

Background Working Document

Effects Based Plan Research:

**A review of the structure and format of a sample
of district and unitary plans**

22 June 2015

Draft Internal MfE Report

This is one of a series of background working papers prepared by the Ministry for the Environment to help inform the development of national planning standards. A list of all the background papers is available on our website: www.mfe.govt.nz/rma/legislative-tools/research-informing-development-of-first-set-of-national-planning-standards

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1.0 Executive Summary

The purpose of this research is to identify a small group of “atypical” effects-based district and unitary plans and to assess how different these are from other district plans. This will assist in the development of a common structure and format for a proposed national planning template, and in particular assist with understanding whether we may need a separate template for this style of plan.

An effects-based approach focuses on controlling the impact (or effects) of an activity and an activities-based approach assumes these impacts and focuses on controlling the activity itself. The two different approaches are considered to lie at opposite ends of a spectrum for plan development.

Activities-based plans provide more certainty for a plan user as they specifically outline the type of activities that are allowed or not. An effects-based approach provides more flexibility because they focus on a desirable level of impact (e.g. noise, dust, bulk and location, vehicle access, car parking) that an activity should have regardless of what the specific activity is.

The three most common characteristics of effects-based plan provisions were identified as:

- Plans identified effects that can be grouped into areas or environments.
- Plans had significant use of “Any Activity” language.
- Plans used a “Catch-all” rule for any unanticipated activities.

Twelve Districts were reviewed and five were considered to meet the criteria of using an “effects-based approach” in their district or unitary plans. These were Buller District, New Plymouth District, Otorohanga District, Southland District and Taupo District. All of these Districts highlighted and promoted their National Parks and tourism as an important feature for their area. The extent to which this may have informed or driven the adoption of a more effects-based District Plan is unknown.

All of the plans that were reviewed adopted a ‘zoning’ approach of some sort although the more effects-based plans referred to Environment/Resource/Effects Areas instead of ‘Zones’. Whilst this appears different on the surface, the subcategories within these areas still contain similar names to the standard zones found within all other district and unitary plans e.g. residential, rural, industrial, commercial etc.

There was no consistent identifiable structure found within the plans reviewed, irrespective of whether they were effects-based or activities-based. Despite this variance in plan structures, the rules in all of the plans that were reviewed worked consistently in two ways to determine the relevant activity status for all plans. The activity status was determined by:

1. Specific listing of the activity in the plan.
2. Ability of the activity to comply with performance standards/conditions.

The difference between an effects-based plan and an activities-based plan was the degree to which these two triggers had been used. Effects-based plans relied more heavily on the ability to comply with standards/conditions whilst more activity-based plans relied on a greater combination/mix. Taupo District Plan used an additional third approach to determine activity status, which involved

counting the number of aspects of non-compliances from the performance standards to determine the relevant activity status.

Given the finding that effects-based plans rely more heavily on ‘performance standards’ and less on ‘specific activity listings’, an exercise was undertaken to reformat the content of an effects-based plan into the format of an activities based plan. The exercise was a complex and time consuming process. The performance standards transferred across well as a complete section, however once the rules started to make reference to the standards the grouping of the activity classes into rule sections became increasingly more complex and repetitive.

In summary, district plans have developed over time and there are a significant number of influences that can vary and alter the underlying approach that was deliberately chosen by plan writers at the inception of the plan. Rolling reviews of plans, Environment Court appeals, mediation/settlement agreements, private plan changes, National Environmental Standards and National Policy Statements provisions can all impact upon the consistency of approach undertaken when drafting a plan. Some council plan provisions may also be drafted as a reaction to an unanticipated issue and may not fit neatly within the existing structure or format of the existing plan.

All of these factors play a part in influencing the structure and format of plan provisions, particularly as plans enter their second generation (and beyond) phase. The provisions appear to be getting more complex and there is no longer a clearly defined ‘effects-based’ or ‘activities-based’ approach. Instead, district plans are increasingly moving to the middle of the spectrum towards a more hybrid approach which offers a balance of certainty and flexibility that can be varied to suit different planning environments and desired planning outcomes.

Follow up engagement is recommended with:

- Southland District Council: to discuss the reasons for moving from an operative effects-based plan to a proposed activities-based plan.
- Waimakiriri District Council: to discuss the ‘Proposed Retail District Plan Change’ with a focus on the findings that an effects-based plan has negatively contributed to amenity issues within the rural area, and to explore their options going forward with the plan change. Also, discussions around the philosophy behind the naming of the rules chapters, e.g. ‘Health, Safety and Wellbeing’ chapter which contains the bulk and location building standards.
- Horowhenua District Council: to discuss their confirmation that an activities-based approach is the most suitable approach to rural issues in their district.
- Plan users – ask plan users which “type” of plan they find easier to use? This should be targeted at plan users who work on a number of different plans across the country.

Additional research is recommended on:

- Developing a case study: do effects-based or activity-based plans produce better outcomes? Most of the effects-based plans that have been reviewed seem to have undertaken a plan change at some stage to address temporary activities/signage. A case study on this topic could provide further insights into the outcomes delivered by effects-based and activity – based approaches.

- The ability of plans to deal with cumulative effects, including an analysis of the different plan approaches, if any, to address cumulative effects.
- A review of the approach taken for commercial activities across District Plans and whether these are more suited to an effects-based (flexible) planning approach.
- Do communities with high property values demand a more “activity based” approach to plan provisions in order to protect their property values?
- Further investigation into a range of s.32 evaluations for second generation (and beyond) plans, with a focus on the evaluation of different plan development approaches considered when developing the next generation of plans.
- The link between activity based rules and the complexity of the definitions section of the plan.
- The language of rules and specifically whether using “positive” language (e.g. listing activities that are desirable), or “neutral” language (e.g. use of a rules tables) leads to less submissions and appeals than “negative” language (e.g. listing excluded or undesirable activities).

2.0 Purpose

As a part of the Resource Management Act 1991 (RMA) reforms, a National Planning Template is proposed to include a standard structure and format for Resource Management Plans across the country. The purpose of this is to achieve, where possible, consistency in Plans across district and regional planning documents in New Zealand.

The purpose of this research is to report on the structure and format of a small group of “atypical” district and unitary plans prepared under the Resource Management Act 1991 (RMA), and to assess how different these are from other district plans. This will assist in the development of a common structure and format for the proposed national planning template, and in particular assist with understanding whether we may need a separate template for this style of plan.

3.0 Background

The brief for this research noted that when the RMA was passed in 1991, there was an expectation that councils would replace their ‘activities-based’ plans developed under the previous legislation, with plans that focussed on controlling only the effects of activities rather than using the familiar zones and listed activities. In reality few councils went down this route. Some councils produced a plan very similar to their previous plan, with lists of activities permitted in each zone, and a requirement for a consent for anything else. Most councils used a ‘mixed model’, and retained some lists of activities, but with a greater emphasis on controlling effects.

Preliminary research on the structure of district plans generally has been undertaken. However no research has been done on the small number of district and unitary councils who have taken a more purely effects-based approach, and how the structure of these plans may be similar to or different

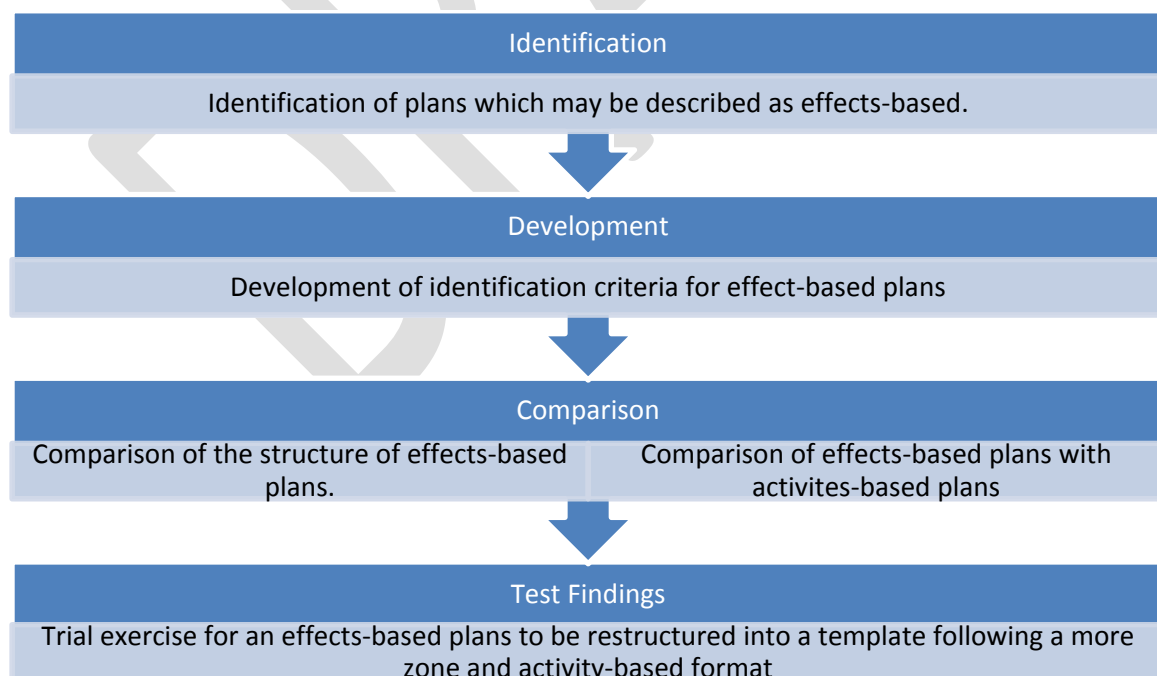
from other plans. This is important, as we will need to consider how many different options the template can provide, and the extent to which it can accommodate different styles of plans.

