been efficient and effective. It is our opinion that the Act requires there to be firm evidence on which the classification of non complying activities must be based. In other words there must be firm evidence that a particular activity or effect in a particular environment is most likely to be unacceptable. If this evidence exists then it should also be reflected in Plan policies.

The reliance on Discretionary Activities for any form of unanticipated proposal has not caused any difficulties in the efficiency or effectiveness of the Plan to date however this will continue to be monitored. It is quite conceivable that policy work undertaken in the lead up to the review of the Plan may identify areas of environmental risk that justify the imposition of the non complying activity classification. However in the meantime the current overall approach is considered both efficient and effective.

## 5. THE PERMITTED BASELINE CONCEPT

Since the current Plan was prepared there has been a considerable amount of case law which has had an influence on how the Act is interpreted and as a consequence how District Plans are interpreted. The most significant area of this has been what is termed the "permitted baseline test". This evolved from a string of cases which went as far as the Court of Appeal.

In essence this test states that the comparison point for assessing and measuring effects on the environment is the existing environment plus any adverse effects permitted as of right by the District Plan. The Court of Appeal stated it in this way:

*The permitted baseline is the existing environment overlaid with such relevant activity (not being a fanciful activity) as is permitted by the Plan. Thus if the activity permitted by the Plan will create some adverse effect on the environment, that adverse effect does not count. It is part of the permitted baseline in the sense that it is deemed to be already affecting the environment. It is not a relevant adverse effect. The consequence is that only other or further adverse effects emanating from the proposal under consideration are brought into account".*



Since these cases the Act has been amended to incorporate the permitted baseline test formally within the Act. Section 104 now includes the subsection:

*“When forming an opinion for the purposes of subsection 1(a) [actual and potential effects on the environment] a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.”*

The issue of potential concern is that when the plan was prepared it was done so on the basis that effects on the environment would be measured from an “existing environment” basis alone. This is important for matters such as the conditions for permitted activities. An example to illustrate this is the height condition which in the Residential Zone is 10 metres. A dwelling greater than 10 metres would require a Restricted Discretionary consent. But the assessment of adverse effects of the height is not the effects of the 12 metre building, but just the effects of the additional 2 metres. So, for example, the effect of shading is limited solely to the additional effects over and above the effect of a 10 metre high dwelling. This might well be considered a minor effect whereas the full effect of the shading of the entire building might be assessed as a more significant effect on the environment.

There is, therefore, a risk that the District Plan conditions “hurdles” have been set too low because under the permitted baseline it is a lot easier to show that the effects will be minor than was previously the case. So the question arises through out the Plan as to whether thresholds such as height at 10 metres should be made more strict by for example reducing the threshold to 8 metres.

With this in mind a review of relevant resource consents issued has been carried out and the environmental outcomes have been considered. This has concluded that to date the permitted baseline has not presented any inefficiencies or ineffectiveness within the rules of the Plan. However, this is an aspect that needs to continue to be monitored through to the Review of the Plan to identify any refinements that are necessary as a consequence of this change in approach.

## **6. INTEGRATION WITH REGIONAL FUNCTIONS AND PLANS.**

The division of resource management responsibilities between Regional Councils and territorial local authorities means that there are a number of areas of overlapping responsibilities. A consideration of the effectiveness and efficiency of the District Plan is the extent to which these overlapping functions are managed in an integrated way.

Consultation with Horizons has not identified any particular specific issues of concern. However, Horizons is now embarking on a process of review of the



Regional Policy Statement and existing Regional Plans with the aim of bringing all objectives policies and rules into one new document.

The process of developing this new plan presents a significant opportunity to explore in more detailed the integration of activities to further improve on efficiency and effectiveness of the Plan in these areas.

Important areas include:

- Odour
- Earthworks
- Water Quality
- Natural hazards especially flooding.
- Integrated river management
- Consequences of land use changes on groundwater.
- Natural heritage.

Some of these specific areas are explored further later in the report and issues that need to be taken further with Horizons are identified. A draft "One Plan" is programmed to be released in early 2006. The Consultation material identifies that the Plan will target four major issues. These are:

- Water Quality
- Water Demand
- Hill Country Land Use
- Threatened Habitats.

Over the intervening period it will be important to engage in detail with Horizons to improve the integration of functions and the effectiveness and efficiency of both the District Plan and One Plan. This may identify additional improvements to the District Plan which if not urgent will be able to be fed into the District Plan review process.

## **7. THE 2004 RMA AMENDMENT**

A further amendment to the Resource Management Act came into force on 10 August 2005. It is, therefore, appropriate to consider whether there are any immediate issues associated with this amendment that could impact on the effectiveness and efficiency of the District Plan.

The Resource Management and Electricity Legislation Amendment Bill was first released on 2 December 2004 and had its first reading on 16 December 2004. The Local Government and Environment Select Committee heard and considered submissions and reported back on the Bill on 20 June 2005. The Resource Management Amendment Act 2005 was passed as the last Act of the government before the election and is now in force.

The Act has 6 main objectives:



- To enable central government to better express the national interest so decision makers have clear guidance on how to take national interest matters into account;
- To enable consent processes to be undertaken in a manner that is effective and efficient, and that provides certainty of process for applicants;
- To improve the effectiveness of planning documents, and to enable their timely development;
- To improve certainty of consultation requirements for resource management matters
- To provide certainty over the allocation of natural resources
- To provide for the environmental effects of high voltage electricity works in the road corridor to be managed using the processes under the Resource Management Act.

Although one of the areas above specifically refers to the effectiveness of planning documents most of the key measures relate to process issues rather than plan content. However specific amendments to note include:

*An effort to improve the role of objectives in Plans.* These are now mandatory and efforts will be made to improve the development of objectives in Plans.

*A requirement that regional and district plans give effect to regional policy statements.* This is particularly relevant because Horizons is proposing to review the Regional Policy Statement as part of the "One Plan" project. In response to concerns about this creating a de facto hierarchy of Plans, the Select Committee recommended that there be a specific provision requiring that there be agreement between regional and district councils on a consultation process for reviewing policy statements. This is a matter that needs to be taken up with Horizons so that a systematic process of addressing integration of district and regional functions can be progressed through the One Plan process and contributing to the later review of the District Plan.

