



Item:

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Proposed Plan Change 15 – Flood and Erosion Hazard Areas

1.0 Purpose of Report

- 1.1. The purpose of this report is to seek Council's endorsement to proceed with the notification of Proposed Plan Change 15 to the Upper Hutt District Plan ["the Plan Change"]. The Plan Change seeks to update and introduce flood and erosion hazard information for the Mangaroa and Hutt Rivers within the Upper Hutt District Plan ["the Plan"], including objectives, policies, rules and maps that are intended to ensure that development in these areas is appropriately managed.
- 1.2. Plan Change 15 proposes to update and expand existing flood and erosion hazard information in Chapters 3, 8, 14, 16, 23, 30, 33, 34, 35 and the Planning Maps of the District Plan.
- 1.3. This plan change was previously presented to the Policy Committee for notification in June 2011, however notification was deferred pending resolution of UHCC's appeal of relevant provisions of the proposed Regional Policy Statement for Wellington. Paragraphs 4.8 to 4.12 (below) provide an update as to how the appeal process has progressed. The proposed plan change provisions differ from those put to the committee in June 2011 insofar as the provisions have been revised in close consultation with the Greater Wellington Regional Council to ensure that the proposed Regional Policy Statement is given effect to, as required by the Resource Management Act 1991 ["RMA"]. These amendments are exclusive to the policy provisions of the proposed plan change and do not affect any rules.
- 1.4. The following reports are appended:

Appendix 1	Section 32 Report
Appendix 2	Proposed changes to District Plan text:
	2a Proposed changes to objectives and policies
	2b Proposed changes to rules
	2c Proposed changes to planning maps (attached as a separate bundle)
Appendix 3	Property Values Report (Peter O'Brien, Property Consultant and Registered Property Valuer (2008) and Jozsef Bognar (2012))

- 1.5. The Hutt River Floodplain Management Plan is available on Greater Wellington Regional Council's website <http://www.gw.govt.nz/hutt-river-flood-plain-management-plan/> as is the Mangaroa River Flood Hazard Assessment <http://www.gw.govt.nz/mangaroariver/>

2.0 Background

- 2.1. Plan Change 15 implements work undertaken by the Greater Wellington Regional Council ["GWRC"] identifying and assessing the flood and erosion hazard areas for the Mangaroa and Hutt Rivers. GWRC has developed the Hutt River Floodplain Management Plan ["HRFMP"] and the Mangaroa River Flood Hazard Assessment ["MRFHA"], which provide information on the flooding and erosion risk of the Hutt River and the Mangaroa River. Hydraulic modelling of the Hutt River and Mangaroa River has been undertaken as part of the development of these documents to identify the hazard areas and assist in the development of planning controls to address the hazards of these rivers.
- 2.2. The proposed plan change is in line with similar work already undertaken by the Hutt City Council to incorporate the HRFMP into the Hutt City District Plan, as it relates to the lower reaches of the Hutt River.

The Flooding and Erosion Issue

- 2.3. Flooding is a major environmental management issue facing residents of Upper Hutt. A large flood can cause extensive damage to property and pose a danger to people.
- 2.4. Along the Hutt River, the historical response to flood risk has been to build a flood defence system along most of the Hutt River's length, gradually straightening the river channel and extracting substantial quantities of gravel to improve the river's flood capacity. By 1972 the flood protection system was largely in place. Since 1972 isolated and substandard stopbanks have progressively been extended or rebuilt, and existing stopbanks maintained. Gravel extraction and river straightening have steadily been replaced by a focus on re-establishing bank-edge vegetation and strengthening bank edges.
- 2.5. As part of the HRFMP, GWRC proposes to undertake a number of structural measures to improve the existing flood protection systems. The document uses a risk-based 2300 cumec¹ standard (equivalent to a 1 in 440 year flood event) as a minimum design standard for upgrades to flood defences along the Hutt River. This approach applies varying protection standards to different areas of the floodplain depending on how flood-prone they are. As a general rule the greater the assets at risk on the floodplain the higher the standard of protection.
- 2.6. However, even with these flood protection upgrades, the risk of floodwaters breaching defences cannot be completely eliminated. Regulatory measures like those proposed by Plan Change 15 complement existing structural measures (e.g. stopbanks) for flood protection. Flood damages can be reduced by limiting future development in flood prone areas and ensuring that any such development incorporates flood risk management measures.
- 2.7. In the case of the Mangaroa River, the regulatory measures proposed as part of Plan Change 15 are of even greater importance. The Mangaroa River floodplain is much less developed than the Hutt River floodplain. Physical flood protection works to manage the flood risk are not suggested by GWRC for the Mangaroa River. Plan Change 15 seeks to avoid the need for expensive future flood protection works along the Mangaroa River by limiting development within the flood hazard areas.