4.0 Objectives

The three objectives of this research are to:

1. Identify which district and unitary plans could be categorised as largely effects-based.
2. Answer the following questions:
 - a. Do effects-based plans follow a similar structure to each other – i.e. is there a common structure for effects-based plans?
 - b. If so, is this structure similar to or different from other more activity-based plans?
 - c. How easy would it be to restructure effects-based plans into a similar format to other district plans?
3. Document research findings in a report (focusing on the questions above).

5.0 Research Methodology



6.0 Resource Management Act 1991 (RMA)

Section 75 of the RMA specifies the content of District Plans as follows.

s.75 Contents of district plans

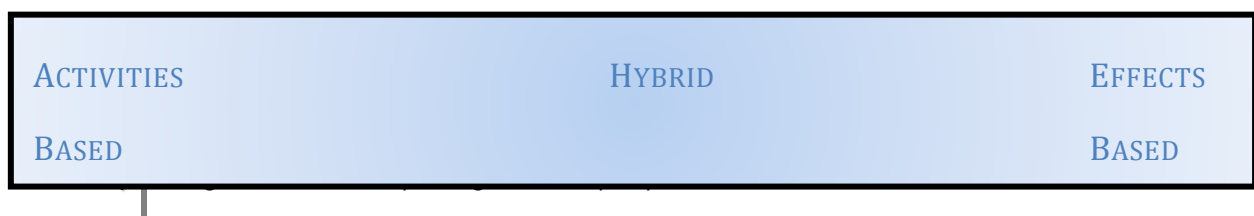
- (1) A district plan must state—
 - (a) the objectives for the district; and
 - (b) the policies to implement the objectives; and
 - (c) the rules (if any) to implement the policies.
- (2) A district plan may state—
 - (a) the significant resource management issues for the district; and
 - (b) the methods, other than rules, for implementing the policies for the district; and
 - (c) the principal reasons for adopting the policies and methods; and
 - (d) the environmental results expected from the policies and methods; and
 - (e) the procedures for monitoring the efficiency and effectiveness of the policies and methods; and
 - (f) the processes for dealing with issues that cross territorial authority boundaries; and
 - (g) the information to be included with an application for a resource consent; and
 - (h) any other information required for the purpose of the territorial authority's functions, powers, and duties under this Act.
- (3) A district plan must give effect to—
 - (a) any national policy statement; and
 - (b) any New Zealand coastal policy statement; and
 - (c) any regional policy statement.
- (4) A district plan must not be inconsistent with—
 - (a) a water conservation order; or
 - (b) a regional plan for any matter specified in [section 30\(1\)](#).
- (5) A district plan may incorporate material by reference under [Part 3](#) of Schedule 1.

The Act does not go so far as to specify a structure/format for all District Plans to follow so Plans have developed different approaches to incorporating the above statutory requirements.

All District Plans reviewed through this research covered the areas specified in the Act and to some degree this content topics have informed the structure and format of chapters in Plans, however these are all packaged up differently.

7.0 District Plan Approaches

The two approaches to plan development considered in this research were “effects-based” Plans and “activities-based”. The two different approaches can be considered at either end of a spectrum of plan development.



Essentially, effects based approach focuses on controlling the impact (or effects) of an activity. The activities based approach assumes these impacts and focuses on controlling the activity itself.

The majority of district plans are presumed to follow a hybrid approach and would be located in the middle of this spectrum.

A clear example of the different approaches is demonstrated through the wording of the Rules in Plans. The following two examples demonstrate the differences in drafting Rules when following an effects-based approach and an activity-based approach.

Table 1: Examples of different structure of rules.

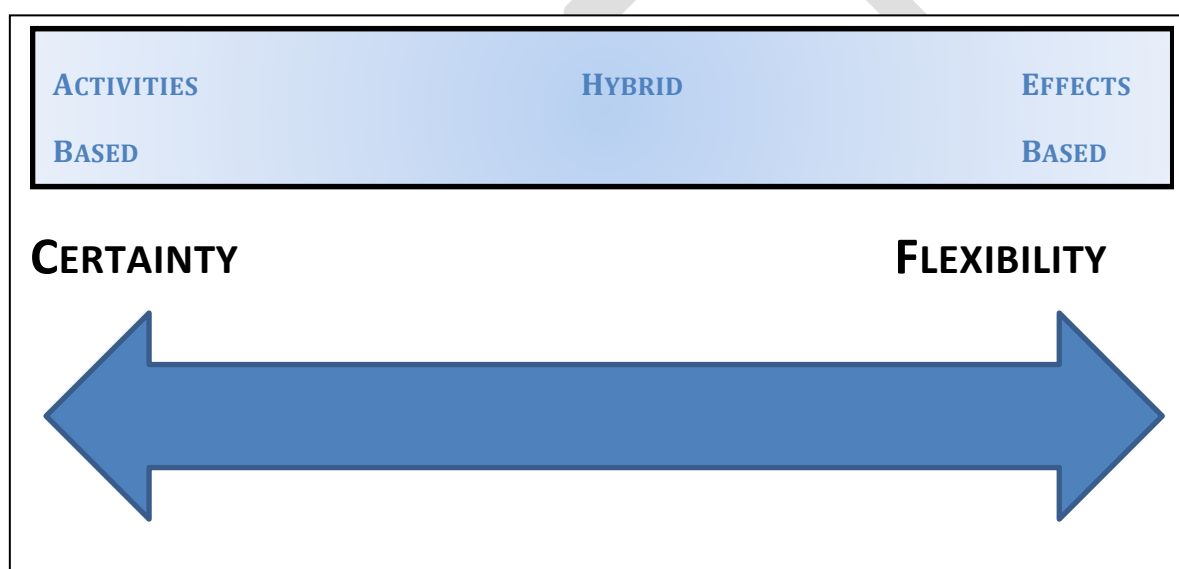
Effects Based Rule wording	Activities Based Rule wording
<p>Any activity which complies with standard 2A is a permitted activity.</p> <p>Ototohanga District Plan: Operative 30 October 2014: Land Use Chapter Rule.</p>	<p>The following activities shall be Permitted Activities, provided that they comply with all of the relevant Site and Zone Standards below, all relevant District Wide rules, and are not specifically listed as Discretionary, Non-Complying or Prohibited Activities:</p> <p>a) Residential Activities;</p> <p>b) Home Occupations;</p> <p>c) Recreational Activities; limited to:</p> <ul style="list-style-type: none"> outdoor recreation activities on public reserves; <p>d) Visitor Accommodation; limited to:</p> <ul style="list-style-type: none"> home stays accommodating no more than 5 visitors at any one time. <p>e) Commercial Activities in the Residential D zone; limited to group visits.</p> <p>f) Farming; limited to pastoral farming.</p> <p>Ashburton District Plan: Operative 2014: Chapter 4: Residential Zone.</p>

7.1 Certainty vs Flexibility

One of the main differences between an effects-based and activities-based approach is the degree of flexibility and certainty each provides.

An activities based plan will specifically outline the type of activities that are allowed or not, which in turn provides more certainty for plan users. The Plan is clear about exactly what type of use it expects and allows for. Some communities may like this approach, an example might be if property owners are seeking to protect or maintain property values by ensuring a high level of amenity within a residential area. The certainty of an activity-based plan could provide these property owners with assurance that only residential activities could establish on a particular site, as of right.

An effects-based approach provides more flexibility because it does not specify activities that are acceptable, instead focussing on the appropriate level of environmental standards/conditions (e.g. noise, dust, bulk and location, vehicle access, car parking). This provides greater choice for land uses that may have low environmental impact as they may be eligible to establish in non-traditional areas (e.g. a software development company might be permitted to establish in a residential area).



In Planning for London journal, Cooper (2007) wrote an article on New Zealand planning and specifically effects-based vs activity-based planning. She notes that flexibility in planning is seen to encourage innovation, vibrancy and mixed uses. In London there is a “...need to provide a regulatory environment for business, which provides a choice of location; allows innovation to develop; and which permits adaptation to changing economic circumstances.” Cooper concludes that an effects based approach means that planning documents can be flexible to market conditions in that a range of activities can be permitted as long as their effects are at a certain level.

However, with greater flexibility comes greater risk. Effects-based plans are seen to have more open planning provisions with control focussing on environmental impact. Amenity levels are therefore controlled through standards and conditions however there is always a risk that not all effects have been adequately considered and an unanticipated activity may establish within a neighbourhood and be viewed as incompatible.

7.2 Advantages and disadvantages

The Quality Planning website provides some information on the advantages and disadvantages of effects-based plans, as follows:

Advantages

1. Management techniques are more directly linked to the environmental effects they seek to manage (i.e. the plan starts with the effects that are to be managed and provisions are allocated to those effects as appropriate). This is consistent with the philosophy of the RMA being an 'effects-based' statute.
2. The plan is adaptable to new activities not originally anticipated by the local authority (i.e. there is potential to accommodate any activity provided the effects of the activity are managed in accordance with the plan).

Disadvantages

1. Those checking whether an activity complies with a plan may need to read all or most of the plan to determine whether a resource consent is required, and what for.
2. Reading and working out the implications of the plan can be difficult for the public (effects-based decision-making does not provide for quick and easy answers at the front counter or over the phone).
3. There may be lack of certainty for applicants who do not understand or have information on all the effects that may relate to their proposal.
4. Plan drafters need to be certain that all possible effects have been considered to avoid undesirable activities becoming permitted through oversight.
5. Requires good information on all effects types and thresholds of what is acceptable in any given area.

At the opposite end of the spectrum, the Quality Planning website lists the following advantages and disadvantages for activity-based plans, as follows:

Advantages

1. User-friendly (in that the plan is based around known activities and terms that many people readily identify with).
2. It can be easier to check the activity status and see the standards that may apply to a proposal.

