

DISCUSSION PAPER: LAND USE AND DEVELOPMENT

1.0 Introduction

1.1 This land use discussion paper is part of a series of documents outlining potential changes to the Operative Otorohanga District Plan.¹ The Council embarked on its review of the Plan in May 2006 by consulting key organisations, running open days in September 2006, and taking part in meetings at Marae and the information days and workshops of the Shore Futures Project from the end of 2006 to March 2007-- a joint project with Environment Waikato, the Department of Conservation, and the territorial authorities surrounding the Kawhia and Aotea harbours.

1.2 This initial consultation period revealed some of the gaps and errors in the Operative Plan that should be corrected in this review. The Council commissioned further research on specific issues such as landscape, coastal hazards, capacities for on-site disposal of storm water and waste water, river hazards such as flooding and erosion, and the protection of significant trees.

1.3 The Council has decided to retain the current format of the Operative Plan. As an effects-based plan, it is easy for people to understand. Applicants follow a series of questions to find the parts of the plan that affect their development proposals. The changes made under the review will continue to use this framework as the means to assess the effects of proposals to subdivide and develop land.

1.4 This paper discusses development and land use as they relate to hazards, coastal environment and landscape matters, and as such is complimentary to the subdivision discussion paper which is also released for comment.

2.0 Background to this paper

2.1 Drawing upon the background papers, research, workshops and consultation to date, the following issues have been identified as inadequately addressed in the Operative Plan:

- No landscape assessment was undertaken for the Operative Plan. The recently-commissioned landscape reports identify three classifications of landscape each of which warrant greater consideration under the Resource Management Act and its interpretation through recent case law:

- Outstanding Natural Features and Landscapes need to be better protected
- Areas of High Natural Character need to be preserved
- Areas of Visual Amenity are to be maintained and enhanced

In consideration of each of the landscape areas identified, the review requires a closer examination of matters such as

- the removal of existing landscape features,
 - the effects of building appearance and location,
 - the effects of other changes to the landscape such as planting, and
 - the extent and location of earthworks
- The lack of cohesive policy and distinguishing controls on subdivision and land use development around the Kawhia and Aotea Harbours Coastal Environment;
 - Greater care needed to avoid or mitigate developments in areas prone to natural hazards, including coastal hazards and river inundation

¹ Other discussion papers released were on the subjects of Building Parameters, Significant Trees, Subdivision and Traffic Management.

- The need to maintain or enhance rural character and the avoidance of reverse sensitivity
- The avoidance of adverse effects from clusters or groups of buildings in the Rural and Coastal environment;

2.2 These issues are examined in the following paragraphs, and measures are suggested.

2.2.1 **Landscape Assessment**

The issues:

A number of sites rated as 'Areas of Outstanding Natural Features and Landscapes' and 'High Natural Character' have been identified in the research undertaken examining Natural and Landscape Character across the whole district including the coastal catchments subject to the Shore Futures Project. These include various areas of significant indigenous vegetation as well as the wetland and estuarine areas of the Aotea and Kawhia Harbour environs, areas along the slopes of Mt. Pirongia and along the Waikato and Waipa Rivers. Assessments were presented in two reports.^{2/3} All owners of properties in areas identified as having land with 'Areas of Outstanding Natural Features and Landscapes' and 'High Natural Character' features were contacted for meetings during July 2009 where the Council's consultant landscape architect, Stephen Brown, presented his findings and provided the opportunity for the location of these areas to be discussed.

Recognition and protection of 'Areas of Outstanding Natural Features and Landscapes' and 'High Natural Character' from the effects of inappropriate subdivision, use and development are matters considered to be of national importance in accordance with the Resource Management Act 1991 (RMA). Many of these areas are already in public ownership; those in private ownership have often been retained through the efforts of the owners or because the terrain is too difficult to use for other purposes. Some privately owned areas are already protected under QE II covenants.

In addition, there are also areas of the district that are considered to have a high level of visual amenity, which contribute to the natural quality and character of the overall rural and coastal environment. The research provides a greater understanding of the district's environment and those matters which should be addressed in recognising such landscapes.

In the absence of a district-wide assessment of such landscapes, some developments and activities have proceeded to compromise valued landscapes.

District Plan:

The current district plan articulates some issues relating to landscapes but does not follow through with clearly identifying the distinguishing areas or by providing direction in its rules. For example, Objective 2.2.3 states

To ensure that activities, land use and development in the rural effects area avoid, remedy or mitigate adverse effects upon the character of the area which includes low scale development, variety of landscapes, scenic vistas, high proportion of natural space, and the dominant natural features of the area and do not adversely affect the amenity values which constitute its character.

² Golder Associates, *West Coast Natural Character and Landscape Assessment (Kawhia and Aotea Catchments)*, commissioned by Environment Waikato, Waikato, Otorohanga, and Waitomo District Councils & Department of Conservation, December 2008, pp. 78.

³ Stephen Brown Environments Ltd., *Assessment of Natural and Landscape Character Otorohanga District*, commissioned by Otorohanga District Council, October 2008, pp.107.

And Objective 10.2.1 states

To ensure that land use and development and subdivision activities do not adversely affect the natural character of the coastal environment.

The land use rules in the District Plan contain some restrictions on height, building coverage, and generic location matters all of which affect amenity. However, the Plan does not contain any requirement to assess the effects of a particular development on visual amenity specifically. The land use rules are generic and apply to any new development regardless of its location, inside or outside a valued landscape.

Few District Plan rules refer to areas of Outstanding Natural Features and Landscapes, High Natural Character or Visual Amenity when determining the effects of development. Although assessment criteria in the rules refer to *natural character* for a coastal environment application, without a clearly identified natural character area, this criterion has not prompted professional landscape assessments of developments. Even had planners sought such assessments for individual applications, the assessments would have lacked the context of a more coherent evaluation that examined the relative merits of landscape areas within the vicinity.

