



Whanganui District Council District Plan Review – Phase Six

Section 32 Report

Proposed Plan Change 57 - Land Stability Assessment Area – Stage Four

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1. PART 1 - PLAN CHANGE PROPOSAL

1.1 DESCRIPTION OF PROPOSED PLAN CHANGE 57

Plan Change 57 (PC57) proposes to:

- Amend the District Plan (Plan) planning map to identify additional properties as being within the Land Stability Assessment Area (LSAA) A and/or B areas; and
- Amend Chapter 11 - - Natural Hazards to incorporate the findings of the recent risk assessment report for the following urban areas:
 - Parkdale/Christies Hill/Virginia Road
 - Putiki and Marybank
 - Victoria Park/Denby Place
 - Extension of Durie Hill Study Area
 - Extension of Anzac Parade Study Area

1.2 PROPOSED AMENDMENTS TO THE DISTRICT PLAN

This is the fourth and final stage of a wider research project to review land instability hazard susceptibility in the urban area. It covers five areas, including extensions to two existing LSAA areas following a review of recent storm event data.

It is proposed that the existing Plan provisions for LSAA would apply to those affected properties.

No changes are proposed to the Plan's LSAA objectives, policies or rules as part of this Plan change. There will however, be a few minor changes to the text to incorporate these areas. **There will also be a minor addition to the text to outline what is meant by Area A and Area B.** Refer to Appendix One - District Plan text changes and Planning Map changes.

2. PART 2 - SECTION 32 EVALUATION

2.1 INTRODUCTION

This report has been prepared in fulfilment of the requirements of Section 32(1) of the Resource Management Act 1991 (RMA) which requires local authorities to prepare an evaluation report summarising the alternatives considered along with the benefits and costs of the Plan change, and giving reasons for that evaluation.

2.1.1 Plan Change Purpose

The purpose of PC57 is to incorporate properties that have been identified in the Whanganui Land Stability Assessment Areas Stage 4 Risk Study Report – September 2018 by WSP-OPUS, that are confirmed to be moderately or highly likely to be susceptible to land stability hazards, into the LSAA overlay on the District Planning map. This will ensure that appropriate assessment and regulation of development occurs to minimise any adverse effects of the hazard risk for the specific property and surrounding area.

2.2 REASON FOR PROPOSED PLAN CHANGE 57

2.2.1 Background

In 2012, Council identified ten priority areas within the urban boundary, which anecdotal evidence indicated were likely to be susceptible to land instability. A series of desktop risk assessment studies have refined and validated the areas susceptible to a land stability hazard. The findings of the first three reports have already been mapped in the District Plan and specific development provisions established in Chapter 11 – Natural Hazards.

The first stage of research was completed in 2012 and reviewed the two areas identified as most at risk, being the Hipango Terrace, Shakespeare Cliff and Anzac Parade study areas. These areas and relevant Plan provisions were incorporated into the Plan, with the creation of LSAA area A and B by way of Plan Change 25 which was made operative on 7 August 2014. The LSAA replaced the existing Hillside Protection Zone, for the affected sites. Area A comprises sites of very high landslide risk. Area B comprises marginal land requiring geotechnical investigation to confirm suitability for development.

Stage two was completed in 2014 and reviewed the Ikitara Road, Bastia Hill and Durie Hill areas. These areas and relevant Plan provisions were incorporated into the Plan by way of Plan Change 38 which became operative on 19 October 2015.

Stage three was completed in 2015 and reviewed the Mowhanau area, and the Roberts Avenue/Paterson Street area. These areas and relevant Plan provisions were incorporated into the Plan by way of Plan Change 47 which was made operative in September 2016.

Plan Change 57 is the fourth stage, and comprises three additional areas, and two extensions to previous areas. The properties proposed to be included in the LSAA Overlay are situated within Parkdale/Christies Hill/Virginia Road, Putiki and Marybank, Victoria Park/Denby Place, extension of Durie Hill Study Area, and extension of Anzac Parade Study Area. Refer to Appendix Two for the maps showing these study areas.