Disadvantages

1. The reasoning for provisions may be less transparent (it can be harder to see the link back to the effects that are to be managed).
2. The plan may not deal appropriately with activities not envisaged during drafting (for example activities that should be 'permitted' become subject to consent processes as they were not listed, or activities that needed to be subject to resource consent are not).
3. Can result in lengthy lists of activities.

4. Much depends on the definition of each activity and there can be debates as to whether certain activities (or derivations thereof) fit within those definitions.

7.3 Identification

The initial step of this research involved identifying the handful of plans that were thought to adopt a strongly effects based approach when developing their RMA Plans.

Various resources and tools were used to identify these plans, as follows:

- The research brief for this research project limited the type of plans to be reviewed to district and unitary plans only. Regional plans and national planning instruments were not reviewed.
- Possible examples were provided in the brief for this research, which was prepared by Julia Forsyth, Senior Analyst – Ministry for the Environment. The research brief identified some possible examples of effects based plans that had been highlighted in preliminary research undertaken on the structure of district plans generally.
- Review of submissions made in response to Ministry for the Environment’s (MfE’s) public consultation on the “Improving our resource management system. A discussion document”, dated 2013. A review of the submissions made on the ‘template’ section of the discussion document to identify Council submissions that noted inconsistencies and difficulties in maintaining a consistent approach to the template. Some councils mentioned the unique format of their district plans and identified themselves as following an effects-based approach.
- Review of undergraduate research project 2008 by Melissa Douche, titled “Zoning and the Resource Management Act – an investigation into the zoning approaches of local authorities”. This research paper became available part way through this research project and was particularly useful as Appendix A of this report included a high level assessment table of all Local Authority’s district plans along with an assessment of whether effects-based wording or an activity listing approach was used for each plan.

Using these approaches a total of 12 Plans were identified as possibly utilising an effects based approach. All 12 Plans were reviewed at a high level using the operative version of each plan, unless otherwise stated. For the purposes of the review the structure of the plan and rules were reviewed. Given the large amount of written material within these Plans, and for the sake of consistency, the residential provisions, specifically bulk and location controls in all the plans were chosen as the focus of the research. The following table sets out the plans that have been reviewed:

Table 2: Plans identified for research purposes

District Plan	Unitary Plan
<ul style="list-style-type: none"> • Buller District Plan (1st gen) • Horowhenua District Plan (2nd gen) • Manawatu District Plan (1st gen) • New Plymouth District Plan (1st gen) • Otorohanga District Plan (1st gen) • Taupo District Plan (1st gen) • Wairoa District Plan (1st gen) • Waimakiriri District Plan (1st gen) • Wanganui District Plan (1st gen) • South Taranaki District Plan • Southland District Plan (operative- 1st gen & proposed – 2nd gen) 	<ul style="list-style-type: none"> • Tasman Resource Management Plan (1st gen)

7.4 Criteria Development

In order to determine the extent of the effects-based plans approach, the development of consistent criteria was attempted. The starting point for these criteria was the Quality Planning website as it usefully attempts to better define the effects-based plan approach. Additional criteria were developed during the review of the above plans.

Criteria 1: Effects can be grouped into management areas based on the perceived acceptability of effects in that area or the particular values to be maintained. (sourced from Quality Planning website).

This criterion acknowledges that the focus of the plan will be on the effects of activities rather than specifically listing those individual activities that are allowed or otherwise.

An effects-based plan focuses on describing a range of environmental effects that are to be controlled instead of pre-determining the level of effects generated by a specific activity and then specifically listing that activity within the Plan. The second part of this criterion is that these effects can be grouped into management areas.

Criteria 2: Limited Use of Zoning. (sourced from the Research brief).

It was anticipated within the research brief that ‘effects-based’ plans should, by their very nature, have a reduced number of zones. The provisions of an effects-based plan are considered to be more generally applicable and as such the number of specific zones would not be as high as plans adopting a different approach to plan development.

Criteria 3: Few activities listed in RMA activity classes (sourced from the Research brief)

The plan provisions of effects-based plans are assumed to be less detailed because individual activities are not listed; instead the focus is on the environmental standards that activities should comply with.

Criteria 4: Terminology – Use of ‘Any Activity’

Effects based plans are assumed to use more general terms to allow for greater flexibility in plan provisions. A key criteria used to identify these types of plans was to review the language in the rules. A key phrase to look out for was “Any Activity is...”

Criteria 5: Use of a “Catch-all” rule

Given the flexible nature of effects –based plan provisions, it was anticipated that the plans would use a “catch-all” rule that would seek to address effects of activities that may not have been anticipated or expressly written into the plan controls. This attempts to reduce some risk around activities with unanticipated effects establishing in incompatible areas.

Testing of the criteria against the 12 plans identified highlighted the following findings:

Anticipated Criterion	Findings	Consistent criteria
Effects can be grouped into management areas based on the perceived acceptability of effects in that area or the particular values to be maintained.	<p>From the plans reviewed it appears that a similar approach to zoning is adopted, except that effects-based plans name these areas as “Environments”, “Environment Areas”, “Effects Areas” or “Resource Areas”.</p> <p>These areas are defined geographically and are identified on planning maps with clear links to objectives, policies, rules and standards within the rest of the plan.</p> <p>At the district plan level, the grouping of these areas appears to be defined by the historic and physical characteristics of an area rather than a strict ‘effects’ grouping.</p> <p>This follows the same more traditional ‘zoning’ approach adopted in the majority of plans where boundaries are drawn on maps. Exceptions would be through the use of overlays which cover issues such as airport noise boundaries and reverse sensitivity noise provisions for roads – however these are very specific provisions with a clearly defined source/location of the effects generated by a specific activity. At a district-wide level this would be harder to map due to the variety of effects in an urban or rural area and there would not always be a clearly identified source.</p>	Yes
Limited Use of Zoning	Whilst the name of ‘zones’ varies in effects-based plans the principle of zoning applied across all the plans reviewed.	No

	<p>Whilst referred to as ‘Environment Areas’, ‘Effects Areas’, ‘Resource Areas’ etc. the subcategories within these areas contain standard terms found in zones e.g. residential, rural, business, industrial, commercial, open space, urban, town centre, settlement, reserves, recreation, village.</p> <p>One exception was the Southland District Plan (operative) that named zones after natural features e.g. Mountains, Hills, Catlins and the Plains Resource Areas with no further subcategories. However, the proposed Southland District Plan has altered this approach and the proposed plan is now using standard zone names e.g. rural, industrial, residential, commercial, coastal etc.</p> <p>The number of zones and overlays varied across all the effects-based plans reviewed, examples include:</p> <table border="1"> <thead> <tr> <th>District Plan</th><th>No. of Areas/Zones</th><th>No. of overlays</th></tr> </thead> <tbody> <tr> <td>New Plymouth</td><td>16</td><td>24</td></tr> <tr> <td>Wairoa</td><td>7</td><td>6</td></tr> <tr> <td>Wanganui</td><td>11</td><td>3</td></tr> <tr> <td>Tasman</td><td>14</td><td>14</td></tr> </tbody> </table> <p>There was no evidence of a reduced number of ‘zones’ used in effects based plans.</p>	District Plan	No. of Areas/Zones	No. of overlays	New Plymouth	16	24	Wairoa	7	6	Wanganui	11	3	Tasman	14	14	
District Plan	No. of Areas/Zones	No. of overlays															
New Plymouth	16	24															
Wairoa	7	6															
Wanganui	11	3															
Tasman	14	14															
Few activities listed in RMA activity classes	<p>The number of activities specifically listed in each activity class varied across the residential sections of the plans. New Plymouth District Plan with only 3 specific activities listed. Southland Operative Plan had one activity listed, however the proposed 2nd generation plan has numerous.</p> <p>Other Plans appeared strongly effects based in the zone rules but listed a number of activities specifically within their District Wide rules. Buller District Plan had 35 activities listed; Otorohanga District Council had 12 activities listed.</p>	No															
Terminology – Use of ‘Any Activity’	<p>The use of this phrase was common finding across the Plans that were identified as ‘effects-based’, however there was always two caveats, being that the:</p> <ul style="list-style-type: none"> • Activity must also comply with relevant performance standards • Activity must not be specifically listed in a different activity class or listed as an exemption. 	Yes															

Has a “Catch-all” rule	<p>There was evidence of ‘catch-all’ rules within some effects based plans, however there was no consistent approach as to the activity status that activities would be ‘caught’.</p> <p>Examples include: New Plymouth District Plan states that if there are no relevant parameters in the Rules table then the activity is permitted.</p> <p>Otorohanga District Plan states that any activity that has an adverse effect on the environment and is not specifically provided for is a discretionary activity.</p>	Yes
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7.5 Criteria Findings

A full assessment of the District and Unitary Plans against the criteria can be found [here](#).

- The three most common characteristics of “effects-based” plans were:
 - Effects can be grouped into areas or environments.
 - Significant use of “Any Activity” language.
 - Use of a “Catch-all” Rule.

The main indicator was the use of “Any activity...” in the wording of the rules. The Rules then relied heavily on performance standards to determine the relevant activity status in the Plan. The exception to this was the New Plymouth District Plan where Rules tables were used to display the activity statuses and standards. This matrix approach removed the need for lengthy plan provisions and removed some ambiguity on interpretation. An extract of the New Plymouth District Council rules table is included as part of Appendix 2 of this report.