Discussion:

The recent landscape analysis identified areas meriting recognition in three categories; 'Outstanding Natural Features and Landscapes', 'High Natural Character' and 'Visual Amenity'. Until recently, landscape values have often been regarded as subjective. However, in recent years landscape analysis has developed more fully, particularly with relation to evidence for Environment Court cases in the South Island. The criteria derived from caselaw have been the basis of landscape analysis for this District. The relative merit of particular landscapes has resulted in a clearer definition of each category of landscape.

To be useful for the Council, the areas should be incorporated into the District Plan so that their location is easily identifiable to anyone seeking to lodge a resource consent application. Given the response of the Environment Court to subdivisions in the Kawhia area, this certainty would provide a better understanding of those areas where subdivision could take place without compromising landscape values. There are two options of identification: one is to list the legal description in a schedule to the Plan; the other is to show the locations on maps of the Plan. The latter is the preferred option as many of these areas straddle legal boundaries. Maps are also easier for people to comprehend.

In conjunction with subdivision provisions, the potential effects of land use activity changes on the landscape need further consideration under the review. Activities are categorised in a District Plan in anticipation of their potential to adversely affect an area. The land use categories determine the process (if any) required for resource consent. The four areas of potential concern for landscape areas would be:

- REMOVAL OF EXISTING LANDSCAPE FEATURES,
- THE EFFECTS OF BUILDING APPEARANCE AND LOCATION WITHIN THE AREA,
- THE EFFECTS OF OTHER CHANGES TO THE LANDSCAPE SUCH AS PLANTING, AND
- THE EXTENT AND LOCATION OF EARTHWORKS

REMOVAL OF EXISTING LANDSCAPE FEATURES:

The preservation of areas of 'High Natural Character' and the protection of areas of 'Outstanding Natural Features and Landscapes' are both regarded as matters of national importance under the RMA. To adhere to the legislative requirements, the Council should

consider two potential categories for any land use activity within these areas: 'prohibited' or 'non-complying'. The purpose would be to deter removal of features which constitute the elements making up the landscape. The category of 'prohibited' means that an application could not be lodged with Council and there could be no consideration of any land use activity which would alter the landscape. The category of 'non-complying' means that the application has to meet one of two tests under the RMA: the adverse effects of the activity will be no more than minor and the application will not be contrary to the objectives and policies of the District Plan. It is important for the Council to provide clarity of intent. If it were to choose the non-complying activity category, the phrasing of the objectives and policies would be crucial to the assessment of an application.

Activities that remove parts of an existing landscape feature could include felling trees, uplifting rocks or excavating landforms or features. The pattern and relationship of these features within the view would have been crucial to their classification. For the categories of 'High Natural Character' and 'Outstanding Natural Features and Landscapes' Council wishes to send a very clear message that it will not entertain applications to remove any of the elements which form these landscapes. The prohibited activity category would apply.

For removal of natural features in the identified Areas of Visual Amenity, it is recommended that the lower level of 'non-complying' activity apply. This would mean that Council would need to be very clear in its objectives and policies that any removal is discouraged. However, it would have some flexibility to consider granting consent to a well-considered application that meets both tests—in terms of effects and objectives and policies.

THE EFFECTS OF BUILDING APPEARANCE AND LOCATION WITHIN THE AREA:

Council anticipates that the appearance and location of some buildings could compromise landscape values. The types of development could range from prominent, large-scale developments such as telecommunications masts, wind turbines, or helicopter pads to low-key accommodation such as a walker's hut.

The areas that have been rated as 'High Natural Character' or 'Outstanding Natural Features and Landscapes' have few buildings currently, often because their terrain and location has precluded such uses. Small buildings, if well-designed and well-sited, may not compromise the landscape. A prohibited activity status for all buildings seems unnecessarily harsh. Nonetheless buildings in such locations should be discouraged and any application should have to go to some lengths to demonstrate that it would not compromise the landscape. A non-complying activity category for new buildings could provide the appropriate safeguards. Extensions to existing buildings such as Te Kauri Lodge would logically be treated as a discretionary activity.

Those locations identified as 'Areas of Visual Amenity' are more likely to be in high demand for domestic or farm buildings. These are often part of existing farms where the owners have appreciated their beauty and considered their attractiveness in the development choices made to date. Often it is the combination of grazed land, land form, tree groupings, and other human-influenced features which constitute the rating of high visual amenity. Ongoing development choices merit some hesitation and forethought. A level of assessment is needed to guide building in relation to the landscape so it is suggested that buildings in these areas be considered as discretionary activities. Council could then take into account their location, appearance, and any other measures to mitigate adverse effects as part of the consent application.

Assessments may result in consent conditions that require a different position for the building, requirements to prevent the building standing out in the landscape because of its colour or reflectivity, or in the location and type of screen planting.

THE EFFECTS OF OTHER CHANGES TO THE LANDSCAPE SUCH AS PLANTING

Many of these landscapes are working farms from which a living is derived. In the course of their stewardship farmers have to make practical decisions about the land uses and the type of farming undertaken. Ploughing the land for planting crops or planting trees for harvest may temporarily alter the landscape. As these features are relatively temporary and superficial—for instance the cycle for tree crops may be not longer than a 25 year rotation, it is considered that new plantings will not in themselves require Council intervention unless such planting are mitigation measures for another consent process—such as to screen a building, to replace stands of trees that feature in the landscape, or if the tree plantation triggers a consent because of the earthworks.

