

9 May 2014



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BY EMAIL AND POST

Dear James

SUBMISSION TO PROPOSED PLAN CHANGES 33 AND 34

Please find enclosed Horizons Regional Council's submission to Proposed Plan Changes 33 and 34.

You will note that this submission is made after the closing date for submissions. I need to record that Horizons Regional Council was not notified of Proposed Plan Change 33 and 34 as required under s5(4)(d) of Schedule 1 of the Resource Management Act 1991. Please confirm that the submission is accepted.

Horizons acknowledges the opportunities that your Council provided for feedback on the provisions relating to Flood Hazard Risk and I believe the generally supportive submission to Proposed Plan Change 33 from Horizons reflects that pre-work.

Yours sincerely

A handwritten signature in black ink that reads 'Barry Gilliland'.

Barry Gilliland
SENIOR POLICY ANALYST

Encl.

Kairanga

Marton

Palmerston North

Taihape

Taumarunui

Wanganui

Woodville

Resource Management Act 1991

Submission on a Publicly Notified Plan Change to the Wanganui District Plan

In accordance with Form 5 – RM (Forms, Fees and Procedure) Regulations 2003

To: Wanganui District Council
PO Box 637
Wanganui

Name: Horizons Regional Council

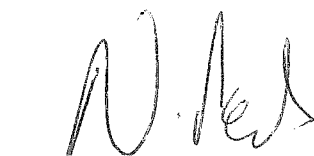
Contact Person: Barry Gilliland, Senior Policy Analyst

This is a submission on:

**Proposed Plan Change 33 (Flooding Hazard); and
Proposed Plan Change 34 (Kai Iwi Coastal Hazard)**

1. I **could not** gain an advantage in trade competition through this submission.
 2. Late submission – This submission is provided after the closing date for submissions. The reason for the late submission is that Horizons Regional Council was not notified of Proposed Plan Changes 33 and 34 as prescribed under s5(4)(d) of Schedule 1 of the Resource Management Act 1991.
 3. The specific provisions of the proposed plan change that my submission relates to are outlined in **Annex A**.
 4. My submission points are detailed in **Annex A**.
 5. The decisions sought from Wanganui District Council are detailed in **Annex A**.
 6. I **do** wish to be heard in support of this submission.
 7. I would welcome any opportunity to attend informal or formal pre-hearing meetings with Wanganui District Council and other parties to discuss points of contention.
 8. If others make a similar submission I **would** be prepared to consider presenting a joint case with them to any hearing.
 9. **Address for Service:** Horizons Regional Council
Private Bag 11025
Palmerston North
- Day time phone No:** (06) 9522 904
Email: barry.gilliland@horizons.govt.nz

Signed:



Nic Peet
GROUP MANAGER STRATEGY AND REGULATION

Dated: 9 May 2014

ANNEX A

Details of Horizons Regional Council submission to Wanganui District Plan Proposed Plan Changes 33 and 34

HRC – Horizons Regional Council
 WDC – Wanganui District Council

BACKGROUND

The Proposed One Plan, HRC’s Regional Policy Statement and Regional Plan, provides the basis for this submission. All appeals have been resolved either by decisions from the Environment Court or approval of mediation agreements by the Environment Court. As at 9 May 2014, it has not been made operative, but it has legal effect.

The provisions of district plans must give effect to the Regional Policy Statement and WDC’s response to this requirement is the focus of this submission.

PROPOSED PLAN CHANGE 33 (FLOODING HAZARD)

The key provisions in the Proposed One Plan relating to Proposed Plan Change 33 are found in Chapter 10. Objective 10-1 and Policies 10-1, 10-2 and 10-4 are particularly relevant.

It is considered that the approach taken to managing flood hazard the Proposed Plan Change generally implements the provisions of the Regional Policy Statement because they are designed to avoid or mitigate the adverse effects of flood hazard to people, property and infrastructure in a way that appears to be fit for purpose for Wanganui District.