2.2.2 Consultation and Outcomes

Date	Method	Comments
22 August and 26 September 2018	Introductory letter	To all within study area advising of the project and timeframe and potential outcomes. Including links to existing Plan information. Letter was sent to those on the Anzac Parade Study Area at the later date because this area was identified late in the process while the study was being undertaken.
15 October 2018	Report letter	To all within study area advising of the project technical risk assessment report was available. Letter included a link to the report and the Plan provisions. Letter included an invitation to attend either of two information 'drop-in' forums to speak to report author and Council planners.
Various Dates	Individual landowner queries – phone/ email	Refer to Appendix 4

30 and 31 October 2018	Public information forums	Two public information forums were held. Planning officers and the Principal Geotechnical Engineer from WSP-OPUS attended the meeting. The purpose of which was to create a forum for land owners to ask questions/receive answers and voice concerns to Council staff.
8 November 2018	Clause 3 parties	Pre-notification letters of all parties required by clause 3, 1st Schedule RMA were sent on Thursday 8 November 2018.
TBC	Clause 4 iwi pre notification	TBC

2.3 LEGAL FRAMEWORK FOR PLAN CHANGES

Section 74 of the RMA requires the Council to change the District Plan in accordance with its functions under Section 31, the purpose of the RMA and the other matters under Sections 6, 7 and 8. In addition, the District Plan must also give effect to the Regional Policy Statement (Section 75(3)). Council must also carry out an evaluation under Section 32 before notifying any proposed change to the District Plan.

2.3.1 Resource Management Act 1991

Territorial authorities have the following functions under the RMA:

31 Functions of territorial authorities under this Act

- 1) *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
 - 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.*
 - 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*

The Council is given these functions for the purpose of promoting the sustainable management of natural and physical resources, which is defined as:

- 5(2) *In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –*
 - a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*

- b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Further guidance and direction on the way in which resources are to be managed is provided in sections 6, 7 and 8 of the RMA.

Before a Plan change is notified, the Council must undertake the following duties under Section 32 of the RMA:

32(1) An evaluation report required under this Act must—

- a. *examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
- b. *examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
 - i. *identifying other reasonably practicable options for achieving the objectives; and*
 - ii. *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - iii. *summarising the reasons for deciding on the provisions; and*
- c. *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

The examination must (Section 32(2)):

- a. *Identify and assess the benefits and costs of the environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions including the opportunities for –*
 - i. *economic growth that are anticipated to be provided or reduced; and*
 - ii. *employment that are anticipated to be provided or reduced; and*
- iii. *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- iv. *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

2.3.2 Draft National Planning Standards

As a result of the 2017 RMA amendments, the Ministry for the Environment has prepared draft national planning standards. These standards propose to standardize the structure and to some extent the provisions of district and regional plans.

Plan Change 57 is consistent with these draft standards for district plans.

2.3.3 National Policy Statements and Environmental Standards

There are no relevant statements or standards.

2.3.4 Horizons Regional Council – One Plan

Section 75(2) of the RMA requires that a District Plan must give effect to the regional policy statement and must not be inconsistent with any regional plan. Horizons Regional Council’s One Plan is considered to be relevant to this Proposed Plan Change.

An assessment of how the provisions in PC57 compare with the objectives and policies of the Operative One Plan are considered in Table 1 below.

