

Our Ref: POL 5/1

14 February 2014

Napier City Council
Private Bag 6010
NAPIER 4110
Attn: Dean Moriarity

Dear Mr Moriarity,

SUBMISSION ON PLAN CHANGE 10 TO THE CITY OF NAPIER DISTRICT PLAN

1. Introduction

1.1. Thank you for the opportunity to make a submission on Plan Change 10. On 5 December 2013 the Regional Council received notice of Plan Change 10 to the Operative City of Napier District Plan. Plan Change 10 seeks to incorporate the Ahuriri Subdistrict Plan, harmonise district wide activities between the Hastings and Napier Districts and incorporate recent Napier City Council policy decisions into the Napier City District Plan. Having reviewed Plan Change 10, the Regional Council generally supports the intent of the Plan Change however we seek some amendments particularly relating to:

- the relationship between Plan Change 10 and Change 4 to the RPS (Chapter 3.1B);
- the integration of stormwater solutions in Napier City;
- management of land uses and hazardous substances;
- natural hazards; and
- harmonisation with the Hastings District Plan.

2. HBRC Change 4 – Managing the Built Environment (Chapter 3.1)

2.1. Change 4 to the Hawke's Bay Regional Resource Management Plan (incorporating the Regional Policy Statement) became operative on 1 January 2014. Change 4 introduces a new chapter containing provisions relating to the built environment and infrastructure into the Regional Policy Statement parts of the Hawke's Bay Regional Resource Management Plan.

2.2. Change 4 included a number of new policies intended to provide guidance and direction to Hawke's Bay's local authorities when making decisions on urban activities, infrastructure and associated effects, and has a particular focus on the Heretaunga Plains sub-region which covers all of Napier City. Those specific policies embed the Heretaunga Plains Urban Development Strategy's (HPUDS) settlement

pattern and key principles into the RPS, which local authorities will implement via regional plans and district plans.

- 2.3. The Regional Council and Napier City Council, along with Hastings District Council are partners in the preparation and implementation of HPUDS. Given this partnership, many of Change 4's provisions should not surprise Napier City Council. Sections 73(4) and 75(3) of the RMA require district plans to give effect to regional policy statements. In practice, giving effect to a policy statement typically means actively implementing the policy approach. We note that section 75(4) of the RMA applies a different threshold in relation to regional plans, but Change 4 amended the RPS – not regional plan provisions.
- 2.4. The Regional Council considers that, at the very least, the Napier District Plan should include provisions cross-referencing to urban growth management provisions in Chapter 3.1B of the RPS. In this way, users of the District Plan will have those relevant RPS provisions brought to their attention.
- 2.5. The Regional Council requests the following relief:
 - 2.5.1. Amend Plan Change 10, Chapter 4 (Residential Environments) and Chapter 33 (Rural Environments) by adding cross references to the Regional Policy Statement and in particular to those objectives and policies within the RPS implementing HPUDS and the HPUDS review process.
 - 2.5.2. Amend Plan Change 10 to inform Plan users that Jervoistown and Meeanee are identified as inappropriate greenfield growth areas according to HPUDS and Chapter 3.1A of the RPS.
 - 2.5.3. Amend Plan Change 10 by removing all references to Change 4 and replace with references to relevant provisions in the Hawke's Bay Regional Resource Management Plan.

3. Roofs constructed of inert materials in selected areas of the City

- 3.1. Plan Change 10 proposes new rules (Rules 23.21, 27.22, 18.25, 19.22 and 51.25) on the use of inert roofing materials in Main Industrial, Business Park, Large Format Retail and Airport zones. The Regional Council supports the implementation of these land use rules as one means of controlling a known source of heavy metal contaminants ending up in waterbodies.
- 3.2. The Regional Council and Napier City Council have long had a relationship regarding the management of stormwater – not only in the context of regulatory functions, but also opportunities to achieve positive outcomes for enhanced stormwater management through a variety of non-regulatory methods.
- 3.3. We reiterate the need for education, investigations and integrated catchment management planning inputs to reduce contaminants entering urban waterways and ultimately the highly valued Ahuriri Estuary. We note that Rules requiring inert roofing materials relate only to the zones specified above and not other zones such as Residential and Commercial. It is not apparent from Change 10 itself nor the s32 Report why:
 - 3.3.1. the requirement for inert roofing materials has been limited in this way; and
 - 3.3.2. whether or not the option was ever considered during preparation of Change 10 to apply a similar rule to all new development in Napier City.
- 3.4. We know there are elevated levels of zinc (and other contaminants) measured at various sites within the Ahuriri Estuary. Research has found galvanised roofing and unpainted zinc aluminium steel roofing is associated with high zinc concentrations in stormwater receiving environments. Reducing the use of galvanised iron and