The points identified in this submission are primarily made where it is considered the clarity and certainty of the provisions in the Proposed Plan Change can be improved.

| Proposed Plan Change 33 Provision submission relates to | Submission Point | Decision sought |
|---|---|--|
| Issue IX1 | The Proposed Plan Change includes policies and rules relating to infrastructure, but infrastructure is not a matter addressed in IX1. The context for the rules and links between the provisions in the policy stream can be improved by the addition of the term “infrastructure” to | <p>[Proposed Plan Change text in italics with deletions shown in strikethrough and additions shown in underline]</p> <p>That Issue IX1 be amended as follows:</p> <p><i>Much of the urban area of Wanganui is built upon the banks of the Whanganui River (Te Awa Tupua). Some of the lower lying areas towards the bottom of the catchment, along with some tributaries and</i></p> |

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| Objective OX1 | <p>the issue statement. This amendment will also provide a clearer link to HRC's Regional Policy Statement.</p> <p>The Proposed Plan Change includes policies and rules relating to infrastructure, but infrastructure is not a matter addressed in OX1. The context for the rules and links between the provisions in the policy stream can be improved by the addition of the term "infrastructure" to the objective statement. This amendment will also provide a clearer link to HRC's Regional Policy Statement.</p> | <p><i>drains including Churton Creek and the Matarawa Stream, are prone to occasional flooding putting people, and property and infrastructure at risk.</i></p> <p>That Objective OX1 be amended as follows:</p> <p><i>Minimise the risk to people, and property and infrastructure from floodwater inundation.</i></p> |
| Policy 8.3.9 | <p>It is noted from clause 8.8.1 that the description of the zones where flood mitigation techniques (also defined as resilient building methods) are available as an option for flood hazard mitigation are the <i>Arts and Commerce zone and Riverfront zone</i>. It is assumed that WDC intends that Policy 8.3.9 apply to both these zones and for the purpose of clarity it is submitted that the policy be amended to include the full description.</p> | <p>That Policy 8.3.9 be amended as follows:</p> <p>8.3.9 Flood mitigation within the <u>Arts and Commerce Zone</u> and <u>Riverfront Zones</u> <i>Utilise alternative flood hazard mitigation techniques within the <u>Arts and Commerce Zone</u> and <u>Riverfront z</u>ones.</i></p> |
| Policy 8.3.10 | <p>This policy signals that WDC intends to use the 1 in 200 year flood level as its trigger for managing subdivision and land-use development in floodable areas. This is consistent with HRC's Regional Policy Statement. It is submitted that the Policy be amended to improve the clarity and certainty of the policy intent for Plan users.</p> | <p>That Policy 8.3.10 be amended as follows:</p> <p>8.3.10 Adopt a 1 in 200 year flood level <i>Subdivision and land use development must be managed <u>within any the area identified as being subject to inundated in a 1 in 200 year flood event, different flood-hazard avoidance-of-mitigation methods are required.</u></i></p> |
| Policy PX4 | <p>It is submitted that the PX4 can be amended to improve the clarity and certainty of the policy intent for the end-user. The purpose of amendment is to make it clear that the intent of the policy is to avoid subdivision that increases the density of people and property put at risk of inundation in flood events up to the 1 in 200 year flood event.</p> | <p>That Policy PX4 be amended as follows:</p> <p>PX4 New allotments in floodable areas <i>Avoid subdivision which creates new allotments on sites <u>within a flooding overlay where future development may increase the exposure of people and property to the impacts inundation by a 1 in 200 year flood event of flood inundation.</u></i></p> |

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| Performance Standard 8.8.1 | The term <i>resilient building methods</i> is a defined term in the Proposed Plan Change. It is recommended that this defined term be used in the performance standard for consistency. It is submitted that use of consistent terminology will improve the clarity of the provisions for Plan users. | That Performance Standard 8.8.1 be amended as follows: 8.8.1 <i>Within the Arts and Commerce zone and Riverfront zone, structures shall be required to meet the following: New buildings and additions to buildings are required to be designed and constructed <u>using resilient building methods or to either:</u> a. Be protected from inundation; or b. Be able the ability to recover efficiently following inundation.</i> |
| RX1 Permitted Activities | It is not clear which performance standards are referred to in the Permitted Activity. It is assumed that these are likely to be the underlying zone standards and any relevant specific flood zone standards. It is submitted that RX1 be amended for the purpose of improving the clarity of the provision for Plan users. | That RX1 be amended as follows: RX1 Permitted Activities <i>The following are permitted activities (excluding sites within the Riverfront and Arts and Commerce Zones and Riverfront Zone) provided they comply with the <u>performance standards specified for Flood Hazard and any underlying zones:</u></i> a. Earthworks b. Building maintenance and minor works c. Upgrades to critical infrastructure. d. New or upgraded non-critical infrastructure |
| RX2 Restricted Discretionary Activities | It is not clear from the text how the discretion WDC reserves in clause i. to establish an appropriate floor or ground level relates to the discretion reserved over use of resilient building methods in clause (iii). To be consistent with the intent of HRC's Regional Policy Statement (Policy 10-2), an appropriate floor or ground level must be achieved before provision of other resilient building methods are considered. It is submitted that the rule be amended to provide both clarity and certainty for Plan users about this requirement. It is also submitted that the <i>Arts and Commercial Zone and Riverfront Zone</i> exclusion made in RX1 is an appropriate exclusion for RX2. | That RX2 be amended as follows: RX2 Restricted Discretionary Activities <i>The following are restricted discretionary activities (excluding sites within the <u>Arts and Commerce Zones and Riverfront Zone</u>) provided they comply with the performance standards:</i> a. New buildings and structures in Flood Risk Area B. b. Additions and alterations to existing buildings. c. Subdivision to create boundary adjustments or conversion of leasehold to freehold titles. i. <i>Council shall restrict its discretion to the following matters:</i> i. <i>The establishment of a suitable <u>finished floor or ground level</u></i> |