Table 1

Regional One Plan (Operative 19 December 2014)		Proposed Plan Change 57
Objective	Policy	Evaluation
<p>Objective 9-1: Effects of natural hazard events The adverse effects of natural hazard events on people, property, infrastructure and the wellbeing of communities are avoided or mitigated.</p>	<p>Policy 9-1: Responsibilities for <i>natural hazard</i> management In accordance with s62(1)(i) RMA, <i>local authority</i> responsibilities for <i>natural hazard</i> management ...are as follows:...</p> <p>(c) <i>Territorial Authorities</i> must be responsible for:</p> <p>(i) developing objectives, policies, and methods (including <i>rules</i>) for the control of the use of <i>land</i> to avoid or mitigate <i>natural hazards</i> in all areas and for all activities except those areas and activities described in (b)(ii) above, and</p> <p>(ii) identifying <i>floodways</i>* (as shown in Schedule I1) and other areas known to be inundated by a 0.5% annual exceedance probability (AEP) flood event on the planning map in <i>district plans</i>, and controlling <i>land</i> use activities in these areas in accordance with Policies 9-2, and 9-3.</p>	<p>Objectives 11.2.1 and 11.2.2 give effect to One Plan Objective 9-1. Policies 11.3.2, 11.3.3 and 11.3.7 give effect to Policy 9-1. Rules are in place for land instability hazards and will be applied to these additional areas. It is acknowledged that rules are required along with detailed site-specific scale mapping for other hazards. This is being developed in conjunction with Horizons and as budgets permit completion of technical research.</p>
	<p>Policy 9-2: Development in areas prone to flooding</p>	<p>Policy 11.3.7 and 11.3.8 at present give some effect to this policy. A future phase of the Plan review project will include rules to give stronger effect to Policy 9-2.</p>
	<p>Policy 9-4: Other types of natural hazards The ... <i>Territorial Authorities</i> must manage future development and activities in areas susceptible to natural hazard events (excluding flooding) in a manner which:</p> <p>(a) ensures that any increase in risk to human life, property or infrastructure from natural hazard events is avoided where practicable, or mitigated where the risk cannot be practicably avoided</p>	<p>Policies 11.3.2, 11.3.3 and 11.3.7 give effect to Policy 9-4.</p> <p>The incorporation of these areas into the LSAA section of the Plan gives effect to this policy in relation to land instability.</p>

	(b) is unlikely to reduce the effectiveness of existing works, structures, natural landforms or other measures which serve to mitigate the effects of natural hazard events, and (c) is unlikely to cause a significant increase in the scale or intensity of natural hazard events.	It is acknowledged that rules are required along with detailed site-specific scale mapping. This is being developed in conjunction with Horizons and as budgets permit completion of technical research.
	Policy 9-5: Climate change The ... Territorial Authorities must take a precautionary approach when assessing the effects of climate change and sea level rise on the scale and frequency of natural hazards, with regard to decisions on: ... (c) activities adjacent to rivers, ... (f) flood mitigation efforts activities,	Policy 11.3.3 gives effect to policy 9-5, by requiring a precautionary approach in respect to assessment of all hazards and this includes consideration of climate change. It is acknowledged that rules are required along with detailed site specific scale mapping. This is being developed in conjunction with Horizons and as budgets permit completion of technical research.

2.1.1 Iwi Management Plans

When preparing or changing a district plan, Section 74(2A)(a) of the RMA states that Council's must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.

The following iwi management plan is relevant:

Ngaa Rauru Kiitahi – Puutaiao Management Plan

Section 4.4.4 of the Management Plan outlines which specific areas Ngaa Rauru wish to be engaged in the preparation, implementation and review of, and the Whanganui District Plan is referred to in the list of topics.

An assessment of PC57 against the objectives and policies of this management plan is provided below:

3.4.1 RELATIONSHIPS	Evaluation
Objective 1.1 To establish, grow and maintain relationships which maximise the ability of Ngaa Rauru Kiitahi to exercise kaitiakitanga over resources within our rohe.	Council has an evolving relationship with TKOR, and this Plan Change provides opportunities to work together through archaeological assessment processes to

Policy 1.1 To work collaboratively with other Iwi and/or tangata whenua organisations, local and central government agencies, environmental organisations, stakeholders, professionals, technical experts and the public.	ensure appropriate protection and recording of archaeological sites and cultural values.
3.4.2 PapatuuAANUKU	
Objective 2.1 To ensure that the realm of PapatuuAanuku is managed appropriately in accordance with Ngaa Raurutanga	This land is privately owned and variously zoned for rural and residential activities currently. Within that constraint, the lands are to be managed sustainably.
Policy 2.2 TKOR will work to protect and enhance Ngaa Rauru Kiitahi relationships, culture and traditions with our ancestral lands.	
3.4.5 TAONGA TUKU IHO	
Objective 5.1 To ensure that Ngaa Taonga Tuku Iho are managed appropriately in accordance with Ngaa Raurutanga.	Where an Archaeological Authority is required from Heritage NZ, then a cultural values assessment will be required as part of that process.
Policy 5.1 To protect our Ngaa Rauru Kiitahi heritage as an integral part of our cultural identity and continued prosperity.	
Policy 5.3 Protect our waahi tapu / waahi tuupuna from inappropriate subdivision, modification and development that would cause adverse effects on the qualities and features which contribute to the cultural, spiritual and historical values of these sites	
Policy 5.5 To advocate for the return of artefacts and other taonga belonging to Ngaa Rauru Kiitahi.	Beyond the scope of this Plan Change. Subject to the provisions of the Protected Objects Act 1975.
3.5.1 CLIMATE CHANGE	
"...end goal is to have developed a comprehensive position on this issue which includes our own set of priorities, best practice guidelines and policies. We are also committed to working with other Iwi and local and central government agencies to develop sustainable and sensible solutions".	The proposed Plan Change documents will be sent to Iwi authorities as part of the pre notification process, where there is an opportunity to provide feedback.
3.5.4 ECONOMIC DEVELOPMENT	