restricting exposed metal roofing on all new developments is considered an appropriate step to control inputs of contaminants at 'source.' In this way, Rules pertaining to the requirement for inert roofing material should not only apply to the specified zones, but all types of new development in Napier City.

3.5. The Regional Council requests the following relief:

3.5.1. Retain Rules 23.21, 27.22, 18.25, 19.22 and 51.25.

3.5.2. Amend Plan Change 10 so that the requirement to install inert roofing material on new development applies in all zones in Napier City.

4. Hazardous substances and land use planning

4.1. The functions of HBRC and territorial authorities under the RMA (see sections 30(1)(c)(v) and 31(1)(b)(ii) and (iia) respectively) are similar in relation to land use controls for preventing and mitigating effects relating to hazardous substances and contaminated land. RPSs are required to clearly apportion those responsibilities. Section 8.4.4.6 of the Regional Resource Management Plan (incorporating the RPS) states the respective responsibilities of HBRC and TLAs will be as follows:

"The HBRC will have responsibility for hazardous substances as they relate to the discharge of contaminants to air, water and land as defined by section 15 of the RMA. The HBRC will also have responsibility for the use, storage, and transportation of hazardous substances where these are associated with the control of the use of land of any river or lake under section 13 of the RMA. ... The territorial authorities will have responsibility for the use, storage, disposal, and transportation of hazardous substances where these are associated with the control of the use of land under section 9 of the RMA."

4.2. Change 10 appears to propose comprehensive provisions to manage the human health-related effects of hazardous substances and contaminated sites.

4.3. However, we consider that the District Plan (though Change 10) implements some of those responsibilities in RPS s8.4.4.6, but in some respects, does not fully implement NCC's responsibilities for controlling the use of land in terms of actual or potential effects on the environment that are not human-health related.

4.4. The Regional Council requests the following relief:

4.4.1. Consider amending Plan Change 10 to better give effect to RPS s8.4.4.6 which states the respective functions of HBRC and TLAs with respect to the management of hazardous substances, (and similarly sites that are contaminated due to spills of hazardous substances).

NOTE: HBRC staff would welcome the opportunity for further discussions on how the District Plan could be amended to better implement NCC's land use responsibilities apportioned by the RPS.

5. Natural Hazards

5.1. Napier City Council, Hawke's Bay Regional Council and other public bodies have a statutory obligation as part of their functions to carry out mitigation, response and recovery work for natural hazards. We consider that it is essential that public bodies are able to undertake their statutory obligations in terms of hazard management in order to avoid increasing the risk to people, property, infrastructure and the environment from the effects of natural hazards.

5.2. Proposed section 62.1.3 of Plan Change 10 adds a paragraph to introduce a River Hazard Area section to the District Plan. We suggest that further wording be added that is similar to the proposed Hastings District Plan's Policy NHP8 and that would support proposed Rule 62.10 in Plan Change 10. Appropriate wording could be as follows or similar to:

"The effects of rising river levels cannot be as easily managed as ponding-style flooding covered by the Flooding Hazard Area. Areas identified within the River

Hazard Area will be subjected to fast moving floodwaters during extreme weather events. With river flooding there is a high risk of loss of life if effects are not mitigated effectively. Due to the magnitude of the risk involved, the properties within the 'River Hazard Area' will be subjected to more stringent controls than areas within the 'Flooding Hazard Area'. Local Authorities exercising their statutory powers will be permitted to undertake natural hazard mitigation activities where they follow the provisions of the relevant statute and they have expertise in this field, as and where required.