The Select Committee also expressed concerns regarding the time taken for some plans to become operative this resulted in *a requirement for a two year timeframe for taking a plan from public notification to decisions on submissions.* This was previously achieved for the first District Plan and should similarly be achievable for the review if efficiently managed.

*There will be additional national environmental standards in the future.* The Act enables more stringent standards than those prescribed in a national standard to be expressed in a Plan although this is likely to largely affect regional plans.

*Optional consultation with iwi on resource consents.* The Amendment seeks to shift the emphasis regarding matters of importance to maori from consultation associated with resource consents to plan provisions. Consent



authorities may consult iwi on consent applications but there is no duty to do so. This is discussed further in Section 15.

Finally *contaminated land has been redefined* as having the 'presence' of a hazardous substance rather than land on which a hazardous substance 'has been discharged'. The District Plan definition refers to 'a site where hazardous substances have been released', the expression 'released' is compatible with the previous legal RMA definition and will need to be amended, however this is a matter that, in our assessment, can await the plan review.

This preliminary review of the content of the Amendment Act indicates that there are no urgent changes to the Plan that would need to be initiated as a direct consequence of the Amendment.

## **8. THE RURAL ZONE – DWELLINGS AND SUBDIVISION.**

In February 2004 a report was presented by staff on the results of monitoring subdivision in the rural zone. The District Plan takes a liberal approach to subdivision on both low and high quality soils. However the Plan does include specific policies seeking to avoid the subdivision of high quality rural land for urban purposes and also specifically to avoid expansion of Marton and Bulls onto high quality soils while there remains land available for infill within the settlements.

In terms of rules the Plan has been innovative in concentrating on the effects of subdivision rather than the division of land itself. Subdivision generally triggers the right to construct a dwelling and ancillary buildings on a parcel of land created. Rather than controlling lot size, rate of subdivision or shape configuration, the Plan controls the effects of subdivision in the rural environment by focussing on the density of dwellings by requiring a 200 metre separation between dwellings. This is targeted at retaining rural character and landscape and providing a mechanism to address privacy issues between neighbours.

The analysis of subdivision and dwellings from 1993 to 2003 showed that:

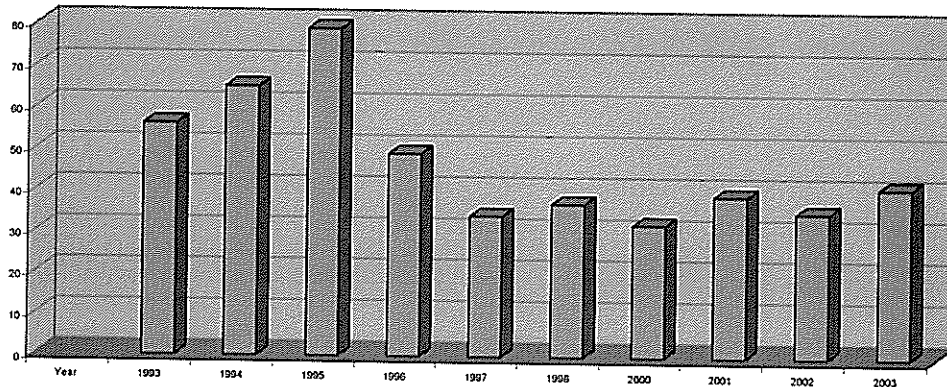
- The rate of rural subdivision has declined since the District Plan became operative.
- Only about 23% of rural subdivision lots are on Class 1 and 2 land.
- Most of the Class 1-2 subdivision involves lots of less than 8 hectares.
- Out of 40 lots created between 1999 and 2003 on Class 1 and 2 land, only 3 dwellings have been constructed.

Consultation discussions have been held on this issue with Federated Farmers and Department of Conservation. Both parties are happy with the current regime. Farmers generally want flexibility with regard to subdivision and management of land. However, it is recognised that an influx of residents

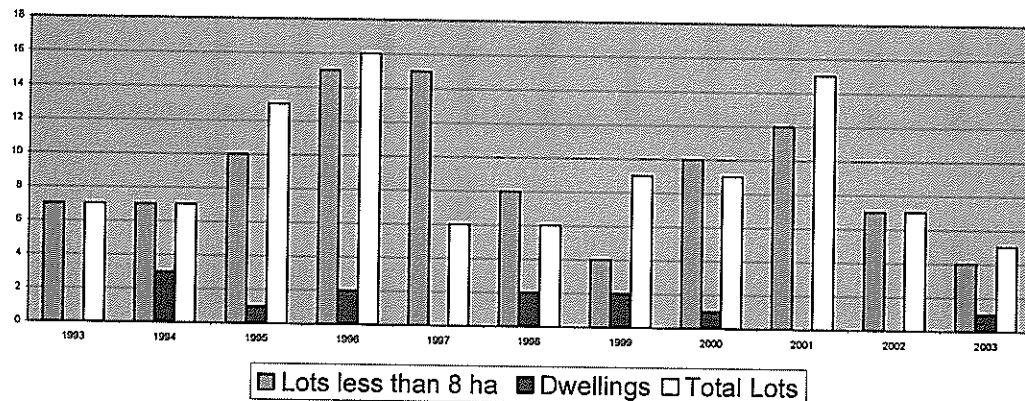


often generates conflicts in terms of amenity expectations. Problems of this nature arise for the farming community when an influx of non farmers results in farmers become the minority in the local area.

Rural Subdivision 1993-2003



Subdivision and Dwellings on Class 1 and 2 Soils 1993-2003



While the current regime of policy and rules has to date proved to be efficient and effective in terms of least cost, the rural environment is sensitive to a change in demand for subdivision. The current regime means that close monitoring of the effects of subdivision is necessary in terms of rate of change, effects on productive soils and rural character.