- After applying the criteria, five of the plans researched were identified as incorporating an “effects-based” approach. These were:

District/Unitary Plan	Effects are grouped by:	Use of terminology - “Any Activity...”	Application of a “Catch-all” rule
Buller District Plan	Character Areas	<i>Any activity in the Residential Zone is either permitted, controlled or discretionary if it falls within the standards for each category in Table 5.1. (Residential Zone Standards).</i>	<i>Any activity which is not specifically referred to in the Plan or does not fall within the limits of permitted, controlled or discretionary activities is deemed to be a non-complying activity and will require a resource consent.</i>

New Plymouth District Plan	Environment Areas	<i>Rules tables (so limited wording) – explanation stated that if you meet the permitted standards for all the relevant parameters, you will not require a resource consent for your activity.</i>	<i>Note: Where there are no relevant parameters, the activity is permitted.</i>
Otorohanga District Plan	Effects Areas and Policy Areas	<i>Any activity which complies with standard 2A is a permitted activity.</i>	<i>Any activity that has, or is likely to have an adverse effect on the environment, being an effect which: (i) is not specifically provided for or referred to in this Plan; and (ii) was not in existence anywhere in the Otorohanga District on or before 16 September 2010; is a discretionary activity.</i>
Southland District Plan (Operative)	Resource Areas and Landscape Character Areas	<i>Any activity involving the housing or keeping of animals that conform with the performance standard set out in Rule URB.7 Domestic Animals Performance Standard.</i>	<i>All non-residential activities (as defined in Section 5.0 of this Plan) shall be considered as discretionary activities.</i>
Taupo District Plan	Environments	<i>Any activity that: i. complies with all of the performance standards for the Residential Environment; and ii. complies with all the District Wide Performance Standards; and iii. is not identified as a controlled, restricted discretionary, discretionary or non complying activity within the Residential Environment; and iv. is not identified as a controlled, restricted discretionary or discretionary activity within the District Wide</i>	<i>Any activity which does not comply with four or more development control performance standards for permitted activities including (where a standard contains more than one control) four or more parts thereof, is a non-complying activity.</i>

		<i>Rules, is a permitted activity.</i>	
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8.0 Research Findings

8.1 Identification

8.1.1 Common Features

Once the five more effects based plans had been identified, a comparison of any key features of the Districts was undertaken to identify any common characteristics of areas adopting an effects based plan approach. Land area, population size (2013 Census), changes in population from 2006 to 2013, and main land uses were recorded.

Land areas ranged from 1,976km² (Otorohanga District) to 30,979km² (New Plymouth District) and population ranged from 9,513 in Otorohanga District to 74,757 in New Plymouth (based on 2013 census data).

Table 3: Comparison of land area and population of the Districts identified as utilising an effects-based planning approach.

District	Land Area (km ²)	Population (2013 census)
Buller District	8,574	11,211
New Plymouth District	2,324	74,757
Otorohanga District	1,976	9,513
Southland District	30,979	33,138
Taupo District	6,970	35,847

Four of the districts experienced population growth between 2006 and 2013, being Buller District (5.9%), New Plymouth District (7.2%), Southland District (0.5%) and Taupo (0.9%). Otorohanga District was the only area to experience a decline in population and this was very slight at -0.1%.

A possible common theme was that the Districts identified as being predominantly rural with one main urban centre. However, this could be considered to be a characteristic of most Districts within New Zealand, outside of the 3 largest urban areas of Auckland, Wellington and Christchurch.

A further observation is that all of the Districts that were considered to use an “effects-based approach” to their plan development also highlight and promote their National Parks and tourism as an important feature for their District. The awareness and promotion of significant natural features within the Districts was a common factor however, the extent to which this may have informed or driven the adoption of a more effects-based District Plan is unknown.

8.2 Structure of plan

8.2.1 Zoning

All of the plans reviewed used a zoning approach and all required the plan user to locate their property on the planning maps and note which zones, overlays or symbols apply as a first step. The main difference with effects-based plans is that zones were named as “Environments”,

“Environment Areas”, “Effects Areas” or “Resource Areas”. These areas were still defined geographically and identified on planning maps with clear links to objectives, policies, rules and standards within the rest of the plan.

The grouping of these areas appears to be defined by the historic and physical characteristics of an area rather than a strict grouping of types of ‘effects’. This follows the more traditional ‘zoning’ approach adopted in the majority of plans where clear boundaries are drawn on maps. Exceptions would be through the use of overlays which cover issues/effects such as airport noise boundaries and reverse sensitivity noise provisions for roads. However, these are very specific provisions with a clearly defined source/location of the effects generated by a specific activity.

8.2.2 Plan user

For the plan user, the effects based approach requires that a good understanding of the effects of any proposed activity is known before consulting the planning document. Some plans have adopted the approach of prompting questions for the plan user to get the user thinking about the effects that their activity may have on the environment. The use of questions seems to be helpful, however, often all provisions in the “zone” rules, “district-wide” rules and “overlay” rules need to be read to ensure that all effects standards/conditions that could apply to an activity have been taken into account.

The Waimakiriri District Plan would appear to be particularly confusing for a plan user as the objectives and policies are linked to the zones shown on the planning maps (e.g. residential, business), however the rules chapters are divided into topics (presumably inspired by the Resource Management Act). This means that all of the bulk and location rules for a building are located within a chapter titled, ‘Health, Safety and Wellbeing’, where the different standards for the different zones are then listed. This would appear to add an additional layer of confusion for the plan user in terms of navigating the plan as it doesn’t appear to be in a consistent and intuitive format.

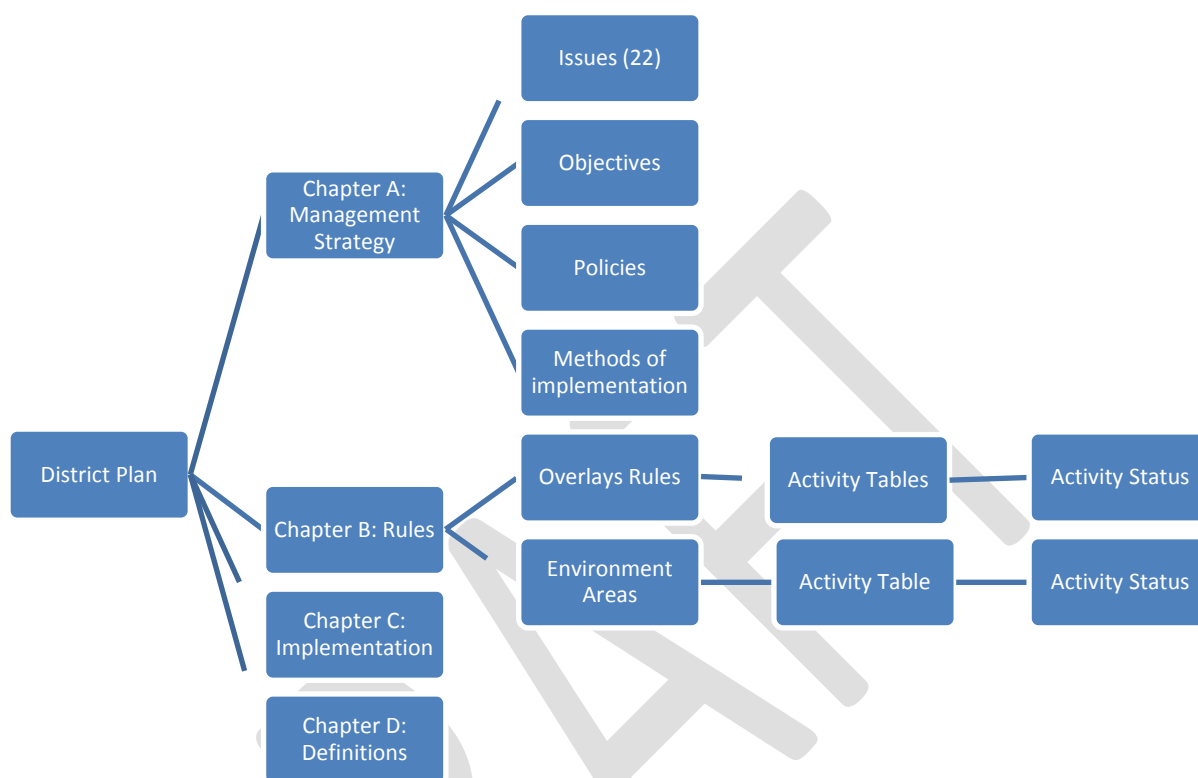
The New Plymouth District Plan used tables to display the relevant standards/conditions and the corresponding activity classes. Tables were also used to cross reference other parts of the plan that were relevant to certain provisions. This provided some further assistance to the plan user for navigation purposes and appeared to be a simple way to display complex and sometimes overlapping plan provisions.

8.2.3 Structure - effects based plans

The general structure of all of the plans varied slightly and all structure maps can be found [here](#).

There appeared to be three ways to work through the plans and determine the activity status for an activity. For the purposes of consistency the plans were reviewed looking for a residential activity, and specifically at the bulk and location provisions.