| Proposed Plan Change 33 Provision submission relates to | Submission Point | Decision sought [Proposed Plan Change text in italics with deletions shown in strikethrough and additions shown in underline] |
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| RX3 Discretionary Activities | It is submitted that the Arts and Commercial Zone and Riverfront Zone exclusion made in RX1 is also an appropriate exclusion for RX3. This will assist with the clarity and certainty of the provisions for Plan users. | <p>after allowing for freeboard above the 200 year flood level on the subject site.</p> <p>ii. The provision of, and ability to achieve safe access/egress</p> <p>iii. In addition to establishing a finished floor or ground level in clause (i) the <u>requirement for and provision use of resilient building methods design features that provide resilience mitigation for up to a 1 in 200 year flood event.</u></p> <p>iv. The avoidance of significant diversion of flood flows as a result of the development.</p> <p>That RX3 be amended as follows:</p> <p>RX3 Discretionary Activities</p> <p><i>The following are discretionary activities (excluding sites within the Arts and Commerce Zones and Riverfront Zone):...</i></p> |
| RX4 Non-Complying Activities | It appears that there is an important typographical error in this provision where the activity is described as discretionary when the intent is that they be non-complying. This submission point is made to ensure scope is available for correction. It is also submitted that the Arts and Commercial Zone and Riverfront Zone made for RX1 is an appropriate exclusion for RX4. | <p>That RX4 be amended as follows:</p> <p>RX4 Non-Complying Activities</p> <p><i>The following are discretionary non-complying activities (excluding sites within the Arts and Commerce Zones and Riverfront Zone):</i></p> <p>a. Subdivision, excluding boundary adjustments or conversion of leasehold to freehold titles</p> <p>b. New buildings and structures in Flood Risk Area A</p> <p>c. New buildings and structures and additions to existing buildings and structures that do not comply with performance standard RX5(1)</p> |
| RX5 Performance Standards | It is assumed that intent of clause d. of this performance standard is to manage adverse effects of earthworks on channel capacity to contain flood flows. It is considered that this clause can be amended to make its purpose both clearer and more certain for Plan users. | <p>That RX5 be amended as follows:</p> <p>RX5 Performance Standards</p> <p><i>For all new buildings or additions to existing buildings, the following minimum freeboard level above the 0.5% AEP (200 year event) shall be required:</i></p> <p>a. 0.5 metres for occupied buildings, AND</p> |