The reliance on dwelling position, design and landscaping to control the effects of subdivision and development means that Council must ensure that subdivision applications intending to facilitate dwelling construction identify a specific building site. Where Council is faced with a large scale subdivision relying on approval of the single current owner to support non compliance with the 200 metre rule then, Council needs to give considerable weight to the rural policies of the Plan. A number of policies under Objective 7 may be relevant but Policy 7.10 is likely the most significant. This states:

*Maintain the low density of built development and the open character of the rural landscape; avoid, remedy or mitigate the adverse impact of buildings on*



*landscape values, and maintain an overall low building height throughout the rural environment.*

It is possible that this policy should be further strengthened to address larger scale rural subdivision proposals.

In addition, if the application complies with the 200 metre rule there remains a risk that the location, scale and design could still have adverse effects on the rural landscape. The matters over which Council has reserved discretion with regard to subdivision as a controlled activity are wide ranging but do not include broader rural character issues.

It is therefore recommended that Council undertake policy and rule development on a plan change to include the following matters:

- Strengthened policy in terms of scale of rural subdivision to avoid inappropriately planned rural hamlets.
- Policies and rules to provide greater protection to identified areas of high landscape value.
- Rules to trigger greater scrutiny of subdivision proposals involving say more than 5 lots.

It is further recommended that, in parallel with preparation of the plan change, there be further monitoring to determine whether this plan change needs to be promulgated without delay or can await the Plan review in 2008-2010.

## **9. URBAN GROWTH**

The Plan identifies land for future growth of settlements by zoning land not yet developed for urban purposes as residential or in some cases industrial. Monitoring shows that very little of this land has been brought forward for development since the Plan was developed. A significant amount of this land was also brought forward from previous Plans.

As part of the Plan Review there is a need to review whether this land remains appropriate for urban expansion and why it has not been developed. In some cases it will be farmed land that the owner wishes to continue to farm until retirement while in other cases some undeveloped land although zoned for growth is shown as having a flood risk.

These issues have not affected the efficiency and effectiveness of the Plan to date, but there would be merit in taking a more proactive approach to managing urban growth opportunities as part of the review process. This would involve direct discussions with existing landowners regarding their aspirations and plans, review of development constraints and infrastructure issues. Such a process should ensure that urban growth areas are more



accurately targeted and that coordination of staged development of these areas is achieved.

## 10. NATURAL HAZARDS

The District is at risk from a number of natural hazards the most common is the effect of storm activity causing flooding and land slips. The February 2004 flood was the largest in living memory for most residents of the District and has had a significant impact on the river systems, rural productive land in the hill country, as well as communities such as Scotts Ferry and Whangaehu.

The reality is that the District is exposed to significant flood and landslip risks. Known developed landslip areas, such as the Taihape Slide, are actively monitored and special rules associated with size of buildings and earthworks appear to be appropriate and effective.

Horizons is currently working on the revision of flood risk mapping as a result of the 2004 flood event as well as required modifications to the Lower Rangitikei Flood Control Scheme. Indications are that the areas currently shown on the District Plan as subject to flood hazard are reasonably accurate, however these are limited to the urban centres. Generally the practice has been to permit dwellings in urban flood risk areas but to set a minimum floor height based on specific assessment by Horizons in relation to the 50 year flood level.

Once more detailed information and assessment is available from Horizons it may be necessary to pursue more fundamental review of the approach to flood hazard. Notwithstanding this, it is suggested that a review of urban zoned land that is subject to flood risk and not yet fully developed as discussed in section 9 above. This should consider the potential effect of development of land on the wider effect of flooding as an input to the Plan review.

As part of this some improvements to the Plan rules should also be actioned. Each zone has a rule relating to protection of flood channels eg rule 15.2.17. However, nearly all the flood hazard areas identified are not in fact flood channel or floodway, they are secondary flow paths and ponding areas. The only floodway channel as such is within the stop banks of the Lower Rangitikei River the use of which is control through other mechanisms.

In addition there is a general Natural Hazard rule in each zone which was amended by Plan Change 13. This states that no structure or building shall be constructed on any land that is subject to damage by erosion, falling debris, subsidence, slippage or inundation from any source. This is a somewhat uncertain 'catch all' rule that was intended as an interim measure while further work was undertaken on defining natural hazards across the District.



The rule also relates to the powers granted by section 106 which enables Council, irrespective of the activity classification, to refuse a subdivision consent or impose conditions if it considers that the land is subject to a natural hazard or any subsequent use will adversely affect the risk of damage to that land or any other land.

This is an area of the Plan that, with the exception of urban flooding, remains somewhat uncertain and there is a risk that it may be both ineffective and inefficient. Further work, in conjunction with Horizons, on the identification of land that meets the criteria of section 106 needs to be advanced and incorporated into the review of the Plan. This should include a review of the Koitiata Hazard Zone which is an area that is subject to risk of inundation from sea and or river which could be increased by further development.

## 11. NATURAL FEATURES AND LANDSCAPES

There are two aspects to this. Firstly whether the regime of control applying to identified significant natural areas is both efficient and effective, and secondly whether there are risks to other landscapes and natural features that are not being adequately addressed in the Plan.

The Plan imposes specific controls on the management of land that is recognised as having high natural values, this might be wetland or native forest. Each of these areas is detailed in Appendix 3 of the Plan and this was drawn from surveys of the Rangitikei and Foxton Ecological Districts undertaken by the Department of Conservation.

In addition there are rules which control the rate of clearance of indigenous vegetation throughout the rural area.

The key rule in relation to protected natural areas states

*Any activity or work on a protected natural area or areas recommended for protection identified in Schedule 1 and detailed in Volume 3 is permitted only if it is in accordance with any QEII Trust Covenant or any other voluntary agreement or management plan agreed to and filed with Council.....*

The aim of this rule was to move, during the life of the Plan, from a somewhat heavy handed regulatory approach to a voluntary agreement approach. The reality is that owners of these areas of land are largely farmers making their living from the land. These areas exist because the current and previous owners have valued them and retained them for their natural values.