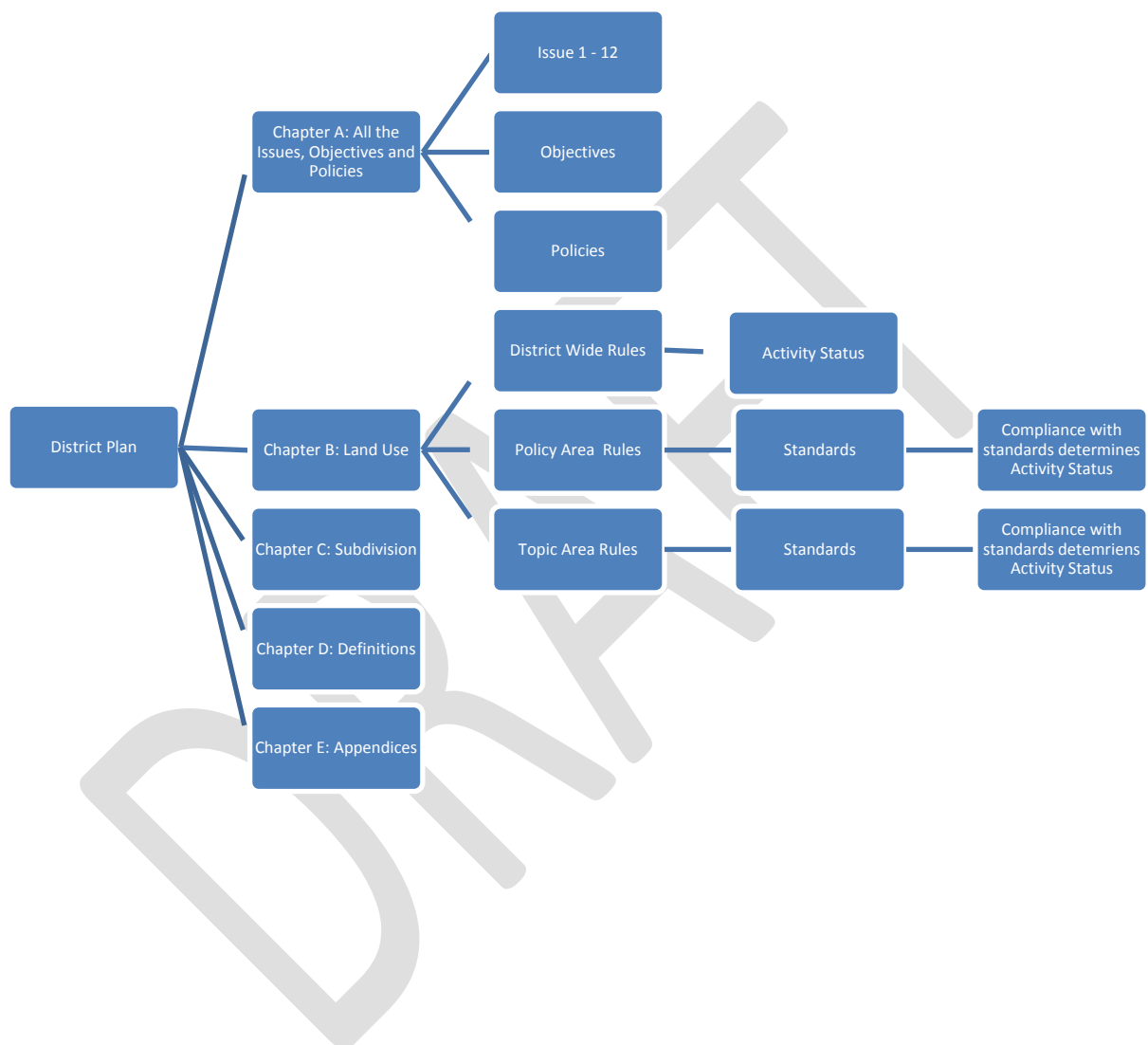
The New Plymouth District Plan demonstrates that there are two particular sections of the plan to check, being the Overlays Rules and the Environment Area Rules.



Note: Introduction section and statutory acknowledgements chapters not mapped.

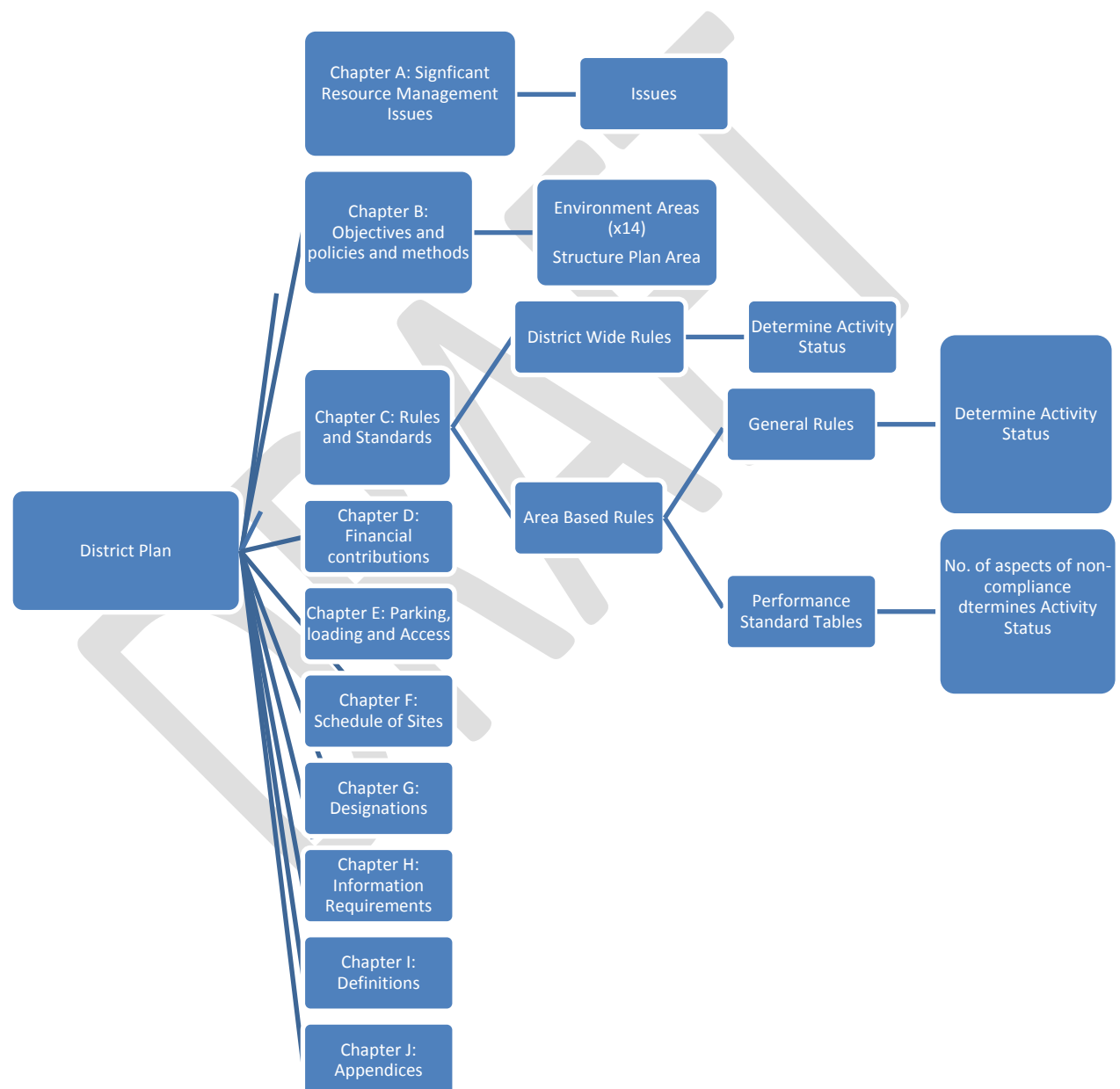
The Otorohanga District Plan uses a similar approach, although requires that three areas be reviewed by the plan user, being the District Wide Rules, Policy Area Rules and Topic Area Rules.

Otorohanga District Plan



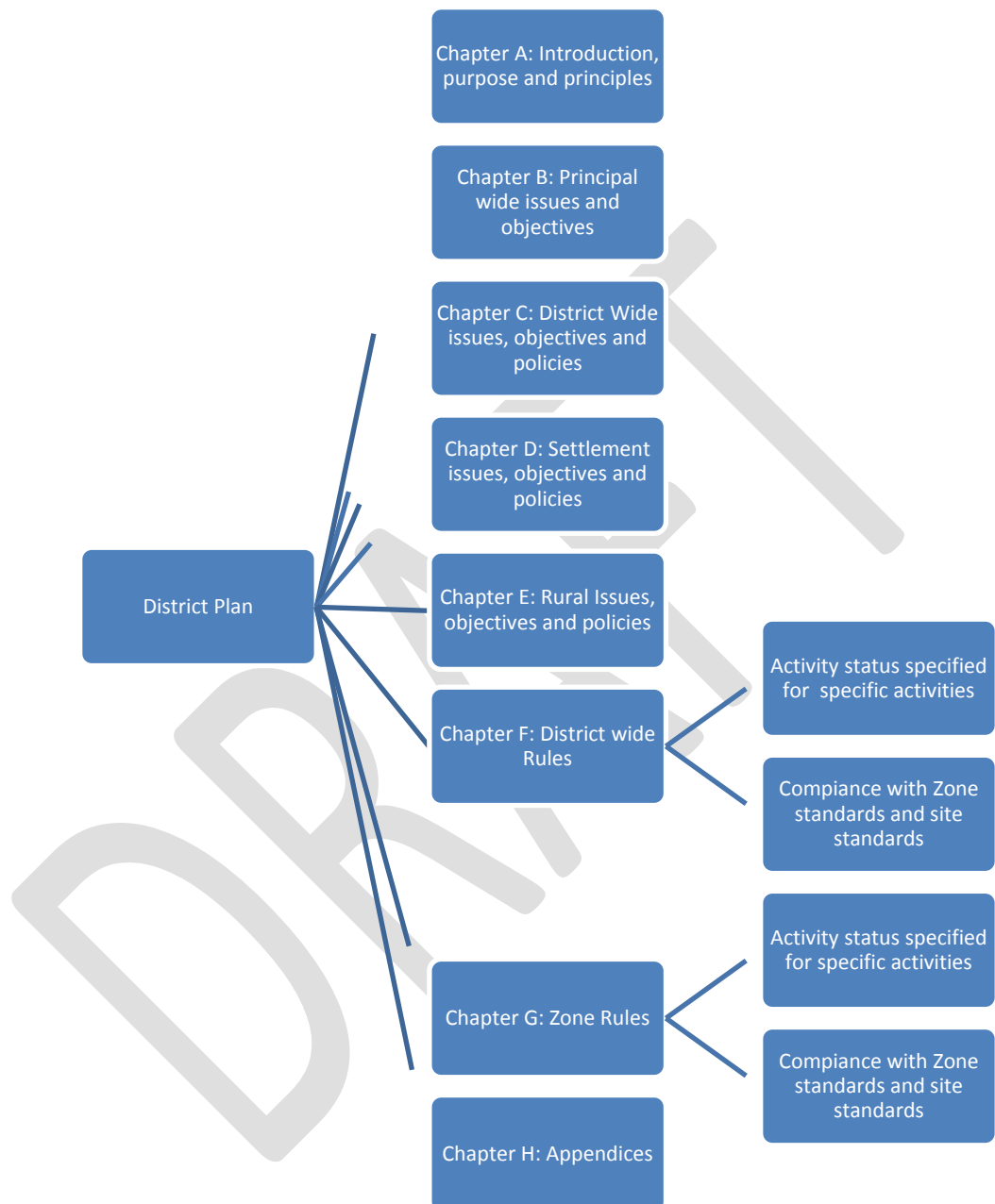
The Taupo District Plan introduces a third way to determine the activity status, which is counting the number of aspects of non-compliance with the permitted activity standards/conditions. One aspect of non-compliance becomes a discretionary restricted activity, 2 or 3 aspects of non-compliance is a discretionary activity and 4+ is a non-complying activity.