¹ A cumec is a measure of water flow. 1 cumec (1 cubic metre per second) equals 1 cubic metre of water passing a given point every second.

2.8. The HRFMP and MRFHA identify various flood hazard 'sub-areas' which are utilised in this plan change. The first of these is the **River Corridor** which is the land immediately adjacent to the river. The river corridor width is determined either by stopbanks or where there are no stopbanks its width is set by:

- Geological features; or

For the Hutt River -

- The extent of a 2800 cumec flood [(except where erosion hazard areas lie outside the 2800 extent). This is a rare flood event occurring approximately once in a 3000 year period]; or
- The riverside margin of existing houses at Bridge Road, Akatarawa, where those properties extend into erosion hazard areas; or
- The area upstream of Gemstone Drive which is treated slightly differently because there are no structural measures existing or proposed.

For the Mangaroa River -

- The extent of a 1 in 100 year (372 cumec) flood event.

2.9. The remaining flood-prone area outside the river corridor is generally termed the floodplain, which is comprised of **Overflow Paths** where fast-flowing waters will form, **Ponding Areas** where floodwater is slow-flowing and deep, and areas where **Erosion Hazard** is an issue.

2.10. The District Plan currently identifies a 1 in 100-year flood extent for the Hutt River, and no flood extent for the Mangaroa River. The District Plan also does not presently include information regarding the erosion hazard caused by the Hutt and Mangaroa Rivers.

3.0 Plan Change 15

3.1. Plan Change 15 seeks to manage the flood and erosion hazard risk in Upper Hutt by incorporating current flood hazard information into the District Plan. The objectives, policies and rules are intended to accommodate the Hutt River and Mangaroa River flood and erosion hazard areas identified by GWRC. The provisions are structured so that future information regarding flood and erosion risks can be incorporated into the District Plan with ease.

3.2. To accommodate the differences between the Hutt River and the Mangaroa River Plan Change 15 identifies flood and erosion hazard areas specific to each river, based on the individual assessments undertaken by GWRC. The assessment methodology undertaken by GWRC has been applied consistently across the respective rivers using current best practice methods².

3.3. The changes that Plan Change 15 seeks to make to the District Plan can be summarised as follows:

Chapter 3 – Zoning

- Policy 3.4.2 Additional explanatory text.

Chapter 8 – Special Activity Zone

- Resource Management Issue 8.2.5 Minor change to the Resource Management Issue wording. Amendments to explanatory text.

² NZS 9401:2008 'Managing flood risk – A Process Standard'

- Objective 8.3.3 Amendments to explanatory text.
- Policy 8.4.4 Amendments to explanatory text.
- Policy 8.4.6 New policy and explanatory text.

Chapter 14 – Natural Hazards

- Background Statement 14.1 Amendments to text of Background Statement.
- Resource Management Issue 14.2.2 Amendments to Resource Management Issue and explanatory text.
- Resource Management Issue 14.2.3 Additional explanatory text.
- Objective 14.3.1 Amendments to Policy wording and explanatory text.
- Policy 14.4.1 Amendments to Policy wording and explanatory text.
- Policy 14.4.2 Amendments to Policy wording and explanatory text.
- Method 14.5.1 Amendments to wording of Method 3.

Chapter 16 – Utilities

- Policy 16.4.1 Additional explanatory text.

Chapter 23 – Rules for Earthworks and Vegetation Clearance

- Rule 23.7 Amendments to introduce references to the Flood Hazard Area and to specify exemptions.
- Standard 23.12 Inclusion of one additional matter for discretion.

Chapter 30 – Rules for Utilities

- Activity Table 30.1 Minor text changes to three existing listings, and inclusion of additional discretionary activities.
- Standard 30.13 Inclusion of two additional matters for consideration.

Chapter 33 – Rules for Flooding and Fault Band Hazards

- Activity Table 33.1 Significant amendments to the Activity Table to address buildings, structures and subdivision within the River Corridor, Overflow Path, Ponding Area and Erosion Hazard Line. Inclusion of explanatory notes.
- Standard 33.2 Inclusion of four additional matters for consideration.