However, because of competing demands for Council resources little progress has been made in replacing the regulatory approach with voluntary agreements. There have been few, if any, resource consent applications for



work on these sites. Similarly, there have been no applications for removal of native vegetation that exceeds the permitted level on other rural land.

Consultation with Federated Farmers has not raised major concerns regarding the monitoring application and enforcement of these rules. However, that is likely because they have not been actively monitored.

Notwithstanding this, DOC is not aware of any activities that have reduced the value of these areas.

Given that the current landowners largely wish to retain these sites and therefore manage stock access and fencing accordingly, the greatest risk is from damage by pests and weeds, and perhaps future landowners.

Horizons has both a Regional Plant Pest Management Strategy and a Regional Animal Pest Management Strategy prepared under the Biosecurity Act 1993. The Plant Pest Strategy is currently being reviewed and has been going through a stage of consultation. Under the proposed new strategy greater emphasis will be placed on priority habitat management. There needs to be greater coordination of priorities to reflect the individual circumstances and threats to the protected natural areas identified in the District Plan.

Essentially a joint project with Horizons needs to be implemented to achieve agreement with landowners of areas identified in the District Plan as to how management, enhancement and protection of these areas will be achieved. There needs to be flexibility in the potential range of measures available. This requires the development of a toolbox of measures between the Council, Horizons and other stakeholders to be able to take to individual land owners.

Some of the tasks to progress this include:

- Agree the strategy implementation process and programme with Horizons.
- Develop a tool box of measures and agreement framework with Council/Horizons in consultation with Federated Farmers.
- Develop a draft agreement framework for landowners.
- Consult landowners on an individual basis regarding management issues.
- Advance individual discussions, implement agreement with monitoring and reporting responsibilities.

The current Plan rules provide something of a regulatory safety net. However, the difficulties of practically achieving monitoring and enforcement mean that there are significant risks that it may not be either efficient or effective because the rules have been imposed on landowners and managers without agreement. While there is little evidence of loss of habitat during the life of the Plan to date, to be confident of effectiveness and efficiency the approach needs to move to the more sophisticated voluntary agreement approach recommended above.



Implementation will require resources over the next 2-3 years to ensure that significant progress is made before the review of the Plan. To plan for this, it is recommended that a scoping and implementation plan be prepared to include a detailed project plan and budget for Council approval.

As part of this project the identification of possible additional sites also needs to be addressed. In February 2005 Horizons completed a three year project to catalogue and prioritise wetland in the region in terms of their ecological value. This work is extremely helpful in that it not only assessed and identified sites but also ranked them in terms of significance. The project identified 39 wetlands in the Rangitikei District, a number of which will be additional to those currently protected in the Plan. These sites should also be considered within this project.

The Rangitikei District is one of the north islands most scenic areas and has a number of outstanding natural landscapes and landforms. The District Plan addresses the importance of specified landscape areas in Policy 14.2:

*"In particular, recognise and protect the unique cultural, spiritual, ecological, and natural values associated with the following significant features and landscapes:*

- *The ridgeline of the Ruahine and Kaimanawa Ranges and the south eastern side of the Kaimanawa Ranges.*
- *The Ruahine Forest Park*
- *Mount Aorangi, the Reporoa Bog, Makirikiri Tarns, red tussock grasslands, and forest remnants.*
- *Kutaroa and Otahupitara Swamps*
- *Lakes Koitiata, Waipu, Vipan, Dudding, Heaton, Alice and Lake Ngaruru.*
- *Paengaroa Scenic Reserve*
- *Rangitikei River Valley at Ohingaiti and Managaweka."*

Many of these are under Department of Conservation ownership and management and therefore do not need the protection of additional district plan methods. However, some reserves also sit within a wider privately owned landscape catchment and others such as the Rangitikei River Valley are almost entirely privately owned.

While the policies recognise the landscapes of highest quality they can only be applied where a resource consent is required.

The threats to adverse landscape impacts arise from earthworks, structures and building siting and design. Subdivision may be a trigger for development of this nature but largely has an indirect rather than direct effect. While subdivision is a controlled activity there is little regulatory influence on



earthworks and siting/design of individual buildings. Structures may involve minor scale works through to the large scale effects of windfarm development.

The nature of some of the more expansive and highly visible landscapes in the District are such that the consequences of adverse effects of inappropriate development could be of major significance. To date this has not occurred but the risk of this occurring is considered to be moderate to high.

The recent growth in renewable energy generation and the specific priority given to this through amendment to the RMA means that the risk of inadequate policy and regulatory mechanisms to manage this form of development has increased. The existing height condition for permitted development means that a wind farm could not be developed without requiring a resource consent, other conditions may also come into play such as noise standards. This provides something of a backstop while a more considered approach and targeted policy is developed.

This is therefore an aspect of the Plan where for the Districts higher quality landscapes there is a significant risk that it is not able to be effective.

Resolution of a policy and regulatory approach to the issue requires considerable work including:

- Analysis and geographic identification of outstanding, high, moderate and low quality natural landscapes along with their sensitivity to adverse effects.
- Development of a draft policy framework.
- Development and analysis of the costs and benefits of different regulatory and non regulatory methods
- Consultation with stakeholders and landowners.

In developing this work it is recommended that a risk assessment approach be undertaken to ensure that the requirements of section 32 of the Act. In other words assess the probability of certain effects (including cumulative effects) associated with different forms of development occurring, then assess this against the quality and sensitivity of different landscapes to understand the consequences of these adverse effects. This is consistent with the RMA definition of effect which specifically recognises effects of high probability and low probability with high potential impact.

## **12. BUILT HERITAGE**

The Plan's approach to built heritage was to adopt the New Zealand Historic Places Trust (NZHPT) registration list as items or buildings worthy of special protection through policy and rules.



The State of the Environment Report identified that the list at that time was not a robust identification of the full heritage resource of the District. The original Plan had 62 sites listed, two further have been added since that time through Plan Change 20.