Taupo District Plan



8.2.4 Structure - Activities based Plans

Ashburton District Plan



Activities-based plans require the user to check activity classes for their listed activity. Often this requires the plan user to start at prohibited or non-complying activities and filter down to see if the activity is permitted. Relevant standards/conditions are still used as a method to determine the relevant activity status for an activity, alongside the listings of specific activities. The Ashburton example also shows that both the District Wide Rules and Zone rules chapters need to be checked by the plan user.

8.2.5 Research question 1 - findings

The first research question to be answered was - do effects-based plans follow a similar structure to each other – is there a common structure for effects-based plans?

1. There was no consistent identifiable structure across plans, irrespective of the approach to plan development that had been undertaken. All plans had distinct chapters, however the content of the chapters varied e.g. some contained all objectives and policies together, and others aligned objectives and policies with issues, others separated objectives and policies into district-wide or area specific.
2. The flow of the structure diagrams indicate that effects-based plans may have a more of a horizontal structure (possibly indicating more complex provisions) as opposed to an activities-based plan that has a stronger vertical alignment, as indicated in the above diagrams.
3. From the examples above, both activities-based plans and effects-based plans separated their rules into 'district-wide' and 'area specific' sections. This requires the plan user to navigate around the plan and check various different sections in order to find the information they need. This occurred regardless of whether a plan used more of an effects-based or activity-based approach.

8.3 Rules

8.3.1 Structure

Despite the variety found in the plan structure, the rules worked consistently in two ways to determine the relevant activity status for all plans. The activity status was determined by:

1. Specific listing of the activity in the plan.
2. Ability of the activity to comply with performance standards/conditions.

All plans used these tools as triggers for rules, regardless of whether they adopted an 'effects-based' or 'activities-based' approach. The difference was the degree to which these had been used. Effects-based plans relied more heavily on the ability to comply with standards/conditions whilst more activity-based plans relied on a greater combination/mix. All structure maps of the residential rules that were reviewed are available [here](#).

8.3.2 Examples of the rule structure of effect-based plans

Tasman Resource Management Plan (Residential Rules)

Activity rules (Land use,
home occupation)

Topic rules with conditions e.g. Building
construction and alteration

New Plymouth District Plan (Residential Environment Area)

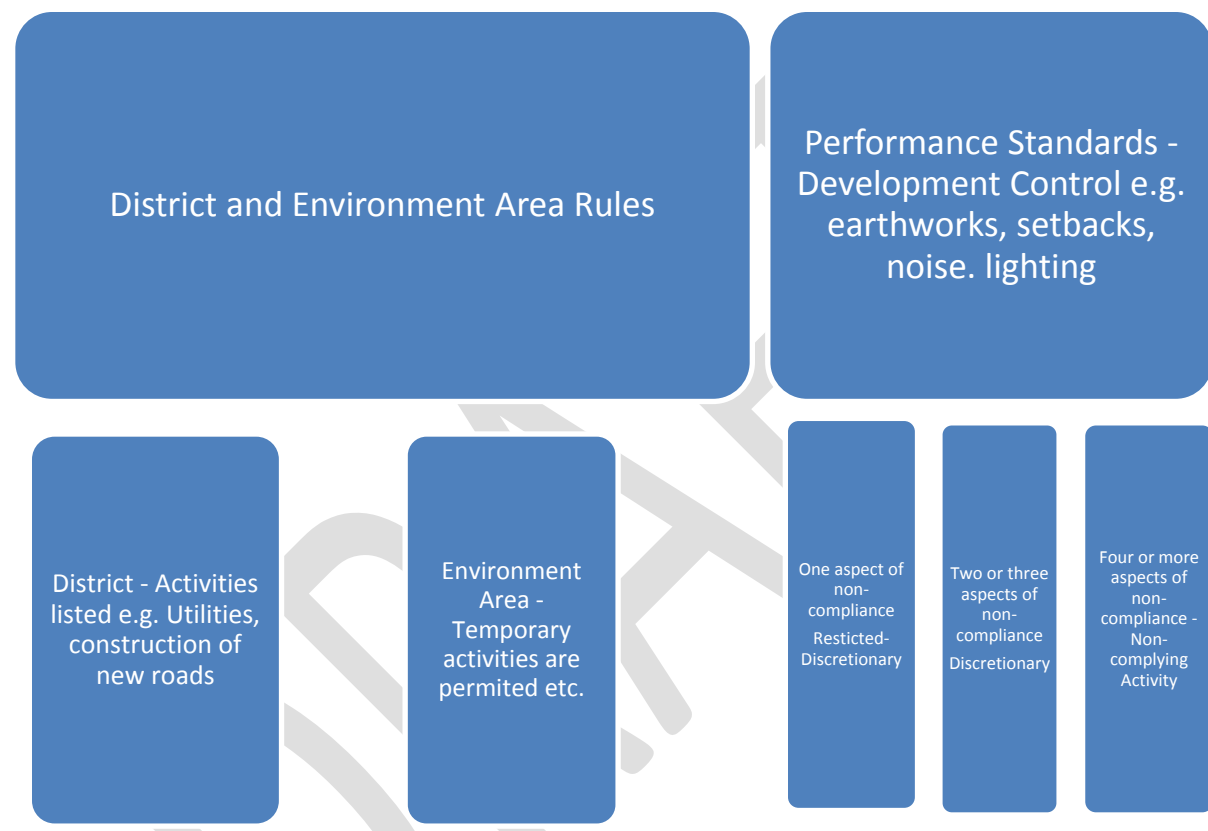
Rules -
specific
activities ,
e.g. Keeping
of goats,
consumption
of liquor

Parameters for all land uses. e.g. light emission, noise, traffic
generation)

Proportionally, effects-based plans are more heavily weighted with a focus on permitted standards/conditions/parameters and less reliant on listing specific activities.

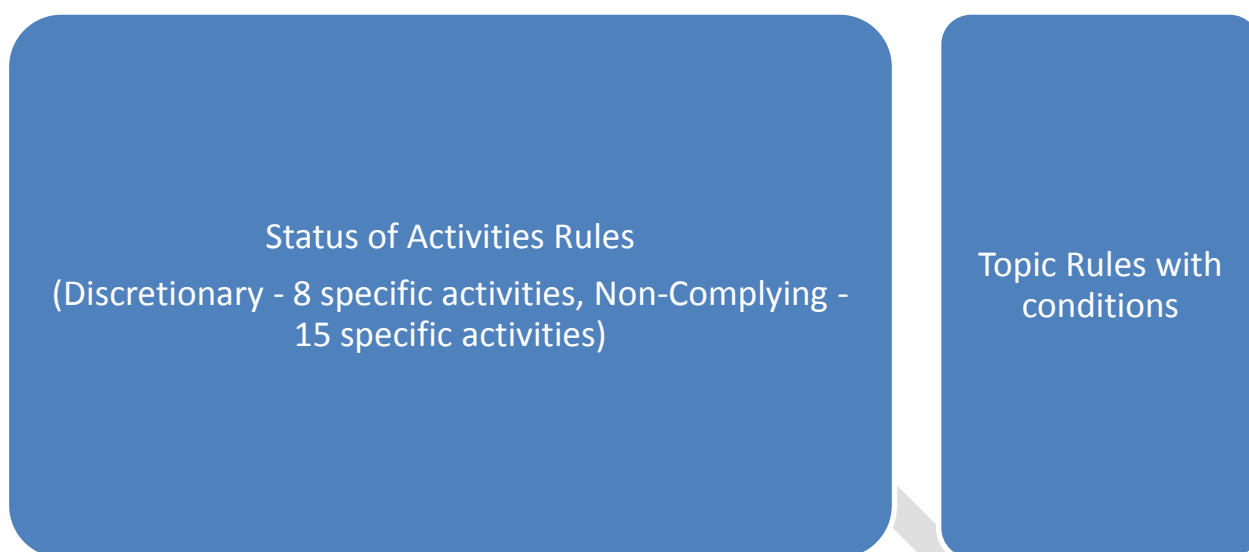
Taupo District Plan uses an additional third tool to determine activity status, which is to count the number of aspects of non-compliances from the performance standards to determine the relevant activity status. This introduces the concept of alignment with the anticipated baselines of the plan rather than just the degree of non-compliance with the standards.

Taupo District Plan (Residential Environment Area)



8.3.3 Example of the rule structure of an activity-based plan

Rules Structure - Selwyn District Plan (Living Zone Rules)



8.3.4 Research question 2 - findings

If there were any common structure features for effects based plans, is this structure similar to or different from other more activity-based plans?

1. All plans that were reviewed used a similar rule structure when determining activity status for proposals, this approach was:
 - a. To specifically list an activity; and
 - b. To list performance standards and assessing ability of an activity to meet these.
2. The effects based plans relied heavily on performance standards but also specified specific activities, albeit to a lesser extent than activity-based plans.
3. The activities based plans listed more specific activities but also relied on performance standards. The listing of specific activities meant that the definitions of these activities had to be clearly stated to ensure that the rules were applied correctly e.g. “work from home” activity, “non-residential” activity all require clear definitions.