| Proposed Plan Change 33 Provision submission relates to | Submission Point | Decision sought [Proposed Plan Change text in italics with deletions shown in strikethrough and additions shown in underline] |
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| <p>Definition – Safe access</p> | <p>It is noted that this definition reflects the wording in Policy 10-2(d)(ii) of HRC's Regional Policy Statement. That policy also allows for other combinations of depth and velocity that can be shown to result in no greater risk to human life, infrastructure or property. It is submitted that WDC may wish to also allow this discretion and an appropriate amendment consistent with HRC's Regional Policy Statement is proposed. It is also submitted that the definition can be amended to make the terminology consistent with that used in RX2.</p> | <p>b. <i>0.2 metres for non-habitable buildings</i> c. <i>No freeboard will be required for carports and other similar non-enclosed structures</i> d. <i>Earthworks shall not alter the finished the existing ground level in a manner that diverts flood flows or adversely affects channel capacity does not alter the existing ground-level when completed.</i></p> <p>That the definition for safe access be amended as follows:</p> <p>Safe access/egress – <i>With regard to the provisions for Flood Area A and B, means an area that provides passage from a building to a site that is free from inundation for evacuation or access through flood waters that are no deeper than 0.5 metres and have a velocity of more than 1m/s in a 200 year flood event, or some other combination of water depth and velocity that can be shown to result in no greater risk to human life, structures or property.</i></p> |
| <p>Definition – 100 year flood event and Definition – 200 year flood event</p> | <p>The Proposed Plan Change uses the terms Flood Risk Area A and Flood Risk Area B as triggers for restricted discretionary and non-complying activity status. The boundaries for these areas are defined on the Proposed Plan Change planning maps as the 200 Year Event and 100 Year Event flood levels. These levels are shown as lines on the planning maps without demarcation of an area on the maps or a clear description of the area in the Proposed Plan Change text.</p> <p>It is submitted that the area covered by these Flood Risk Areas needs to more clearly defined. It is acknowledged that there are several ways of doing this. The option detailed in this submission relates to amending the definitions to describe the areas, however, the same clarity could be achieved by marking the areas described on the maps as an alternative. HRC would be comfortable in considering other methods of providing more certainty provided they achieve the same outcome.</p> | <p>That the definitions be amended as follows:</p> <p>Flood Risk Area A 100-year flood event – <i>Means the area between the lines marked as Flood Level 100 Year Event on the Wanganui District Planning Maps shown in Flood Area A that identifies the modelled and estimated physical extent of flood waters in an event with an Annual Exceedence Probability (AEP) of 1% and</i></p> <p>Flood Risk Area B 200-year flood event – <i>Means the area between the lines marked as Flood Level 200 Year Event and Flood Level 100 Year Event on the Wanganui District Planning Maps shown in Flood Area B that identifies the modelled and estimated physical extent of flood waters in an event with an Annual Exceedence Probability (AEP) of 0.5%</i></p> |

| Proposed Plan Change 33 Provision submission relates to | Submission Point | Decision sought [Proposed Plan Change text in italics with deletions shown in strikethrough and additions shown in underline] |
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| Consequential Changes and other relief as part of decisions | | For all submission points HRC also seeks: 1. Alternative amendments or relief as may be necessary or appropriate to give effect to the decisions sought; and 2. Any consequential amendments or relief as may be necessary or appropriate to give effect to the decisions sought. |

PROPOSED PLAN CHANGE 34 (KAI IWI COASTAL HAZARD)

The key provisions in the Proposed One Plan relating to Proposed Plan Change 34 are found in Chapter 10. Objective 10-1 and Policy 10-5 are particularly relevant. Policy 10-5 directs HRC and WDC to manage future development and activities in areas susceptible to natural hazard events in a manner which ensures that any increase in the risk to human life, property or infrastructure is avoided where practicable, or mitigated where the risk cannot be practicably avoided

The New Zealand Coastal Policy Statement 2010, particularly Policies 24 and 25, is also relevant to the provisions set out in this Proposed Plan Change. Policy 25, amongst other things, directs HRC and WDC to avoid increasing the risk of social, environmental and economic harm, and avoid redevelopment or change in land use in areas potentially affected by coastal hazards over the next 100 years.

It is considered, in part, that approach taken to managing Kai Iwi coastal hazard is not consistent with the intent of the New Zealand Coastal Policy 2010 and the Proposed One Plan. This is focus of HRC's submission.