<p>“...economic development should not occur at the expense of Ngaa Rauru Kiitahi cultural and environmental values. Ngaa Rauru Kiitahi does not support unsustainable exploitation of natural and physical resources. A notable feature of our rohe is the reliance on the region’s natural resources for our social and economic wellbeing. We encourage investors to bring business into our rohe. Ngaa Rauru Kiitahi wants economic development in our rohe to be sustainable so that the needs of present generations are met without compromising the ability of future generations to meet their own needs.” 7</p>	<p>This Plan Change is consistent with achieving sustainable management as defined in the RMA.</p> <p>In turn this equates to sustainable development within the rohe of Ngaa Rauru Kiitahi.</p>
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2.2 EVALUATION

2.2.1 Evaluation of the purpose of PC57

Section 32 (1)(a) of the RMA requires that Council evaluate the extent to which the purpose of PC57 is the most appropriate way to achieve the purpose of the RMA. Appropriateness means assessing whether the suitability of any particular alternative (i.e. regulation or methods) is appropriate, then considering the effectiveness and efficiency of the alternative.

Section 32 requires plan changes to be assessed focussing on the consideration of alternatives, benefit and costs. In considering the alternative methods it is necessary to consider different planning methods to achieve the purpose of the RMA, including retaining the status quo (doing nothing), non-regulatory methods and the proposed plan change.

PC57 does not propose or introduce any new objectives, policies or rules which means that an assessment is not required against Section 32 of the RMA. However, for the purposes of transparency, an assessment of the two options of keeping the status quo (doing nothing) or implementing PC57 are outlined below.

To do this Council has compared PC57 to the other reasonable alternatives as follows:

2.2.2 Reasonable Options

	Options	Explanation	Rank
Option A	Do nothing	Retain the existing Plan map unchanged and do not identify the newly identified properties as being within the LSAA.	2
Option B	Extend the existing LSAA overlay	To include the properties as recommended by the	1

		September 2018 Risk Assessment Report.	
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Benefits		Costs	
Option A	<ul style="list-style-type: none"> • Most cost effective option • No Plan Change required. 	<ul style="list-style-type: none"> • The Do Nothing Option would be inconsistent with the existing land instability hazard management approach, adopted in the District Plan through Plan Change 25, Plan Change 38, and Plan Change 47. • It would not give effect to the One Plan objectives and policies as it would not be adopting a precautionary approach nor acting to avoid or mitigate a known potential hazard. 	
Option B	<ul style="list-style-type: none"> • Simplest and most effective and efficient way to achieve the objectives of the District Plan, the One Plan and the purpose of the RMA. • No change to the existing operative LSAA Plan provisions is required although small updates to the explanatory text of Chapter 11 will be required. 	<ul style="list-style-type: none"> • Staff time and resources. 	

2.2.3 Examination of Provisions in PC57

Option A is the preferred option.

Section 32 (1)(b) of the RMA requires that Council examine whether the provisions included in PC57 are the most appropriate way to achieve the purpose of the RMA. In this instance the 'provisions' are deemed to be:

Methods

- i) Identify sites as LSAA overlay on the planning map
- ii) Existing objectives, policies, and rules for the LSAA overlay to be applied to the sites identified on the planning map.