8.4 Format

8.4.1 Structure

There was no clear overall structure evident in the effects-based plans that were researched. There was however some consistency in the workings of the rules of the plans as noted in the previous section. Given that effects-based plans rely more heavily on ‘performance standards’ and less on ‘specific activity listings’, an exercise was undertaken to reformat the content of an effects-based plan into the format of an activities based plan.

For the purposes of this activity the content of the Otorohanga District Plan Content (Land Use chapter, sections 1, 5, 6 and 7) was rewritten into the format of the Ashburton District Plan, Section 4 – Residential Zone layout.

The full results are shown in Appendix 1 of this report. The main findings of this exercise are:

1. The standards transferred easily as a section at the end of the chapter.
2. Within the Rules the same standards had to be referenced multiple times under each of the different rule categories.
3. Provisions relating to topics (such as earthworks) has to be repeated under the different activity classes (such as Permitted, Controlled, Discretionary etc.)
4. The listing of standards at the end of the section means that any plan user would have to flip back and forth.
5. The content selected referred to standards by its reference (e.g. 6A) which makes the Rules difficult to read for the average user as it is not in plain English.

8.4.2 Research question 3 – findings

The final research question to be answered is: how easy would it be to restructure effects-based plans into a similar format to other district plans?

The transferring of the information was difficult. The performance standards transferred across well as a complete section, however once the rules started to make reference to the standards the grouping of the activity classes into rule sections became complex and repetitive.

The content of the rules was difficult to understand as the performance standards were not well explained due to them being referenced by their heading number only within the text. Multiple new headings had to be inserted which an indicator of the amount of repetition that was occurring across the chapter.

This basic exercise has highlighted that the reformatting the content of an effect-based plan directly into an activities based format is a complex exercise leading to a plan design that is difficult to use and repetitive. Editing and re-writing certain provisions can enable the information to work but it will require a significant amount of work to retrofit provisions into a different format.

9.0 General observations

The focus of this research project was on the structure and format of “effects-based” plans. However, in undertaking this work a number of district plans and one unitary plan were reviewed and the following general observations were also noted.

9.1 Language

Across the plans reviewed it was noted that the language used across the different rule provisions varied. Activities based plans tend to describe specifically the types of activities that they are seeking to avoid e.g. list prohibited activities or have a list of ‘excluded activities’. In terms of language, this can come across as quite a negative approach. Cooper, (2007) notes in her article that “We are

telling developers what we want do want to see, as opposed to what we don't want to see. This move towards positive planning is reducing the number of objections and appeals and delivering higher quality environmental developments while helping to deliver the government's growth agenda".

One other approach is to reduce the amount of language by utilising rules tables. The use of tables for rules means that a significant amount of information can be displayed, such as different activity classes, standards and terms whilst limiting the use of language that can be open to misinterpretation. Tables can also assist with reducing repetition of text across the rules sections and instead enable easier cross-referencing, as demonstrated in the New Plymouth District Plan.

Examples of each of the different approaches used in 3 different plans are included in Appendix 2 of this report.

9.2 Definitions

Activity based plans have a strong link between the rules and the definitions section of their plans as they specifically list individual activities that must then be clearly defined. This can add a further level of control in terms of the plan provisions for an activity. For the plan user a description of their activity might sound like it is permitted but upon further checking of the definition section it may no longer apply. A typical example is shown in the Wellington City Council District Plan provisions for "work from home" activities. The intent of the description of the activity might sound clear to the plan user, however upon checking the definition there are additional restrictions:

WORK FROM HOME: means an occupation, art, craft, business, trade or profession which is carried out in a residential building by a maximum of three persons, at least one of whom lives in that building as their principal place of residence, (apart from in the Inner Residential Area north of John Street/Hutchinson Road where all workers shall reside on the premises). It does not include the repair or maintenance of motor vehicles or internal combustion engines [, or the spray painting of motor vehicles]^{PC2} (excluding the residents' motor vehicles).

An effects-based plan may not have as many specific definitions/additional restrictions contained within the definitions section of the plan as individual activities are not specifically listed to the same extent. The Waimakariri District Plan does not currently include definitions of commercial, office, industrial, or rural activities however the need for these to be defined is currently being reviewed. Instead, the plan user may need to check more sections of the plan to check off all of the anticipated effects of their proposal which could in turn lead to difficulties due to the amount of information that has to be reviewed.

9.3 Second generation (and beyond) plans

When developing district plans, there are a significant number of influences that can vary and alter the underlying approach that was deliberately chosen by plan writers at the inception of the plan. Rolling reviews of plans, Environment Court appeals, mediation/settlement agreements, private plan changes, National Environmental Standards and National Policy Statements provisions can all impact

upon the consistency of approach undertaken when drafting a plan. Some council plan provisions may also be drafted as a reaction to an unanticipated issue and may not fit neatly within the existing structure or format of the existing Plan.

All of these factors play a part in influencing the structure and format of plan provisions, particularly as Plans enter their second generation (and beyond) phase. The provisions appear to be getting more complex and there is no longer a clearly defined 'effects-based' or 'activities-based' approach. Instead, district plans are increasingly moving to the middle of the spectrum towards a more hybrid approach which offers a balance of certainty and flexibility that can be varied to suit different planning environments.

10.0 Report Limitations

Due to the volume and complexity of district plans, a consistent approach used for the purposes of this research was to review the drafting of residential provisions of District Plans, and in particular the bulk and location controls. Analysis undertaken by Melissa Douche, in her undergraduate research paper has highlighted that Commercial Zones contain the most effects based provisions. The need for further research in this area has been noted in section 11 of this report.

The small sample of plans assessed does not cover all district and unitary plans within New Zealand. In order to lead to more robust conclusions, the methodology and analysis within this report would need to be expanded to cover a wider selection of these types of plans.

11.0 General Recommendations

Based on the findings and assessment above, the following approaches are recommended.

11.1 Hybrid Approach

As outlined in section 7.1 of this report, a hybrid approach is not strictly an effects-based or an activity approach but lands somewhere in the middle of the spectrum and uses a combination of the two approaches. From the plans reviewed, plans are increasingly utilising more of a hybrid approach to plan development at the district/unitary level. Awareness of the variety in structure and format must be taken into account in any future template work, especially when considering implementation of the template provisions.

The exercise in reformatting different plans into one structure/format is a complex and time consuming process, particularly given the variety found in the structure and rules across the district plans that were reviewed. This was particularly evident where one plan relied more on standards and terms and the other on listing activities based on their activity class. The end result was a plan that was difficult to use and repetitive in places.

This finding will be interesting to test with other stakeholders and plan users. It is recommended that the team test this finding with stakeholders when introducing the template concept to these relevant groups.

11.2 Risk Approach

It is unclear at this stage whether a one-size fits all approach to plan development is appropriate for any national template to follow. A key learning from this research is that when assessing template provisions there should be consideration as to whether certainty or flexibility is required in order to reach a desired planning outcome.

The level of risk and consequences of the options must also be considered e.g. whether a safety net type approach should be considered to further manage any risk. These assessments may vary on a case by case basis and the planning outcomes sought.

12.0 Further research recommendations

The following have been identified as potential further research topics. All were outside of scope of this research brief however they have been noted during the course of this research. Further research recommendations are as follows:

12.1 Case study

To further test the findings of this report it is recommended that a case study example be used to test whether different planning outcomes are achieved by utilising an effects-based or activities-based approach. During the research of this report it was noted that a large number of the more effects-based plans had undertaken plan changes to address temporary activities/signage. This may make a good case study example to further examine the planning outcomes achieved through an activities-based and effects-based approach.

12.2 Cumulative effects

Linked to temporary effects discussed in 12.1, a review of the undergraduate research project 2008 by Melissa Douche highlighted in her literature review findings that the effects based plan approach has an *"...inability to deal effectively with cumulative effects is an on-going unresolved issue"* (Hughes, 2000).

Further research is recommended on the ability of RMA plans to deal with cumulative effects, including an analysis of the different district plan provisions on this topic.

12.3 Commercial zone assessment

A review of the undergraduate research project 2008 by Melissa Douche concluded that Commercial zones were the most effects based. In the literature review it was identified by Auton, (1992) that *"Commercial zones are most suited to effects based approach as residential and industrial zones require higher degrees of certainty with regards to what activities can take place."*

An Auckland example was looked at by Cooper (2007) who noted that *"With globalisation, changing business trends and new technologies, the distinction between industrial and commercial was*

blurred. Thus mixed use zones were introduced, where a wide range of activities are permitted...This has resulted in the development of vibrant urban areas, which are in essence, diverse and ever changing“.

A further review of the approach taken for Commercial Activities across District Plans should be undertaken to determine whether this has any additional implications for future template development.

12.4 Property values

During this research there was a view noted that the decision to use an activity based planning approach is linked to community desire to protect areas with high property values. This was found in Melissa Douche’s research paper, where during an interview it was noted that residents of high property suburbs (North Shore was used as an example) seek greater certainty about activities that can occur in their neighbourhood. It is suggested that this want for certainty is driven by a need to protect the individual’s property values and that an ‘activity’ based plan meets this desire. The community’s desire is then expressed in through the plan making process under the RMA.

Further research into any direct links between property values and the “effects based” and “activity based” approach to planning documents, particularly within the main urban centres, would be insightful and useful to understanding the drivers of the different plan development approaches.

12.5 Second generation plans

One of the observations of this research is that plan provisions are changing as they move into their next generation phases. One interesting example is the Southland Operative District Plan, which is one of the more complex effects based Plans reviewed, however, the second generation Proposed Southland District Plan 2012 heads towards a more activities based approach.