THE EXTENT AND LOCATION OF EARTHWORKS/DRAINAGE

The current plan allows earthworks of 5000m³ without consent. This is between 500 – 700 truck loads. Such extensive earthworks removes vegetation, be it grass, shrubs or trees, and results in a scarring of the landscape that can alter its appearance for years. The reasons for Council considering a reduction in its earthwork allowance goes beyond the potential scale of landscape effects. In terms of integrated management, such a massive alteration to the landform could affect archeological and/or waahi tapu sites, erosion, and the movement of the earth off the site would result in significant traffic effects. A reduction in the threshold to 1000m³ would provide for a more appropriate level given the typical reasons for shifting this amount of earth – creating a building platform or recontouring a site for a farming operation

Suggested Measures

- show areas of Outstanding Natural Features and Landscapes, High Natural Character and Visual Amenity on the District Plan maps
- removal of natural features in areas of ‘High Natural Character’, ‘Outstanding Natural Features and Landscapes’ and ‘Areas of Visual Amenity’ should be a non-complying activity
- building in areas of ‘High Natural Character’ and ‘Outstanding Natural Features and Landscapes’ should be a non-complying activity; extensions to existing buildings should be a discretionary activity
- building in ‘Areas of Visual Amenity’ should be a discretionary activity
- no restriction on new planting for cropping or tree plantations within identified landscape areas
- earthmoving in Rural and Country-Style Living areas should be a non-complying activity (inclusive of landscape sensitive areas) where earthmoving in one calendar year;
 - is more than 1000m³ and has a cut face or fill height that exceeds 2 metres, or
 - exceeds 5000m³ in total
- In Urban and Urban Limited Services areas require earthmoving that in one calendar year of more than 100m³ or with a cut face or fill height greater than 2 metres to be a non-complying activity
- Cut face and fill heights to be calculated on existing ground levels

2.2.2 The Coastal Environment

The issues:

Any structures built on sites around the two harbours of Kawhia and Aotea have the potential to adversely affect the visual amenity of both areas. Buildings outside the

existing townships of Kawhia and Aotea can be blended well into their surroundings so that they do not adversely affect views. If consideration is given to the scale, location, and appearance of a building and in addition attention is paid to the planting of its immediate surroundings, it is possible to avoid detrimental visual effects and the impression of a built-up area. Certain colours or reflective surfaces for instance can call attention to a building in an otherwise natural landscape.

District Plan:

Apart from the minimal setback requirements (20 metres), the current plan does not distinguish coastal development rules from any other area of the district; the Council has never tried to influence the location, scale and appearance of buildings placed in the coastal area except in relation to location of known hazards.

Discussion:

The assessment of landscapes and hazards in the harbour surrounds has identified constraints that will have an effect on the appropriate location of subdivisions, roads, utilities, and other structures. While a large part of the harbour area is affected by these constraints, there are many existing lots where the landowners could fully expect to be able to build a dwelling, farm building, or other structures. In addition, Council is proposing to allow further coastal subdivision in appropriate locations (see Subdivision Discussion Paper).

The Environment Court decisions on new subdivisions implied that there should be some consistency in a policy area applied to the coastal environment. Such a delineated area could make it easier for Council to administer and be more cost-effective rather than relying on the patchwork of locations where Outstanding Natural Features and Landscapes, High Natural Character or Visual Amenity areas are defined to control the location, scale and appearance of buildings.

Council's consultant landscape architect has mapped the area recommended to be defined as a coastal environment due to landscape features. This area is broadly defined as those areas below the crest of the ridgeline closest to the coast line. Council's coastal science consultant identified setbacks around the coast that are recommended to manage issues related to the coastline such as coastal hazards, coastal processes, habitat and access. In combining these two areas into a Coastal Policy Area (see Coastal Policy Area Maps), Council is able to discretely manage coastal land use and subdivision matters. Accordingly it is in this area where Council considers it appropriate to restrain the prospect of buildings that would become prominent features within the landscape.

Some urban local authorities have introduced design guides and required a notified consent process for all buildings in sensitive locations. Were the District Plan to take this approach, the Council would require more than its current resources to administer and it would be very costly for applicants and the community as a whole.

The adjoining local authority, Waipa District Council, has been applying conditions to buildings in its Special Landscape Character Areas for some years. Similarly other local authorities throughout NZ have had some success in the use of district plan rules that take into account the placement and style of buildings within the landscape and have assisted them to retain the quality of visual amenity that characterises an area. The controls typically used by these local authorities include – height restrictions (ie 8m limit), size of floor area (ie 350 m² limit), placement below ridge lines, colour (subtle ranges that blend with backdrops), limited reflectivity of materials such as glass facades and shiny roofs, and planting that provides some visual screening where appropriate. Many of these have been well tested in the Environment Court.

The downside of this approach is the restriction on choice of materials and location for people building where previously individuals had the freedom to place and construct buildings with little limitation. This restriction could mean that some additional resource consent costs will be incurred for applicants who want to build in these locations. Council would need to provide certainty. To reduce compliance costs, the parameters expected for building must be clear in the district plan rules.