The reasons for deciding on these provisions are that:

- Inclusion of the relevant sites on the planning map and adoption of the operative Plan provisions relating to the LSAA overlay for the sites identified in the Stage 4 investigations, is the most effective and efficient way to identify these sites of moderate and high risk of susceptibility to land instability. It is consistent with the current format and intended functioning of the Plan. Plan users expect to identify relevant zone, overlays and site features on the planning map. This method is most appropriate in the current context to achieve the objectives of the Plan, the requirements of the One Plan and the purpose of the RMA.
- It was the clear intention of the Council and community, in making Plan Change 25, 38, and 47, that as further priority study areas were investigated that they would be included in the Plan and the Plan provisions for the LSAA overlay would apply. This intention is clearly spelt out in the introduction to Section 11.4 of the Plan.

The options available to achieve the purpose of PC57 are detailed above.

Evaluation of Provisions in PC57	
<p><i>Methods</i></p> <p>i) <i>Identify sites as LSAA overlay on the District planning map</i></p> <p>ii) <i>Existing objectives, policies, and rules for LSAA overlay shall be applied to the sites identified on the District planning map.</i></p>	
Summary of benefits	<p>Environmental Inappropriate development on hazard prone sites in the Parkdale/Christies Hill/Virginia Road, Putiki and Marybank, Victoria Park/Denby Place, extension of Durie Hill Study Area, and extension of Anzac Parade Study Areas will be avoided.</p> <p>Economic Potential purchasers or occupiers of property increasingly rely on District Plans to identify this information and alert them to the potential affects. Community will be enabled to make better informed development and investment decisions. There will be no specific employment consequences except potential increase in demand for geotechnical specialist skills.</p> <p>Social/ Cultural Improved awareness and understanding of the risks of natural hazards will be achieved by identifying those sites most likely to be susceptible to land instability, in the Plan.</p>
Summary of costs	<p>Environmental Nil</p> <p>Economic Costs fall on the current owners who risk loss of property value and increased resistance in the property market, as well as potential constraints on development opportunities. No specific employment consequences except potential increase in demand for geotechnical specialist skills.</p> <p>Social/ Cultural</p>

	Added stress and financial hardship on those who own property affected, where perception rather than real risk will impact on their options.
Effectiveness	These methods are effective in relation to PC57 properties as improved understanding and regulation will support better informed decision making and sustainable management.
Efficiency	The methods are efficient in relation to the properties affected by PC57, as improved understanding will support better informed decision making which recognises inherent levels of risk. It is consistent with the recently developed approach operative in the Plan for the two earlier stages.
Appropriateness	<p>The methods are appropriate in achieving the purpose of the RMA. It is appropriate to clearly signal the thresholds for development and give effect to the provisions in the Regional Council's One Plan.</p> <p>In view of existing levels of understanding of local natural hazard risks, it is considered the current District Plan approach (which does not identify these areas as being at risk of land stability) is not the most appropriate to achieve the proposed objective of avoiding or mitigating risk. The alternative approach of providing clear information, raising awareness and providing regulatory direction is more appropriate as it protects areas at risk from the effects of natural hazards by managing activities in these areas. Inevitably much existing development is located in areas subject to natural hazards and it is important to manage any further intensification or redevelopment of these areas. In addition, new areas of development may be subject to natural hazards, and it is important to firstly identify and avoid these areas, or if not practical to avoid, then mitigate the adverse effects of natural hazards.</p> <p>Given this conclusion, and Horizon Regional Council's One Plan policy direction, the District Plan policies advocate the identification of areas at significant risk from land instability, and the control of structures and activities within these identified areas. This approach is considered the most appropriate way to achieve the proposed objectives for natural hazards.</p>
Risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods	<p>It is vital for the Council to demonstrate that it is managing the risk of natural hazards in accordance with the requirements of the RMA and the Regional Council's Operative One Plan.</p> <p>The economic and safety risks to the community are significant, and the latest risk assessment report completed in September 2018 confirms this (Refer to Appendix 3). Council is obliged by the RMA and the One Plan specifically to act to manage this risk. Making information readily available is part of that requirement.</p>

2.3 CONCLUSION

The objective of PC57 is to identify in the Plan, additional sites that are now known to be moderately or highly likely to be susceptible to land stability hazards and to ensure that appropriate assessment and regulation of any development occurs. This is necessary because such activities might adversely affect the hazard risks for the subject property or surrounding area.

The Whanganui District Council is satisfied that the preferred option is necessary to achieve this desired outcome in accordance with the purpose of the RMA and that it is the most appropriate way of doing so.