Over the last three years NZHPT has been completing a Registration Pilot Project of Rangitikei and Ruapehu Districts in recognition that there was inadequate representation of the rich heritage history of these on the registration database. This project commenced with a stage of public consultation which identified a long list of some 300 items or buildings across the two districts. From this list a priority list has been prepared and researched. The status of the investigation of sites as at June 2005 was as follows:

#### **Sites registered between July 2003 and May 2005.**

- Memorial to Bess, Parewanui, Category I historic place
- St Mary's Church, Taihape, Category I historic place
- Flock House, Parewanui, Category I historic place
- Parewanui Cemetery, Parewanui, Category I historic place
- Marton Park, Marton, Historic Area
- Review of Scottish Kirk (formerly located at Tangimoana, now at Waikanae).
- Springvale Bridge, Taihape / Napier Highway, Category II historic place

#### **Sites to be registered at June 2005 Board:**

- Arahina Historic Area, Marton, Historic Area
- Brandon Hall Homestead, Bulls, Category II historic place
- Okaupokia Pa, Rata (Ngati Hauiti), Category II historic place
- Te Aputa Pa, Rata (Ngati Hauiti), Category II historic place
- McManaway's Pataka and Waka, Rata (Ngati Hauiti), Category II historic place

#### **Sites in process:**

- Mansells Building, Bulls, proposed Category II historic place
- St Martin's Lutheran Church, Marton, proposed Category I historic place
  - Korihirau and Omanono Pa Sites, Rata, (Ngati Hauiti), proposed historic area
- Upgrade of Te Awamate (Swamp Pa) (Ngati Apa)
- Parewanui Pa site (Ngati Apa), proposed Category II historic place
- Upgrade of Gunfighter Pa, (Ngati Apa) Category II historic place
- Town Hall, Taihape, proposed Category II historic place
- Mangaweka Power Station, proposed Category II historic place



- Tututotara Cemetery, proposed Category II historic place
- Heaton Park Homestead (fixing deficient registration)
- Rangitikei Hotel (The Rathole), Bulls, proposed Category II historic place

In addition to this, Council is currently embarking on the development of a Built Heritage Strategy which will be an opportunity not only to consider the above sites and strategy for their protection but also the long list developed by NZHPT. It will also provide the opportunity, as with natural heritage, to endeavour to move towards non regulatory approaches. The existing Plan identifies a number of areas that are to be investigated during the life of the Plan including heritage protection orders, financial incentives, voluntary covenants and 'Mainstreet' programmes. All these policy options will be able to be advanced and considered through the development of the Built Heritage Strategy and then through to a Plan Change. This should be capable of being implemented in advance of the review of the District Plan but will require careful consultation with owners of heritage buildings and items.

### 13. HERITAGE TREES

While much of the District is rural in character, trees in the urban area contribute to the character, townscape and amenity. Most trees of significance in the urban area are within Council parks and are managed for those values. However, some significant trees may also be found on private land, within gardens or on the street berm or road reserve.

The operative District Plan had only four notable trees identified, one of which, a Blue Gum, has since been removed from the junction of Calico Line and SH1 in Marton, and has also been removed from the Plan by Plan Change 20.

Notable trees did not receive careful survey at the time of preparation of the Plan and there is a risk that trees that contribute significantly to the townscape of the major centres in the District could be lost. The fact that there are so few in the Plan suggests that only a small number of spectacular specimens exist. This may mean that the protection of a wider range of tree size and specimen is even more important to the current and future townscape amenity. If this is the case, it may also mean that non regulatory methods may be the most appropriate way to proceed and would need careful consideration.

There may also be some significant trees in the rural areas of the district. The criteria for protection for such trees would be significantly different to those in urban areas. A full survey of such trees is not warranted but the opportunity could be pursued for public or interest groups to nominate trees for evaluation.

It is therefore recommended that a survey of urban environment significant trees is undertaken and be subject to evaluation that there be an opportunity



for public nomination of trees for consideration in the rural areas of the District. This work should be programmed to feed into the District Plan review.

#### **14. CONTROL OF HAZARDOUS SUBSTANCES**

District Plans are responsible for the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances.

The regime of controls on hazardous substances in the Plan is based around a framework of risks and likely effects of hazardous substances use. At the time the now widely accepted Hazardous Facility Screening Procedure (HFSP) was in the course of being developed. It was felt that this was an onerously complex methodology for most of the situations likely to be encountered in Rangitikei. As a result a more simplified framework for classifying rules for hazardous substances was developed and adopted. In finalising the Plan additional provision was made enabling the option of using the HSFP in any circumstances that warranted it.

In administering consents for hazardous substances expert advice was sought from Wanganui District Council. More recently Tony Neilson of Envirohaz Ltd has provided specialist advice in this area. Envirohaz has been consulted on the efficiency and effectiveness of the existing Plan policies and rules and particularly the effectiveness of the comparatively simple approach to rules.

The Envirohaz assessment is that the approach has proved to be both effective and efficient for the number and nature of consents arising in the Rangitikei. The ability to be able to use the Hazardous Facility Screening Procedure provides an effective 'safety net', however it has not been necessary to apply this to date.

It is recommended that further review of the performance of this part of the Plan be undertaken at the time of Plan review but that no changes are required in advance of this.

#### **15. CULTURAL HERITAGE**

Section 1 of the Plan is headed Issues, Objectives: Matters of importance to Maori. The Plan identifies four issues in this area:

- How to take into account the principles of the Treaty of Waitangi.
- Recognising and providing for the relationship of Maori with ancestral lands, water, waahi tapu and other sites and taonga.
- The threat to sites of importance to Maori from development.
- Recognising the kaitiaki role of hapu and iwi.



The Plan identifies policies and methods to address each of these issues. The methods include:

- District Plan Rules
- Ongoing consultation
- Provision of information on resource consents
- Investigation of access to land locked land

With regard to protection of specific sites or areas the Plan currently does not identify individual sites of importance to tangata whenua but notes that future variations may include this information. However, the plan does include a general rule to ensure that sites of significance to maori are not modified, demolished or removed.