Suggested Measures

- show the Coastal Policy Area (see Coastal Policy Area Maps) on a district plan map
- where the proposed land use activity is within an area identified as being of 'High Natural Character' or 'Outstanding Natural Feature and Landscapes' the respective recommendation defined above in 2.2.1 Landscape Assessment applies.
- provide certainty with clear rules that will allow building as a controlled activity provided the building:
 - a. is less than 6 metres in height
 - b. is located below any significant ridgeline and a specified distance from the shoreline (see recommended distances in 2.2.4 below)
 - c. is within a restricted colour range
 - d. is within a defined reflectivity range and does not contain mirror glass or unpainted steel or aluminium facades
 - e. is less than 350 m² in foot print
 - f. is accompanied by a planting plan that blends the building into its surroundings
 - g. is not located within a 'High Natural Character' area or 'Outstanding Natural Feature and Landscape' area
 - h. is not located within a coastal development setback area
 - i. deviations from the above would require a discretionary activity consent
- Insert definition of significant ridgeline as being;
The first landward ridgeline and/or headland from the Coastal Marine Area. In such cases, it might be dunes or a particular sequence of hills.
- provide certainty with clear criteria that will allow building as a restricted discretionary activity within an 'Area of Visual Amenity' – among the criteria will be the rules above
- deviations from the above would require a discretionary activity consent

2.2.3 Natural Hazards -- relationship to rivers

The issues:

The rivers within the district have been the source of significant flooding events in the past. Currently Otorohanga itself is protected from the Waipa River by stopbanks. The accuracy and completeness of information on areas potentially at risk has been advanced; Environment Waikato has been able to provide a more detailed analysis of the extent of possible inundation from the Waipa and some tributaries. This recommended 'River Flood Hazard Zone' near Otorohanga is contained in a recently published report.⁴ Topographical information collected through a LIDAR mapping survey has enabled ground levels to be surveyed more accurately. Flooding, erosion, and obstruction of flood pathways pose a

⁴ Environment Waikato, *River Flood Hazards and the Otorohanga District Plan*, June 2009, pp.13

significant risk to life and property. Council is now in a better position to assess the safer location of future subdivisions and buildings.

Further to this, Mighty River Power Ltd. has identified areas along the Waikato River which during flood events would be inundated with water or exposed to erosion.⁵ This is part of the company's active management of water levels in the Waikato River to best control flood risk along the whole length of the river. Accordingly Mighty River Power Ltd. is seeking operating easements which define the area of inundation under normal operating conditions. In managing land use in relation to flood hazards, Council should recognise the risk posed to development in these areas and incorporate them into the 'River Flood Hazard Zone'.

In addition there are areas which are possibly within river flood hazard areas that have not been as accurately assessed as the areas near Otorohanga. These also require a cautious approach to new development. The report also recommends that these be separately zoned – 'Possible River Flood Hazard Zone' and 'Residual Flood Risk Zone'. It is recommended for the 'Possible River Flood Hazard Zone' that a set of criteria be developed which lists a set of factors that could potentially identify if a development is exposed to possible flood hazard. This would include such matters as proximity of activity to a river or stream, ground level of the site in relation to river or stream bank levels. It is proposed that where an activity does not comply with the criteria, a discretionary activity rule is triggered that requires a greater level of information to be provided so to allow a more considered examination of the proposal in relation to possible exposure to flood hazard. For the Residual Flood Risk Zone Environment Waikato has alerted the Council to the need for vehicular access to the stopbank defences for maintenance.

District Plan:

The current plan enables flooding and erosion to be taken into account once information is available for each new subdivision. Council has normally required the applicant to provide accurate information when it has been alerted to potential natural hazard issues. Similarly under the Building Act 1991, the Council can require applicants to undertake measures to reduce risk such as requiring a minimum floor level. In particular the current plan requires that any activity which is proposed to be located on land *subject to damage by erosion, subsidence, falling debris, slippage, flooding and/or inundation* be treated as a non-complying activity. (Rule 17.2)

Discussion:

Introducing a 'River Flood Hazard Zone' near Otorohanga would identify risk areas up front and thus enable owners and potential applicants to consider the risks at an earlier stage and more fully before they design a proposal to either subdivide or build on the land. Council may find it appropriate to grant some subdivision but if that subdivision includes services vested with Council such as roading and sewerage infrastructure, such subdivision could be costly to repair. In other words, all public infrastructure for subdivision would have to be located outside of flood prone areas.

The areas identified as 'Possible River Flood Hazard Zone' in the report may be best left to be handled as they are currently under the Plan – proximity to the river would alert Council staff to the inherent dangers and for each application conditions or restrictions would be applied on a case-by-case basis. For the 'Residual Flood Risk Zone' Environment Waikato will need to access the stopbank areas for repairs and maintenance so a building-free corridor is necessary. A setback for buildings from the stopbanks

⁵ Harrison Grierson, *Model District Plan Provisions for Waikato Hydro System: Mighty River Power Ltd., Information Package for Local Authorities*, December 2008, pp. 26.

appears to be an appropriate safeguard. Outside of the District Plan information identifying properties in the Residual Flood Risk Zone should be noted on LIMs and PIMs.

Suggested Measures

- introduce a River Flood Hazard Map and River Flood Hazard Zone which includes areas identified by Environment Waikato and Mighty River Power⁶.
- new dwellings within the River Flood Hazard Zone shall be a non-complying activity status
- extensions to existing dwellings within the River Flood Hazard Zone shall be a discretionary activity status
- in such areas, applicants would be required to identify building platforms that are above the flood hazard levels for any subdivision and ensure that infrastructure vested with Council will be located outside the hazard prone areas.
- a non-complying activity status for new dwellings outside of the River Flood Hazard Zone if the dwelling is located
 - within 20 metres of the stream or river bank, or
 - within 100 metres of the stream or river bank and the existing ground level of the proposed site is lower than the average existing level of the adjacent streams or river banks.
- a discretionary activity status for extensions to dwellings outside of the River Flood Hazard Zone if the dwelling is located
 - within 20 metres of the stream or river bank, or
 - within 100 metres of the stream or river bank and the existing ground level of the proposed site is lower than the average existing level of the adjacent streams or river banks.
- a discretionary activity status for new dwellings outside the River Flood Hazard Zone if the proposed site occurs within 100 metres from stream or river bank and the existing ground level of the proposed site is between 0 and 2 metres elevation of the average existing level of the adjacent streams and river banks
- require a 20 metre setback from the stopbank defences to ensure that access can be provided for maintenance
- require building platforms to be setback a minimum of 20 metres from any stream bank and for building platforms to be a minimum of 2 metres above the streambank

2.2.4 Coastal Development Setbacks

The issues:

The reasons for Council considering development setbacks along the coastline are multi-fold -- erosion, inundation, landscape amenity, natural character, coastal ecology and heritage are all matters that need to be considered as part of integrated management.