- 5.3. Section 62.10 of Plan Change 10 provides for natural hazard mitigation activities for network utilities works within the River Hazard Area. To provide clarity the Regional Council suggests that a definition of natural hazard mitigation activities be added to the section. We suggest appropriate wording (or similar) may be:

"...means activities that are carried out by a Network Utility Operator to reduce the risks posed by natural hazards to human life, property or the environment (includes stopbanks, seawalls and vegetation planting.)"

- 5.4. Section 62.10(a) and (b) limits natural hazard mitigation activities to daylight hours and prevents the temporary or permanent storage of material that may become flotsam or jetsam within the River Hazard Area. We are concerned that this may prevent for example, local authorities undertaking flood control and drainage activities particularly during events when for example the mouth of a river maybe required to be mechanically opened to alleviate flooding.

- 5.5. Clauses 62.10(a) and (b) would clearly pose difficulties for natural hazard mitigation activities' compliance in instances such as a stopbank which clearly cannot be installed and removed so that it only exists during daylight hours. These sorts of natural hazard mitigation activities exist 24/7. Maintenance and upgrade works on them might only occur infrequently. We suggest that provisos (a) and (b) should not be applied to natural hazard mitigation activities.

- 5.6. The Regional Council requests the following relief:

5.6.1. Add appropriate wording to section 62.1.3 of Plan Change 10 that clarifies and provides background to Section 62.10 of Plan Change 10 as suggested in paragraph 5.2 of this submission.

5.6.2. Include a definition of natural hazard mitigation activity in either the Glossary or within the natural hazards section.

5.6.3. Amend s62.10 so that provisos (a) and (b) do not apply to natural hazard mitigation activities.

5.6.4. Add an advisory note under s62.10 as follows or amendments to the same effect:

Advisory note: *Any works in the bed of rivers and lakes is regulated by the Hawke's Bay Regional Council and may require resource consent.*

6. Harmonisation of Plan Change 10 and Hastings District Plan provisions

- 6.1. Much has been made of the effort Hastings District Council and Napier City Council have invested into 'harmonising' parts of their respective district plans wherever relevant and practicable. We commend both councils for this 'harmonising' effort. However having reviewed parts of Plan Change 10 relevant to HBRC's interests, we have discovered some instances in the 'district-wide' type sections of Plan Change 10 to be slightly inconsistent or unsynchronised with similar provisions in the proposed Hastings District Plan.

- 6.2. An example of some discontinuity between the Hastings District Proposed Plan and NCC Plan Change 10 is within the respective Natural Hazards chapters. The

Proposed Plan allows Public Bodies exercising their statutory powers to carry out natural hazard mitigation activities as required. In contrast Plan Change 10 sets out a number of provisos such as operating times, the storage and placement of materials and applying conditions of the underlying zones.

- 6.3. A further example is with the introduction of changes to roof surfaces (Page 312 of Plan Change 10). Napier City requires inert roofing materials to be installed in Industrial zones but not Commercial zones whereas the Hastings Proposed Plan requires the use of inert materials on roofs in both Industrial and Commercial zones.
- 6.4. We have not attempted to identify each and every individual instance where imperfect harmony exists in Plan Change 10. Nevertheless, we make this submission point as a constructive request. In doing this, Napier City Council might then have scope upon which to make further improvements and modifications in the absence of any other submitter raising specific or general issues about harmonisation of content in Plan Change 10 and equivalent provisions in the proposed Hastings District Plan.
- 6.5. The Regional Council requests the following relief:
 - 6.5.1. Amend Plan Change 10 to ensure consistency (or harmony) where this is appropriate and practicable, with equivalent provisions in the proposed Hastings District Plan.

7. Other matters

- 7.1. We do wish to be heard in support of our submission.
- 7.2. We would not consider presenting a joint case with other submitters.
- 7.3. Regional Council representatives are willing to have further discussions with Napier City Council planning staff about matters raised in this submission as they prepare their s42A hearing reports over the coming months.
- 7.4. The Regional Council's address for service in relation to this submission is:

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159 Dalton Street
Private Bag 6006
NAPIER 4142
Attn: Esther-Amy Bate
p: 06 833-8026 (day)
e: esther-amy@hbrc.govt.nz
- 7.5. Thank you for the opportunity to make this submission. If you have any queries on this submission, in the first instance please contact Esther-Amy Bate using details above.

Yours sincerely

Helen Codlin
GROUP MANAGER STRATEGIC DEVELOPMENT