The Plan on page 19 also notes that certain individual sites or areas of particular ecological, cultural, spiritual, heritage, or archaeological significance may be identified on the planning maps but only where this is considered necessary and appropriate by tangata whenua. It is stated that where sites are identified Council will initiate discussions with landowners and that Council may consider specific requests for incentives to encourage the protection of individual sites.

The rule mechanism to provide for the protection of sites of significance is as follows:

*No activity or development shall lead to the modification, demolition or removal of any site of significance to Maori where such a site has been identified to Council prior to the time that any activity or development is proposed.*

The Plan rule provides protection only where a site has been identified to Council in advance of a proposed activity. Thus far, the tangata whenua of the District have not notified Council of any sites and therefore the above rule is largely ineffective.

Even if tangata whenua had advised Council of sites, there is considerable doubt whether the above rule could be enforced with out specifying those sites in the Plan. Plan rules need to have a high degree of certainty if they are to be applied as conditions for permitted activities. This rule was intended as an interim measure while further work was undertaken with tangata whenua and plan changes initiated.

To date, therefore, the protection of sites of significance to Maori has been heavily reliant on the consultation processes based around resource consent applications. This relies on iwi assessment of applications and direct input to the resource consent process. However, there are a lot of developments and resources used without the need for resource consents.



An example is minor earthworks, particularly where it is not associated with a subdivision process. This particular aspect is one that overlaps with the Regional Council responsibility for soil conservation arising from land disturbance. This is controlled through the Land and Water Regional Plan which also has no protection for site of significance to Maori.

During the course of this review these issues were drawn to the attention of Te Roopu Ahi Kaa in a specific report in February 2005. It was agreed at that meeting that members would consult further with their respective iwi on this matter and report back in April. In addition all iwi were written to and were asked to respond to the following specific questions:

1. Whether you wish known sites to be publicly recorded in the District Plan and linked to a rule that ensures that damage to these sites cannot occur without the granting of a resource consent with associated consultation with iwi.
2. Whether you have other initiatives in place for sites that you do not wish to be publicly identified such as legally enforceable agreements with landowners.
3. What needs to be done to fill any current gaps in knowledge and how this might best be achieved.

To date only limited response has been achieved and this dialogue with iwi remains on going. In the meantime Historic Places Trust has commissioned research on iwi sites in two locations in the District as part of its Ruapehu – Rangitikei Pilot Project. This has resulted in the registration of three sites and a further four are currently being researched as list above in Chapter 12.

In the meantime the assessment is that the District Plan is currently neither efficient nor effective in achieving it's objectives and policies in relation to sites of significance to Maori.

This concern is further reinforced by the changes made in the Resource Management Amendment Act 2005. These place greater emphasis on plan mechanisms for matters of importance to maori and to reduce reliance of resource consent consultation mechanisms. While there remains an ability to consult as required that Act now specifically states that there is no duty to consult iwi on resource consents. This places even more reliance on the plan provisions and reinforces the concerns regarding the effectiveness of the plan in this regard.

It is therefore recommended that the current work on this continue and that resulting Plan Changes be actioned as a matter of priority.

One additional issue has arisen during the course of administration of the Plan in relation to Schedule 1 which includes a list of marae in the District. Schedule 1 consists of five tables as follows:



- Marae.
- Notable Trees.
- Heritage Sites.
- Protected Natural Areas.
- Areas Recommended for Protection.

In each zone is a rule relating to heritage sites and sites of significance to maori. The rule states *"no activity or development shall result in any external modification demolition or removal of any heritage item listed in Schedule 1."*

This has on at least one occasion been interpreted to include marae. This however is not correct as it refers specifically to heritage items. The list of marae was included in the plan as first publicly notified as an intended starting point for iwi on sites of significance to maori. When little progress was made on this, the list remained but a more general rule was adopted as an interim measure. This issue can be resolved by either deleting the table or indeed replacing it with a new table of sites depending on the outcome of the process referred to above.

## 16. FINANCIAL CONTRIBUTIONS

Financial contribution may be imposed on development and/or subdivision by way of a condition in the Plan and/or by condition of resource consent. Part 21 of the Plan deals with financial contributions by setting down conditions for development and subdivision (21.1) and matters over which Council may reserve control regarding controlled activity consents for subdivision (21.2).

The approach generally gives the applicant the choice of providing the physical works, such as a road upgrading, or paying a financial contribution towards the work. The rules limit the financial contribution to that attributable to the development application based on actual cost. It applies to road upgrading, water supply, sewage waste disposal, surface water disposal.

The approach provides the Council with a considerable amount of discretion to determine whether and what extent of financial contribution is appropriate in any particular circumstances. However, there are some legal drafting issues that present some difficulties in relation particularly to Part 21.1. This section imposes conditions on permitted and controlled activity development which import a greater degree of discretion than is appropriate. Arguably this is a more significant problem for development that does not involve subdivision as a controlled activity consent would be able to address these issues.

In addition the 1997 Amendment to the RMA deleted the reference to works and services and consequently limited financial contributions to money and/or land.



A previous legal review has confirmed that there are issues with the robustness of the structure of this section of the Plan. Generally, District Plans prepared over the last five years or so have opted for a specified sum of money for off site works such as infrastructure upgrades. This sum is based on asset management plans that provide a robust financial framework for infrastructure development.

Although the Plan has been operative since 1999 the provisions of Part 21 as they relate to off site infrastructure have yet to be imposed on any resource consent application or permitted development proposal. Similarly the provisions have yet to be subject to scrutiny at the Environment Court.

The reasons that there are problems in this section go back, not only to the fact that this was an early Plan, but also, that there were few if any submissions on Chapter 21. This meant that the section passed through the hearing process with little scrutiny or review. Furthermore, the fact that the off site provisions have not been imposed has avoided difficulties.

However, it is hoped that initiatives being pursued by the Council, and the general economic health of the District, will mean that development will proceed over the next ten years and that consideration will need to be given to further infrastructure development. The current asset management plans of the Council do not envisage the needs for major capacity improvements; the focus is largely on improving quality of services.