Council commissioned an analysis of the coastal setback considerations in a recent report.⁷ The purpose of the report was to understand the degree of risk for development along its different types of coastline. The authors identified five integrated coastal management areas by their current characteristics – these include coastal dunelands, hard shores, wetlands and low lying areas, and the two townships of Kawhia and Aotea.

⁶ Harrison Grierson, *Mighty River Power Ltd: Model District Plan Provisions for Waikato Hydro System*, December 2008, pp. 27

⁷ Eco Nomos Ltd & 4D Environmental Ltd, *Otorohanga District: Coastal Setbacks*, June 2009, pp. 85.

The range of hazards identified along coastlines are:

- Beach and soft shore dynamics including erosion
- Toe erosion and slope instability along hard shores
- Coastal inundation of low lying areas
- Wind erosion of sand dunes where vegetation has been disrupted

Along the west coast some of these hazards are amplified by the strength of the wave action from the westerly direction of wind coming across the Tasman Sea. The frequency of these hazards occurring could be increased as the climate warms causing more extreme weather events and higher sea levels.

The townships have already had significant erosion and inundation problems that led to the construction of sea walls and groynes which temporarily help protect the existing built up areas. In areas outside the townships there are dynamic and, at times, observable shifts in land and sea – mostly, these would rate as minor changes that might erode a shoreline, undercut the toe of a slope, or cause some surface flooding. However, these changes can be much more dramatic as witnessed further down the coast in places such as Mokau or up the coast at Port Waikato.

The Council intends to reduce the risk to life and property by restricting development in locations close to the coast and implement coastal setbacks that reflect the breadth of concerns that development along a coastline encompass.

District Plan:

The current plan restricts development immediately along the coastline as it does any other risky location that is -- any activity which is proposed to be located on land *subject to damage by erosion, subsidence, falling debris, slippage, flooding and/or inundation* be treated as a non-complying activity (Rule 17.2). In addition there is recognition that Aotea is particularly vulnerable so there are additional standards to be met for sites between a 100 metre hazard line and the coast under Standard 17A. These include requiring that the building be relocatable, that sewage disposal be landward of the building and that no sea control structures be erected on the property.

Apart from subdivision rules which require a 20 metre setback for esplanade reserve and public access, there is no guidance regarding distance from the sea except in relation to Aotea as outlined above.

Discussion:

The coastal experts report has looked carefully at five distinct areas and recommended different approaches for each.

- For the coastal dunelands area the recommended setback distance is 500 metres.
- For Aotea township a graduated erosion hazard setback is recommended (extreme hazard up to 40 metres from the sea wall, high risk between 40 – 80 m, and moderate risk over 80 metres from it). Essentially any new buildings should be relocatable and S.73 notices under the Building Act 1991 should apply. This recognises that the area is very vulnerable and that the consent for the seawall constructed in 2002 expires in due course.
- For Kawhia the foreshore will need continued defence to enable the protection of residential, recreational and culturally significant areas. The area along Kaora track is vulnerable – the top edge of the coastal escarpment requires careful management and no new houses or extensions to existing houses should be permitted without geotechnical advice.

- For the harder shores along both harbours, the recommendation is to have a 70 metre setback unless the height of the escarpment is greater than 35m. In such cases the setback should be based on a 1v:2H slope.
- For the low lying coastal areas where the RL is below 3.5 metres, it is recommended that any infilling, reclamation, or building be avoided because of potential inundation and the adverse effects on the wetland ecology.

Council must consider the potential risk to life and property should building and other land use activities be allowed in coastline areas described above. These hazardous areas often coincide with other reasons for retaining development including cultural values, waahi tapu, areas identified as of 'High Natural Character' or 'Outstanding Natural Features and Landscapes' and ecological vulnerability.

Suggested Measures

- introduce a requirement that any new building located between the MHWS and 500 metres inland within the Coastal Dunelands Management Area be a non-complying activity
- introduce a requirement that any new building located between the MHWS and 70 metres inland or for escarpments higher than 35 meters, within the area defined by a 1V:2H slope as measured from the toe of the escarpment is defined as being within the Hard Shore Management Area of both harbours be a non-complying
- in Aotea township put in place three Aotea Hazard Management Areas.
 - Extreme Hazard Area (up to 40 metres from the sea wall) prohibit any change in land use, including erecting and or extension of dwellings/buildings.
 - High Risk Hazard Area (between 40 - 80 metres from the seawall), any new relocatable building or extension to a permanently fixed building be non-complying activities and the extension of existing relocatable buildings be discretionary activity
 - Moderate Risk Hazard Area (all areas on sand greater than 80 metres from the seawall) any new relocatable building or extension to a permanently fixed building be discretionary activities and the extension of existing relocatable buildings be a controlled activity
 - that for all three hazard management areas any new buildings fixed to the ground be a prohibited activity
- require any new dwellings located within Kawhia and Aotea townships to have a minimum floor level above RL 3.0m. Where dwellings exist on the immediate coastal margins the minimum floor level should be the higher of RL3.0m or 0.5m above natural ground level unless site specific information shows otherwise
- In Kawhia township along the top edge of the coastal escarpments put in place a Kawhia Hazard Management Area equivalent to a 1V:2H slope as measured from the seaward toe of the escarpment, where the seaward toe of the bank lies on the coastline. In this area, the erection of new buildings or additions to existing buildings should be a discretionary activity, which will require site specific geotechnical investigations to be undertaken by a specialist professional to assess any such applications.
- introduce a requirement that any new building, reclamation or infill located in an area outside Kawhia or Aotea townships that is on land below RL 3.5m within the Coastal Wetlands and Coastal Flooding Management Area be a non-complying activity and any additions to existing buildings of up to 50 m² be a controlled activity.