Chapter 34 – Rules for Hazardous Substances and Contaminated Land

- Activity Table 34.1 Inclusion of one additional discretionary activity.

Chapter 35 – Definitions

Proposed additions to text are shown in underline.

Text to be deleted is shown in ~~strike through~~.

- **Building**

any structure whether temporary or permanent, movable or immovable, which, in addition to its ordinary and usual meaning, includes the following:

 - ~~• Any structure of over 5m² in area with a height of more than 1.2m.~~
 - ~~• Any fence or wall with a height of more than 2m.~~
 - ~~• Any retaining wall with a height of more than 1.5m above the finished ground level.~~
 - Any tank or pool, and any structural support:
 - (i) Which has a capacity of not less than 25,000 litres and is supported directly by the ground.
 - (ii) Which has a capacity of 2,000 litres or more and is supported at a height of more than 2.0 metres from the base of its structure.
 - (iii) Which has a capacity of 500 litres or more and is supported at a height of more than 4.0 metres from the base of its supporting structure.

but for the purposes of this Plan, excludes the following:

 - All structures not exceeding 5m² in area and 1.2m in height;
 - any fence not exceeding 2 metres in height;
 - any retaining wall not exceeding 1.5 metres in height, above the finished level;

This definition does not apply to utilities as defined in this chapter.
- **Erosion hazard line**

a line delineated on the Hazard Maps in Part 5 of the District Plan depicting land potentially at risk of erosion from river movement or flood water. Land on the river-side of the line could be at risk from erosion over time due to the flow, velocity and meander patterns of rivers.
- **Flood hazard area**

the area comprising the River Corridor, Erosion Hazard Line, Ponding Areas and Overflow Path of a given river as shown on the Planning Maps.
- **Overflow path**

a component of the Flood Hazard Area which acts as a channel for flood waters and is often characterised by fast flowing water during a flood event. The Overflow Path is shown on the Hazard Maps in Part 5 of the District Plan.
- **Ponding area**

a component of the Flood Hazard Area where slower-moving waters could pond either during or after a flood event. Ponding Areas are shown on the Hazard Maps in Part 5 of the District Plan.
- **Residual risk**

the risk to a subdivision or development that remains after implementation of risk treatment or hazard mitigation works.

- **River corridor** a component of the Flood Hazard Area which includes land adjacent to the river and is the minimum area able to contain a major flood and enable water to pass safely to the sea. The River Corridor is shown on the Hazard Maps in Part 5 of the District Plan.
- **Structure** any building, equipment, device, or other facility made by people and which is fixed to land, not meeting the definition of building or accessory building.

Planning Maps

The existing Planning Maps would be amended to depict the Flood Hazard Area (shown in a similar fashion to the current 1:100 year flood extent). A corresponding set of separate Hazard Maps would depict the sub-areas within the Flood Hazard Area, namely the River Corridor, Overflow Path, Ponding Areas and Erosion Hazard Line.

4.0 Statutory Provisions

- 4.1. Sections 31(1)(a) & (b) of the Resource Management Act 1991 state that Council must fulfil the following functions:

31(1)(a) *"[...]the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the district:*

(b) *the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of-*

(i) *the avoidance or mitigation of natural hazards; and*

(ii) *the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances; and*

(iia) *the prevention or mitigation of any adverse effects of the development, subdivision or use of contaminated land:*

(iii) *the maintenance of indigenous biological diversity.."*

- 4.2. Flooding and erosion hazards are included in the definition of natural hazards outlined in Part 1 of the RMA:

"natural hazard means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment"

- 4.3. Section 74(1) of the Resource Management Act provides for Council to undertake changes to the District Plan. Section 74(1) states that:

"A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, a direction given under section 25A(2), its duty under section 32, and any regulations."

- 4.4. The process for changing a District Plan is outlined in the First Schedule of the RMA. Clause 5(1) of the First Schedule states that:

“A local authority that has prepared a proposed policy statement or plan shall publicly notify it.”

- 4.5. Before a proposed plan change can be publicly notified, Section 32 of the RMA requires an evaluation to be carried out. An evaluation must examine:
- (a) The extent to which each objective is the most appropriate way to achieve the purpose of the Act; and
 - (b) Whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.
- 4.6. An evaluation must also take into account:
- (a) the benefits and costs of policies, rules, or other methods; and
 - (b) 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.
- 4.7. A Section 32 evaluation for Plan Change 15 is attached in Appendix 1.