Since 2002 there has been an alternative mechanism available for directly levying for Council infrastructure and services through the development contribution provisions of the Local Government Act. The scope of this can cover capital expenditure resulting from additional demand associated with growth and relating to reserves, network infrastructure and community infrastructure.

This scope is wider than the RMA focus on addressing the adverse effects of development. Also the process of developing and approving a policy on development contributions is less demanding than financial contributions through the District Plan.

In January 2004, Council considered this issue and resolved to adopt a brief development contribution policy that provides for no development contributions. The provisions of Part 21 of the District Plan therefore remain as the only mechanism for securing financial contributions.

In terms of efficiency and effectiveness the provisions of the Plan have in fact served the purpose well. However, this is largely because of the low or nil growth environment that the District has faced.

The options available to Council now include:



- Do nothing, and review the position in 2008/9 as part of the lead up to the review of the District Plan.
- Action a Plan Change to delete the off site requirements in Part 21.1.
- Amend the off site requirements in Part 21.1 and replace with low level money contributions based on current asset management plans.
- Delete the off site requirements in Part 21.1 and action low level development contributions under the Local Government Act.

Given the nature of current asset management plans and the desire to avoid any disincentive to development, the most appropriate course of action at this time is considered to be do nothing and review the situation further in 2008/10. The existing provisions at least provide a basis for negotiation with applicants should a proposal arise where it is necessary to pursue contributions.

This work would be most effectively implemented in conjunction with a review of land zoned for development at the periphery of existing settlements enabling the infrastructure implications of development of this land to be assessed as discussed in Chapter 9.

## **17. VEHICLE ACCESS, PARKING AND LOADING**

Rules for vehicle access, parking and loading are set out in Part 23 of the Plan. This section was subject to review and some minor amendment in Plan Change 16.

Discussions have been held with the Engineering Services Manager with regard to the efficiency and effectiveness of this section of the Plan. No major issues were identified although it is recognised that some fine tuning of wording is warranted to provide consistency of interpretation through out the section.

One issue that has arisen is in relation to Table 23.1 which sets down permitted standards for vehicle accessway dimensions. All zones require a sealed access except for the industrial zone. It is generally considered that all accesses should be required to be sealed and this is a small amendment that could be incorporated into a Plan Change arising from this review.

## **18. ON SITE WASTE WATER SYSTEMS**

The Plan requires that all allotments that are capable of accommodating residential dwellings or other human occupation shall be capable of providing

for the collection, treatment, and disposal of all sewage waste that are reasonably expected to be generated on the allotment. This is formalised as a rule for each zone and also in Part 21. The rules leave considerable scope for Council to assess and be satisfied that the design of on site waste water systems are appropriate.

For example in the Rural Zone rule 15.2.11 states “ *Where no sewer is available an adequate on site disposal system shall be provided for foul water*”.

However, the Plan provides little in the way of technical guidance on system design and construction that is appropriate for the District.

Issues that staff have reported as arising include:

- Design for the heavier soils in the lower parts of the Rangitikei, Whangaehu and Turakina Valleys
- Problems of reinstatement of on site systems following the 2004 floods.
- Shallow depths of ground water in the coarse textured soils in Koitiata.
- General small size of allotments for effective on site disposal.

Direct reference to a technical design guide within the Plan rules and also additional guidance within section 14.4 on information required to accompany applications would improve the efficiency and effectiveness of the Plan.

## 19. USE OF SURFACE WATER

The dominant issues in relation to the use of surface water within the Plan is the control of activity on the surface of the Rangitikei River, in particular the use of jet boats. This was an issue considered carefully by the hearing committee at the time of preparation of the Plan when there were extensive submissions from jet boat interests and other interests such as fishing guides who wished to retain a peaceful wilderness environment and avoid damage to trout beds at spawning time.

The outcome was the following policies:

- 17.1: Enable the use of the surfaces of water in rivers and lakes for the recreational and other purposes provided the adverse effects of these activities on intrinsic, ecological, landscape, spiritual and recreational values of the waterways and their margins and water quality are avoided, remedied or mitigated.
- 17.2: Avoid, remedy, or mitigate the actual and potential conflicts between recognised users of the surfaces of lakes and rivers.



- 17.3: Ensure that any adverse effects of power boats on the trout spawning areas of the upper Rangitikei River upstream of Springvale Bridge and in the sensitive tributaries are avoided remedied or mitigated.
- 17.4: Ensure that opportunities for quiet enjoyment of wilderness areas are not compromised

These policies are implemented through the following rules in section 15.2.22.

- (a) Any activity on the surface of any lake or river shall not exclusively occupy any defined area of water for more than 3 hours per day, for more than 3 consecutive days.
- (b) Power boating is not permitted on the Rangitikei River upstream of a point 1 kilometre upstream of Mokai Bridge and on the Whakarekou River at any time of the year.
- (c) Power boating is not permitted on the Kawhatau River between 15 May and 15 September.
- (d) Power boat use for access for conservation management including weed and pest control is exempt from this rule.
- (e) Any structure erected, moored, or placed on any water surface shall not exceed 10 square metres gross floor area and shall not exceed 3 metres height above the water surface.

These rules are intended to achieve a balanced approach to power boat activities by requiring a resource consent for nearly all forms of power boat activity in the upper river while controlling the intensity of activity in terms of direction and infrastructure in the lower river.

South of Mangaweka the Rangitikei River forms the boundary of the district with the neighbouring Manawatu District. The legal boundary is the middle of the river. Activities on the surface of the river in this section need to therefore comply with the requirements of both District Plans. The Manawatu District Plan permits motorised craft subject to compliance with an excessive noise standard. However, sites for competitions held more than twice a year require consent as a discretionary activity. The Plan is therefore, similar to the Rangitikei District Plan, fairly permissive in regard to power boat activities.