2.2.5 Rural Character and Reverse Sensitivity

The issues:

Farming is the predominant land use throughout the district. However, farming activities by their very nature are not quiet, dustless, or odourless. Neighbours can be easily disturbed should they live in close proximity to farms that generate noisy, dusty or smelly activities. These increased conflicts are difficult to avoid when rural land is developed for life-style purposes.

Farming depends upon the quality and management of the land and in particular, the soils. Development can compromise the versatility of the land resource for rural purposes including farming, extraction of minerals, and other rural-based activities. Farming activities do not remain static as the economy changes; farmers look to a wider variety of activities based on their land to generate sufficient income. The versatility of land is a resource in itself, particularly if it is uncompromised by development that does not need to be based in a rural location.

District Plan:

The current plan has provided for developments including subdivision and buildings throughout the rural area. At the time the plan was developed, Council anticipated that development would be well-dispersed because the demand for rural life-style housing was relatively low.

The plan includes controls over noise and odours. Activities that breach the standards are deemed to be discretionary activities.

Discussion:

The pressures for rural life-style development have increased over the past 10 years. Therefore it has become more apparent that the location of new development in the rural parts of the district has the potential to compromise the versatility of rural land use.

At one time, it was assumed that people moving to the countryside would know to expect that some adjoining farming activities could be a nuisance for them. It seems however that some are caught by surprise. This has meant that, in some parts of the country, farming operations have closed down because of the degree of complaint generated by neighbours. Separation of housing from potentially conflicting land uses is appropriate for the Council to consider at the time of any new development. It is timely to consider prevention of conflict.

On the other hand, local authorities have in the past taken the view that newcomers should anticipate what can happen in a rural area and therefore tolerate any nuisances. Council could continue to take such a view and make no provision to protect existing uses from potential reverse sensitivity effects.

Nuisance from noise or odour is very difficult to quantify. The concerns are often intermittent and perceptions might differ between individuals. Breach of standards can require lengthy investigations and be inconclusive.

While the District is not known for significant intensive farming, pressure for more intensive operations could result from changes in the global economy. Intensive farming is more likely to cause problems with noise and odour than dairying and sheep/beef farming practices. Some local authorities where existing piggeries and poultry breeding already exist have applied requirements of between 300 – 500 metre buffer areas between them and their adjoining land uses. This can be regarded as an unfair imposition on adjoining owners and that the perpetrator of the nuisance should be the one to provide the buffer.

Unless some examples are drawn to Council's attention, it appears that any intensive land uses in the district have already provided appropriate buffers between their operations and their neighbour's land or conflicts with adjoining owners have been avoided by other means. Should more intensification occur, Council needs to consider how best to safeguard the rural land resource for such uses and prevent future conflicts.

Taking into account the potential for noise disturbance, experience gained in operating the current requirements, and the improved methods for measurement, the noise standards under the Plan should be revised. This is a technical area which will be considered in more detail before the district plan is notified.

Suggested Measures

- New intensive indoor farming activities such as piggeries or poultry units that are anticipated to cause odour, noise, dust or traffic problems are expected to provide their own buffer areas of no less than 500 metres separation from adjoining properties. A definition of intensive farming to be included in the plan. Such intensive farming operations will require a discretionary activity resource consent if closer than 500 metres from any property boundary.
- Insert the following definition into the Plan
Intensive Indoor Farming; The housing and growth of livestock, or fungi, that is reliant on food and/or raw materials brought into the building. It specifically excludes intensive pastoral farming or greenhouses.
- All new buildings on rural land to be located a minimum of 15 metres distance from the boundary of adjoining sites. A restricted discretionary activity resource consent will be required if the dwelling is located closer to a neighbour's boundary.
- New farm buildings or associated compounds designed to hold or process animals be located a minimum of 100 metres from the boundary of adjoining sites, including public roads. Discretionary activity resource consent will be required if the building or associated compound is located closer than 100 metres.
- Rural noise standards to be revised along with noise standards affecting other locations.

2.2.6 Clustering of buildings in the rural and coastal environment

The issues:

Council intends to avoid clusters of houses by reducing the number of subdivisions that can be built throughout the rural area.⁸ A clustered pattern of development can detract from the visual amenity of an area and cause problems with the capacity of roading and other infrastructural issues such as stormwater and sewage disposal.

However, Council wishes to reinforce the existing townships of Otorohanga and Kawhia by providing for more life-style block subdivision within a radius of 5 km of them. The aggregation of housing would need to meet specific criteria so as not to detract from rural or coastal character or put additional strain on valuable landscapes, ecology or infrastructure.

District Plan:

Currently clusters of houses can be located anywhere within the District.

Discussion:

Isolated life-style lots on the whole have not caused much difficulty in the District. However, individual land owner decisions to subdivide and build life-style properties in close proximity to each other have triggered aggregated problems. These have included

⁸ Subdivision Discussion Paper

loss of rural character and landscape, threats to ecologically sensitive areas, and strains on roading and other infrastructure. This can be avoided if the location of subdivisions and the design and layout of buildings are more carefully considered.

On the other hand, multi-lot life-style developments have the capacity to reinforce existing townships and their associated community infrastructure if located close enough for the occupants to utilise the services provided.