| Proposed Plan Change 34 Provision Submission Relates to | Submission Point | Decision sought [Proposed Plan Change text in italics with deletions shown in strikethrough and additions shown in underline] |
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| <p>8.8.5 Restricted Discretionary Activities</p> | <p>It is noted that the following zones are identified in the eCoast Report, <i>Mowhānau Cliff Line Retreat Review</i>, 2012:</p> <p><i>Extreme Risk Zone (ERZ)</i> which is or is likely to be subject to the effects from catastrophic landslip at any point in time in any one year;</p> <p><i>High-moderate Risk Zone (H-MRZ)</i> which is or likely to be subject to long term retreat based on a 100 year projection; and</p> <p><i>Safety Buffer Zone (SBZ)</i> which is or is likely to be subject to the adverse effects from natural hazards should the rates of erosion accelerate and/or cliff slope angle reduces.</p> <p>It is submitted that controlling any new subdivision of land that would result in increased density of people or property, and erection of any new occupied structure in the High-Moderate Risk Zone as a restricted discretionary activity is not consistent with the New Zealand Coastal Policy and Regional Policy Statement. Specifically, it is not consistent with avoiding an increase in the risk of social, environmental and economic harm,</p> | <p>That 8.8.5 Restricted Discretionary Activities be amended as follows:</p> <p>8.8.5 Restricted Discretionary Activities <i>The following shall be restricted discretionary activities for which a resource consent application must be made and consent may be granted subject to conditions, or declined.</i></p> <ol style="list-style-type: none"> a. <i>Erection of any building or structure, in the Safety Buffer or High-Moderate Risk Area.</i> aa. <i>Erection of any non-habitable building or structure in the High-Moderate Risk Area.</i> b. <i>Extension/alteration to, any building or structure, in the Safety Buffer or High-Moderate Risk Area.</i> c. <i>Demolition of a building or structure in the High-Moderate Risk Area.</i> d. <i>Earthworks or vegetation clearance.</i> e. <i>Subdivision of land in the Safety Buffer Area and High-Moderate Risk-Area other than allowed by a Controlled Activity for the Kai Iwi Beach Coastal Hazard zone (Overlay zone).</i> f. <i>The installation, alteration or removal of works designed to mitigate the effects of coastal hazards.</i> g. <i>The erection, maintenance or construction of any network utility in</i> |

| Proposed Plan Change 34 Provision Submission Relates to | Submission Point | Decision sought [Proposed Plan Change text in italics with deletions shown in strikethrough and additions shown in underline] |
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| | <p>and avoid redevelopment or change in land use in areas potentially affected by coastal hazards over the next 100 years</p> <p>It is acknowledged that WDC is planning to undertake a full review of coastal hazards and risk management options in the future. However, it is also noted that direction is provided in both the New Zealand Coastal Policy Statement and Regional Policy Statement to the effect that plan changes to give effect to their provisions must be made as soon as practicable or on the first review or change or variation.</p> <p>This Plan Change process is an opportunity to implement both these documents for the Kai Iwi Coastal Hazard Zone. It is submitted that the amendments sought in the submission are consistent with the objectives and policies of Chapter 8 of the Wanganui District Plan, in particular the precautionary approach outlined in Policy 8.3.3.</p> | <p>the Safety Buffer Area and the High-Moderate Risk Area.</p> <p>Council's discretion is restricted to:</p> <ol style="list-style-type: none"> i. <i>Whether the proposal would be consistent with the objectives and policies relating to the Recognition and Reduction of Hazard Potential as set out in Topic T7.</i> ii. <i>The extent to which activities and buildings and structures can be relocated or demolished with minimal disturbance to the site or adjacent site.</i> iii. <i>The degree to which the proposal is likely to:</i> <ul style="list-style-type: none"> • <i>Accelerate, worsen or result in further damage to that land, other land, or structures or buildings caused either directly or indirectly by erosion.</i> • <i>Be subject to erosion or cliff failure.</i> • <i>Reduce the net risk of coastal hazards.</i> • <i>Provide for the disposal of stormwater and wastewater including discharges from septic tanks.</i> iv. <i>Whether, within the High-Moderate Risk Area or Safety Buffer Area, consent should be granted for a limited duration.</i> <p>8.8.6 Prohibited Activities</p> <p><i>The following are prohibited activities for which no resource consent shall be granted:</i></p> <ol style="list-style-type: none"> a. <i>The erection of or extension to, any building or structure other than structures for coastal management in the Extreme Risk Area.</i> aa. <i>Erection of any occupied building or structure in the High-Moderate Risk Area.</i> b. <i>Subdivision of land in the Extreme Risk Area and High-Moderate Risk Area other than allowed by Controlled Activity for the Kai Iwi Beach Coastal Hazard zone (Overlay zone).</i> c. <i>Installation of septic tanks or soakage pits in the High-Moderate Risk Area and the Extreme Risk Area.</i> d. <i>Construction of any new network utility in the Extreme Risk Area.</i> <p>For this submission point HRC also seeks:</p> <ol style="list-style-type: none"> 1. Alternative amendments or relief as may be necessary or appropriate to give effect to the decisions sought; and |
| Consequential changes and other relief as part of decisions | | |

| Proposed Plan Change 34 Provision Submission Relates to | Submission Point | Decision sought [Proposed Plan Change text in italics with deletions shown in strikethrough and additions shown in underline] |
|---|------------------|---|
| | | 2. Any consequential amendments or relief as may be necessary or appropriate to give effect to the decisions sought. |