In October 2003 Council received a request for a private plan change from Quiet Rangitikei Incorporated which sought to impose stricter controls on commercial power boating upstream of Mangarene Bridge. The plan change sought to add an additional condition for permitted activities which would require commercial power boating to obtain a resource consent for a restricted discretionary activity. The applicant sought a waiver of fees for the plan change which was declined by Council and as a result the plan change did not proceed beyond initial application.

The approach of the current rules is not to discriminate between commercial and recreational activities but to focus on the effects of the scale of activity that might arise. Controls therefore focus on limiting any structures and



concentration of any activity in one location for more than three hours on 3 consecutive days.

The issue with power boating between Managaweka and Mokai is largely one of noise disturbance and potential conflict with other water users. This stretch of the river is regularly used by recreational jet boats rafting and other activities.

There are specific rules for noise in each zone in the District Plan. These rules were amended and improved through Plan Change 18. However, the intermittent and mobile nature of power boat noise means that trips up and down the river are likely to comply with the 50 dBA L10 rule and the noise maximum rule only applies at night time. Notwithstanding this, the excessive noise provisions of the RMA would still apply to these activities.

Under the present rules a commercial jet boating operation could establish and operate on the basis of limited facilities. However, it remains that it is the intensity of the activity that causes adverse effects rather than whether it is commercial or not. Clearly a commercial activity is likely to have a greater frequency of activity in that it is seeking paying customers but there are often means of avoiding definitions that seek to define an activity as commercial.

As with other matters the justification for change to the rules in the plan is one of risk management. The development of river based tourism activities means that there is a greater number and intensification of activities developing over time. The risk of a reasonably intense power boating activity establishing in the middle reaches of the Rangitikei River has increased since the current Plan was approved. The consequences in terms of effects depends significantly on the intensity of the proposed activity and the times of the day and year in terms of conflicts with other activities.

Similarly there are other forms of motorised watercraft craft that are becoming more popular, such as jet skis, the potential effects of which need to be considered.

There are a number of ways in which the Plan rules could seek to lower the threshold for requiring a resource consent for power boating in this area. This could involve:

- a limit on the number of trips that an operator or driver can undertake in one day/week or month,
- a specific on water noise control
- a by law licensing or otherwise limiting the intensity of commercial operators
- or control on the activity of commercial power boating.

This assessment concludes that there is a risk that the existing provisions may not be entirely effective if there is a sudden increase in commercial power boating activity on the Rangitikei River. However, at this time it is



considered that the risks are not at a level where Council needs to action a plan change process immediately. However, it is recommended that this issue be further specifically considered at the time of the review of the District Plan and that this include assessment of the options identified above.

## **20. CONCLUSIONS AND RECOMMENDATIONS**

This report is an assessment of the performance of the Rangitikei District Plan to date 5 years after it was made operative. It has identified matters that need to be addressed in key areas of the Plan and whether these need to be advanced prior to or as part of the review of the District Plan due in 2009. Part of the context for the assessment is the State of the Environment Report prepared in 2004.

The assessment finds that the overall philosophy of the Plan is effective and efficient. However this does not preclude the possible need to classify certain activities as non complying activities if future policy development justifies this position.

A review of the appeals considered by the Environment Court did not identify any issues of significance regarding the approach or philosophy of the Plan.

The assessment has also concluded that to date the case law and consequent law changes associated with the permitted baseline concept have not resulted in any failure of the plan to be effective or efficient.

With regard to integration with regional functions the following recommendation is made:

***1. That Council engage with Horizons through the process of developing their 'One Plan' to seek efficient and effective integration of resource management responsibilities and to feed any arising changes into the Plan review process.***

The Resource Management Amendment Act 2005 has been reviewed and no urgent requirements to amend the Plan have been identified.

Conclusions and recommendations with regard to specific policy and regulatory areas of the Plan are as follows:

### ***Rural dwellings and Subdivision:***

***2. That Council prepare a plan change to address policies and rules in relation to the effects of larger scale subdivisions (more than 5 lots) and protection of areas of high landscape value. That this work be given high priority but that it be implemented through the Plan review unless monitoring shows that earlier Plan Change is necessary.***



### **Urban Growth**

**3. That as part of the Plan review work programme commencing in 2008 there be a specific project to review urban expansion land with landowners to provide a coordinated and efficient approach to urban growth.**

### **Natural Hazards:**

**4. That Council continue to work with Horizons to provide more certainty around natural hazard risks and integrated management of development leading up to the District Plan review.**

### **Natural Features and Landscapes:**

**5. That a joint project with Horizons be established to achieve agreement with landowners of areas identified in the District Plan as to how management, enhancement and protection of these areas will be achieved. This to include the development of a toolbox on possible measures and aimed at achieving voluntary agreements with landowners of areas recommended for protection by 2008.**

**6. That a project be established to develop a policy and methods framework for management of potential effects on high quality landscapes in the District. This is to be given high priority and should be integrated with the plan change for rural subdivision and dwellings.**

### **Built Heritage:**

**7. That Plan Changes to strengthen the District Plan approach to built heritage be actioned once the Built Heritage Strategy has been completed and approved.**

### **Heritage Trees:**

**8. That a project be established to survey townscape trees that should be recognised and protected and appropriate methods established. Also that there be an opportunity to nominate rural individual tree specimens for consideration as part of this project.**

### **Hazardous Substances:**

**9. That no changes to the District Plan need be considered at this stage but that this section be further reviewed at the time of Plan review.**

### **Cultural Heritage:**



**10. That the current efforts to improve the Plans protection of cultural heritage be continued as a high priority and that resulting Plan Changes be actioned.**

**Financial Contributions:**

**11. That the financial contributions and development contributions policies be reviewed in 2008 as part of the Plan review based on reviewed asset management plans.**

**On Site Water Systems:**

**12. That greater certainty be provided for officers and applicants by referencing suitable technical guidelines for design of on site water systems at the time of Plan review.**

**Use of Surface Water:**

**13. That review of the control on power boating between Mangarere Bridge and Mokai be undertaken as part of the Plan review to provide more effective rules for controlling the intensity of motorised craft.**