A balance can be obtained if greater consideration is given to integrating clustered development. The location, layout and design of buildings, access to them, and related planting all contribute to how well the development fits with its setting. The Council anticipates a cohesive theme of planting included with the concept plan at the time of subdivision; the more detailed planting plan to accompany the controlled activity consent for the building(s).

Suggested Measures

- At the time of subdivision the following design and location factors will be considered so as to ensure that the development can be visually absorbed into the landscape and it will have few adverse effects beyond the site. At that time of subdivision considerations will include:
 - Access from a road order of 1 or 2 which has a sealed width of 6.0 metres or greater
 - Building platforms for dwellings that take into account proximity to neighbouring properties and visual integration into the landscape
 - Setbacks from significant natural vegetation, significant features and cultural sites.
 - Location and extent of earthworks
 - Configuration of lots in relation to access
 - Level of mitigation planting and landscaping for integration of the buildings and access into the landscape
 - Avoidance of 'High Natural Character' areas or 'Outstanding Natural Feature and Landscape' areas
 - An assessment that addresses adverse effects on 'Areas of Visual Amenity'.
 - An integrated approach that ensures the whole development is comprehensively planned (concept plans for larger developments).
 - Avoids hazardous areas
- Applications for dwellings and other associated buildings located on subdivisions of two or more lots in these areas will require a controlled activity consent where the following would be considered:
 - implementation of the subdivision consent regarding the approved building platform location and planting mitigation plan
 - building locations which:
 1. ensure a separation distance to neighbouring buildings of greater than 50 metres in country style living areas and 30 metres for rural areas
 2. ensure a separation distance of at least 25 metres to adjoining site boundaries and rural activities in country style living areas and 15 metres in rural areas
 - building height that does not protrude above any significant ridgeline

- a planting plan that provides for integration of the buildings into the landscape where the buildings are closer than 100 metres from any public road or at a level higher than 20 metres above an adjacent public road unless already screened by existing planting or landforms

3.0 In summary, the recommended changes to the district plan are:

Landscape

- 3.1 show areas of Outstanding Natural Features and Landscapes, High Natural Character and Visual Amenity on the District Plan maps
- 3.2 removal of natural features in areas of 'High Natural Character', 'Outstanding Natural Features and Landscapes' and 'Areas of Visual Amenity' should be a non-complying activity
- 3.3 building in areas of 'High Natural Character' and 'Outstanding Natural Features and Landscapes' should be a non-complying activity; extensions to existing buildings should be a discretionary activity
- 3.4 building in 'Areas of Visual Amenity' should be a discretionary activity
- 3.5 no restriction on new planting for cropping or tree plantations within identified landscape areas
- 3.6 earthmoving in Rural and Country-Style Living areas should be a non-complying activity (inclusive of landscape sensitive areas) where earthmoving in one calendar year;
 - 3.6.1 is more than 1000m³ and has a cut face or fill height that exceeds 2 metres, or
 - 3.6.2 exceeds 5000m³ in total
- 3.7 in Urban and Urban Limited Services areas require earthmoving that in one calendar of more than 100m³ or with a cut face or fill height greater than 2 metres to be a non-complying activity
- 3.8 cut face and fill heights to be calculated on existing ground levels

Coastal Policy Area

- 3.9 show the Coastal Policy Area (see Coastal Policy Area Maps) on a district plan map
- 3.10 where the proposed land use activity is within an area identified as being of 'High Natural Character' or 'Outstanding Natural Feature and Landscape' the respective recommendation defined above in 2.2.1 Landscape Assessment applies.
- 3.11 provide certainty with clear rules that allow building as a controlled activity provided the building:
 - a. is less than 6 metres in height
 - b. is located below any ridgeline and a specified distance from the shoreline (see recommended distances in 2.2.4 below)
 - c. is within a restricted colour range
 - d. is within a defined reflectivity range and does not contain mirror glass or unpainted steel or aluminium facades
 - e. is less than 350 m² in foot print
 - f. is accompanied by a planting plan that blends the building into its surroundings

- g. is not located within a 'High Natural Character' area or 'Outstanding Natural Feature and Landscape' area
 - h. is not located within a coastal development setback
 - i. deviations from the above would require a restricted discretionary activity consent
- 3.12 Insert definition of significant ridgeline as being;
The first landward ridgeline and/or headland from the Coastal Marine Area. In such cases, it might be dunes or a particular sequence of hills.
- 3.13 provide certainty with clear criteria that will allow building as a restricted discretionary activity within an 'Area of Visual Amenity' – among the criteria will be the rules above
- 3.14 deviations from the above would require a discretionary activity consent

Natural hazards -- rivers

- 3.15 introduce a River Flood Hazard Map and River Flood Hazard Zone which includes areas identified by Environment Waikato and Mighty River Power⁹.
- 3.16 new dwellings within the River Flood Hazard Zone shall be a non-complying activity status
- 3.17 extensions to existing dwellings within the River Flood Hazard Zone shall be a discretionary activity status
- 3.18 a non-complying activity status for new dwellings outside of the River Flood Hazard Zone if the dwelling is located
- 3.18.1 within 20 metres of the stream or river bank, or
 - 3.18.2 within 100 metres of the stream or river bank and the existing ground level of the proposed site is lower than the average existing level of the adjacent streams or river banks.
- 3.19 a discretionary activity status for extensions to dwellings outside of the River Flood Hazard Zone if the dwelling is located
- 3.19.1 within 20 metres of the stream or river bank, or
 - 3.19.2 within 100 metres of the stream or river bank and the existing ground level of the proposed site is lower than the average existing level of the adjacent streams or river banks.
- 3.20 a discretionary activity status for new dwellings outside the River Flood Hazard Zone if the proposed site occurs within 100 metres from stream or river bank and the existing ground level of the proposed site is between 0 and 2 metres elevation of the average existing level of the adjacent streams and river banks
- 3.21 require a 20 metre setback from the stopbank defences to ensure that access can be provided for maintenance
- 3.22 require building platforms to be setback a minimum of 20 metres from any stream bank and for building platforms to be a minimum of 2 metres above the streambank