Regional Policy Statement

- 4.8. The RMA requires that a district plan change must give effect to a regional policy statement (Section 75(3)) and have regard to any proposed regional policy statement (Section 74(2)(a)).
- 4.9. GWRC's Proposed Regional Policy Statement ["PRPS"] was approved and notified by GWRC in May 2010. UHCC submitted on parts of the PRPS and has subsequently lodged an appeal with the Environment Court. The appeal seeks alterations to the following PRPS policies:
- Policy 28:** *Avoiding subdivision and inappropriate development in areas at high risk from natural hazards – district and regional plans; and*
 - Policy 50:** *Minimizing the risks and consequences of natural hazards – consideration.*
- 4.10. Broadly speaking, UHCC is seeking to ensure that *appropriate* subdivision and development is able to be provided for in areas at risk from natural hazards, subject to a hazard being appropriately mitigated and as such the provisions under appeal have implications for the proposed plan change.
- 4.11. Discussions between UHCC and the GWRC have progressed and the appeal is in the process of being resolved through mediation.
- 4.12. The Section 32 analysis in Appendix 1 to this report examines the relationship between Plan Change 15 and the operative and proposed policy statements in greater detail. Given the advanced stage of the PRPS, greater consideration has been given to the provisions contained therein.

5.0 Consultation

- 5.1. Informal pre-consultation targeted at affected landowners has been undertaken and has included public meetings and an informal submissions process whereby landowners have had the opportunity to view the proposed provisions and accompanying maps. Landowners were invited to provide feedback through the Council website.
- 5.2. As afore-mentioned, in contrast to the Hutt River, the Mangaroa River does not have an existing District Plan flood hazard area and has attracted considerable public interest through informal pre-consultation. As a result of feedback from landowners, Council committed to preparing the plan change for the Mangaroa River in tandem with the changes proposed for the Hutt River.
- 5.3. Issues raised by the landowners have been largely centred on the perceived costs in terms of reduced property values and reduced development and/or subdivision potential. It is expected that further feedback of this nature will be conveyed by submitters through the formal RMA submission process that will follow. In response to the feedback received from landowners during pre-consultation, GWRC commissioned a report by Peter O'Brien (Property Consultant and Registered Property Valuer) to provide guidance as to how a flood hazard area overlay may influence property values. Mr O'Brien's report considers the need for hazard information to be accessible to property owners and prospective purchasers, and opines that any property with a high risk profile will have its marketability influenced negatively regardless of whether or not a District Plan includes the hazard information. The full report is attached in Appendix 3. A supplementary report from Mr Jozsef Bogнар, also attached in Appendix 3, confirms this view in a more recent opinion to that of Mr O'Brien.
- 5.4. The GWRC documents which underpin this plan change (the Hutt River Floodplain Management Plan and the Mangaroa River Flood Hazard Study) are documents that are available to the public. The GWRC has provided assistance with public enquiries that require site-specific interpretation of the studies, such as enquiries for Planning and Building Consent matters. This method of providing site-specific advice to landowners will be ongoing. Land Information Memoranda (LIMs) will also continue to include flooding information from the GWRC studies.
- 5.5. Further pre-consultation will be undertaken on the proposed plan change with the Ministry for the Environment and Tangata Whenua as required by Clause 3 of the first Schedule of the Resource Management Act 1991.
- 5.6. No additional consultation is considered necessary other than the public notification process required by the RMA. Members of the public will have the opportunity to make formal submissions on the plan change as part of this process.

6.0 Legal and Financial Implications

- 6.1. As with any change to the District Plan, the proposed plan change will be open to appeal to the Environment Court, which would have financial implications.

7.0 Conclusions

- 7.1. Plan Change 15 seeks to update and include flood and erosion hazard areas for the Mangaroa and Hutt Rivers within the Upper Hutt District Plan, along with objectives, policies and rules that are intended to ensure that development in these areas is appropriately managed.
- 7.2. Public notification is the next step in the plan change process. Publicly notifying Plan Change 15 will allow members of the public to make submissions.

8.0 Recommendations

1. **THAT** proposed Plan Change 15 to the Upper Hutt District Plan 2004 is publicly notified as soon as practicable in accordance with the requirements of the First Schedule of the Resource Management Act 1991.
2. **THAT** Council authorise Officers to make any minor non-policy changes to the details of proposed Plan Change 15 should the need arise.

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