Coastal Development Setbacks

- 3.23 introduce a requirement that any new building located between the MHWS and 500 metres inland within the Coastal Dunelands Management Area be a non-complying activity

⁹ Harrison Grierson, *Mighty River Power Ltd: Model District Plan Provisions for Waikato Hydro System*, December 2008, pp. 27

- 3.24 introduce a requirement that any new building located between the MHWS and 70 metres inland or for escarpments higher than 35 metres, within the area defined by a 1V:2H slope as measured from the toe of the escarpment is defined as being within the Hard Shore Management Area of both harbours be a non-complying activity
- 3.25 introduce in Aotea township three Aotea Hazard Management Areas;
- i. Extreme Hazard Area (up to 40 metres from the sea wall) prohibit any change in land use, including erecting and or extension of dwellings/buildings
 - ii. High Risk Hazard Area (between 40 - 80 metres from the seawall) any new relocatable building or extension to a permanently fixed building be non-complying activities and the extension of existing relocatable buildings be discretionary activity
 - iii. Moderate Risk Hazard Area (all areas on sand greater than 80 metres from the seawall) any new relocatable building or extension to a permanently fixed building be discretionary activities and the extension of existing relocatable buildings be a controlled activity
 - iv. and that for all three hazard management areas any new buildings fixed to the ground be a prohibited activity
- 3.26 require any new dwellings located within Kawhia and Aotea townships to have a minimum floor level above RL 3.0m. Where dwellings exist on the immediate coastal margins the minimum floor level should be the higher of RL3.0m or 0.5m above natural ground level unless site specific information shows otherwise
- 3.27 In Kawhia township along the top edge of the coastal escarpments put in place a Kawhia Hazard Management Area equivalent to a 1V:2H slope as measured from the seaward toe of the escarpment, where the seaward toe of the bank lies on the coastline. In this area, the erection of new buildings or additions to existing buildings should be a discretionary activity, which will require site specific geotechnical investigations to be undertaken by a specialist professional to assess any such applications.
- 3.28 introduce a requirement that any new building, reclamation or infill located in an area outside Kawhia or Aotea townships that is on land below RL 3.5 within the Coastal Wetlands and Coastal Flooding Management Area be a non-complying activity and any additions to existing buildings of up to 50 m² be a controlled activity

Rural character/reverse sensitivity

- 3.29 New intensive indoor farming activities such as piggeries or poultry units that are anticipated to cause odour, noise, dust or traffic problems are expected to provide their own buffer areas of no less than 500 metres separation from adjoining properties. A definition of intensive farming to be included in the plan. Such intensive farming operations will require a discretionary activity resource consent if closer than 500 metres from any property boundary.
- 3.30 Insert the following definition into the Plan
- Intensive Indoor Farming; The housing and growth of livestock, or fungi, that is reliant on food and/or raw materials brought into the building. It specifically excludes intensive pastoral farming or greenhouses.
- 3.31 All new buildings on rural land to be located a minimum of 15 metres distance from the boundary of adjoining sites. A restricted discretionary activity resource consent will be required if the dwelling is located closer to a neighbour's boundary.

- 3.32 New farm buildings or associated compounds designed to hold or process animals be located a minimum of 100 metres from the boundary of adjoining sites, including public roads. Discretionary activity resource consent will be required if the building or associated compound is located closer than 100 metres.
- 3.33 Rural noise standards to be revised along with noise standards affecting other locations.

Clustering of buildings—within 5 km of townships

- 3.34 At the time of subdivision the following design and location factors will be considered so as to ensure that the development can be visually absorbed into the landscape and it will have few adverse effects beyond the site. At that time of subdivision considerations will include:
- 3.34.1 Access from a road order of 1 or 2 which has a sealed width of 6.0 metres or greater
 - 3.34.2 Building platforms for dwellings that take into account proximity to neighbouring properties and visual integration into the landscape
 - 3.34.3 Setbacks from significant natural vegetation, significant features and cultural sites
 - 3.34.4 Location and extent of earthworks
 - 3.34.5 Configuration of lots in relation to access
 - 3.34.6 Level of mitigation planting and landscaping for integration of the buildings and access into the landscape
 - 3.34.7 Avoidance of ‘High Natural Character’ areas or ‘Outstanding Natural Features and Landscapes’ areas
 - 3.34.8 An assessment that addresses adverse effects on ‘Areas of Visual Amenity’
 - 3.34.9 An integrated approach that ensures the whole development is comprehensively planned (concept plans for larger developments)
 - 3.34.10 Avoids hazardous areas
- 3.35 Applications for dwellings and other associated buildings located on subdivisions of two or more lots in these areas will require a controlled activity consent where the following would be considered:
- 3.35.1 implementation of the subdivision consent regarding the approved building platform location and planting mitigation plan
 - 3.35.2 building locations which:
 - 3.35.2.1 ensure a separation distance to neighbouring buildings of greater than 50 metres in country style living areas and 30 metres for rural areas
 - 3.35.2.2 ensure a separation distance of at least 25 metres to adjoining site boundaries in country style living areas and 15 metres in rural areas
 - 3.35.3 building height that does not protrude above any significant ridgeline
 - 3.35.4 a planting plan that provides for integration of the buildings into the landscape where the buildings are closer than 100 metres from any public road or at a level higher than 20 metres above an adjacent public road unless already screened by existing planting or landforms

4.0 Please send your comments to:

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