The Waimakiriri District Plan leans more towards an effects-based approach and in the latest Proposed Retail District Plan Change background paper the types of activities establishing in zones has been reviewed with a focus on amenity. The report concludes “...that the relatively permissive “effects based’ approach to the management of the District’s Rural Zone in the District Plan is one of the factors that can be seen as encouraging the establishment of manufacturing and construction businesses in the Rural Zone.” Further work on the impact of this on amenity continues as “Given the above findings, it is considered that further investigation should be undertaken on appropriate plan provisions to manage the amenity impacts of retail and other commercial / industrial activities in the Rural Zone.”

Horowhenua District Council has more of an activity-based approach and weighed up the benefits and costs of the different approaches when undertaking the section 32 evaluation for the rural provisions for the Proposed Horowhenua District Plan. The relevant section of the document can be found [here](#). Overall, the evaluation concludes that continuing an activities based approach or “...distinguishing between ‘appropriate’ and ‘inappropriate’ land use activities” was the most appropriate way to achieve the proposed objective for rural areas for the Horowhenua District.

Further investigation into s.32 evaluations for second generation (and beyond) plans on the different options for the plan development could lead to greater understanding of the benefits and costs of these different approaches.

DRAFT

Appendix 1: Reformat content of an effects-based plan into an activities-based plan format

Example: Otorohanga District Plan Content (Land Use chapter, sections 1, 5, 6 and 7) placed within Ashburton District Plan (Section 4 – Residential Zone) format

Key

Blue text = extract from Otorohanga District Plan

Black text = headings from Ashburton District Plan

Red text – additional text inserted to assist understanding rules.

Zone Statement

Environmental Results Anticipated

District Wide Rules

The Council has set the following rules which apply throughout the district, and are independent of other standards and rules contained within the plan. Where Rules 1.3 through to 1.11 apply, there is no requirement for other rules in the plan to be referred to, except where these are specifically mentioned within the relevant rule being applied.

Where Rule 1.2 applies compliance with the permitted activity rules in the Land Use Chapter, with the exception of specified parking and traffic generation standards, is required.

Where Rule 1.12 applies to any activity, other than those set out in Rules 1.3 through to 1.11, all other standards and rules in Sections 2 – 23 of the Land Use Chapter shall continue to apply.

Any activity below which is also subject to National Environmental Standards relating to electricity transmission or telecommunications facilities are required to comply with the gazetted regulations.

Where compliance with permitted activity provisions of those regulations cannot be achieved, resource consent is required to be obtained. Council is responsible for observing and enforcing the provisions of any gazetted national environmental standard.

Where any activity is not provided for below, the relevant provisions of the remainder of the land use chapter or the relevant National Environmental Standard need to be referred to in order to determine whether resource consent is required.

Activities

Permitted

Temporary Activities:

Any activity defined as a temporary activity by this district plan is a permitted activity.

Existing Network Utilities

All lawfully established network utilities (excluding those to which Rule 1.4 applies) and their operation, upgrading and maintenance are permitted activities.

Electricity Transmission:

Any activity provided for and complying as a permitted activity within the National Environmental Standard for Electricity Transmission 2010 are permitted activities.

Radiofrequency Fields Associated with Telecommunications Facilities.

Any telecommunications facility which generates radiofrequency fields that are both provided for and comply as a permitted activity under the National Environmental Standard for Telecommunications Facilities 2008 are permitted activities.

Telecommunications Facilities Within Road reserve:

Any telecommunications facility within a road reserve which is provided for and complies as a permitted activity under the National Environmental Standard for Telecommunications Facilities 2008 are permitted activities.

Relationship of Rules to Regulations Gazetted under National Environmental Standards:

Any activity expressly provided for by regulations gazetted under any National Environmental Standard shall not, unless the regulation states otherwise, be subject to the standards or rules set out in Sections 3 – 24 of the Land Use Chapter of this plan.

McDonalds Lime Ltd – Lime Processing Site Old Te Kuiti Road.

That the existing lime processing activities undertaken on Lot 1 DPS 11958, Lots 2 and 3 DPS 14150 (CT: SA24D/1115), Section 97 Blk VIII Orahiri SD (CT: SA14A/720) and Lot 1 DP 333150 (CT: 243552) including the extent of buildings, storage of manufactured products, noise generation and traffic generation existing as at 16 September 2010 as set out in Appendix 19 are permitted activities.

Waipapa Core Site – Renewable Electricity Generation Policy Area.

That the electricity generation infrastructure and activities undertaken on Lots 1 and 3 DPS 89582 and their operation, upgrading and maintenance permitted activities and shall not be subject to the standards or rules set out in Section 4 – 23 of the Land Use Chapter of this plan.

Any new buildings or activities on Lots 1 and 3 DPS 89582 established after 16 September 2010 shall be subject to the standards or rules set out in Sections 4 – 23 of the Land Use Chapter of this plan.

Rule 1.10 Electricity, Gas and Telecommunications Infrastructure

Where not provided for by Rules 1.4, 1.5 or 1.6, the following activities are permitted activities,

provided that the standards in Section 21 of the Land Use Chapter are complied with:

(a) Overhead electricity or telecommunication lines outside of **Outstanding Landscapes** where they do not exceed a voltage of 110KV and/or a height of 7.0 metres; or

(b) Underground lines or pipes and associated trenching works; or

(c) Above ground structures for electricity, gas or telecommunications (excluding aerials) where:

(i) road or pedestrian safety is not compromised; and

(ii) they do not exceed 10m² in area

(iii) they are located within road reserve and do not exceed 2.4m in height; or

(iv) they are located outside road reserve and do not exceed 2.8m in height; or

(d) Electricity and telecommunications lines supported on overhead pole, the height does not exceed 7.0 metres; and:

(i) Are not located in an **Outstanding Landscape**; or

(ii) Does not extend above a ridgeline in the **Landscape of High Amenity Value**; or

- (iii) Does not extend above a significant ridgeline in the **Coastal Policy Area**.
- (e) Telecommunications masts either freestanding or attached to existing buildings where:
 - (i) In the **Rural Effects Area** outside any **Landscape Policy Area** or **Coastal Policy Area** does not exceed a height of 20 metres and;
 - (ii) Inside any **Landscape of High Amenity Value** does not exceed a height of 7.0 metres and does not extend above a ridgeline; or
 - (iii) Inside any **Coastal Policy Area** does not exceed a height of 7.0 metres and does not extend above a significant ridgeline; or
 - (iv) In the **Urban Services** or **Urban Limited Services Effects Area** does not exceed a height of 7.0 metres.

Any activity which is provided for in Rule 1.10 and does not comply with the standards in Section 21 of the Land Use Chapter shall be required to obtain resource consent in accordance with Rules 21.3, 21.4 or 21.5 of the Land Use Chapter

Contaminated Land

Any activity complying with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 is a permitted activity.

Earthworks

Any activity which complies with standards 5A and 5B is a permitted activity.
 Any activity which complies with standards 5A and 5C is a permitted activity.
 Any activity which complies with standards 5A and 5D is a permitted activity.
 Any activity which complies with standards 5A and 5F is a permitted activity.

Natural Hazards

Any activity that complies with **Natural Hazards** standards 6A – 6I is a permitted activity

Building Construction, Alteration or Relocation

Any building which complies with all of the standards 7A to 7G is a permitted activity.

Any relocated building which complies with all of the standards 7A to 7H is a permitted activity.

Controlled

Earthworks

Any activity which complies with standards 5A and 5E is a controlled activity. The Council will exercise control over the following matters:

- (a) measures to minimise erosion potential and land instability;
- (b) measures to minimise visual impact;
- (c) mitigation planting and revegetation of exposed soils; and
- (d) location of earthworks in relation to significant ridgelines.

Natural Hazards

Any activity which complies with Standards 6L, 6M or 6N is a controlled activity. Council will exercise control over:

- (a) ensuring that the new building or any additions following construction is able to be relocated from the property.

Building Construction, Alteration or Relocation

Any building which does not comply with site coverage specifications for Order 2A roads in the **Urban Services Effects Area** in standard 7A is a controlled activity. The Council will reserve control over:

- (a) the location and nature of landscaping and screening;
- (b) the design and location of vehicle access, manoeuvring and parking areas; and
- (c) the design / construction of stormwater disposal systems.

Discretionary Restricted

Natural Hazards

Any proposed building which complies with standard 6J or 6K is a restricted discretionary activity. The Council will restrict the exercise of its discretion to the following matters:

- (a) building location in relation to coastal wetlands including the consideration of alternative locations on the site where the building(s) could be located.
- (b) floor levels of habitable buildings.
- (c) the management of wastewater in relation to coastal wetlands.
- (d) ensuring that buildings and associated vehicle access will not be subject to material damage from natural hazards or future sea level rise.
- (e) Avoiding adverse effects on wetland areas.
- (f) Enhancement of wetland areas.

Building Construction, Alteration or Relocation

Any proposal that does not comply with standard 7H will be considered as a restricted discretionary activity. The Council will restrict the exercise of its discretion to:

- (a) the design and external appearance of the building;
- (b) the provision of ceiling and underfloor insulation.
- (c) the proposed timetable for completion of the work required to reinstate the exterior of the building and connections to services.
- (d) ensuring the external building finish is of a reasonable standard
- (e) bond provisions under section 108(1)(b) of the RMA

Any building which does not comply with site coverage specifications for Order 1 and 2 roads in the **Urban Services** and **Urban Services Effects Area** in standard 7A is a restricted discretionary activity. The Council will restrict its discretion to:

- (a) the location and nature of landscaping and screening;
- (b) the design and location of vehicle access, manoeuvring and parking;
- (c) the effects on neighbourhood character and amenity values; and
- (d) the design / construction of stormwater disposal systems.

Discretionary

Effects not Provided for:

Any activity that has, or is likely to have an adverse effect on the environment, being an effect which:

- (i) is not specifically provided for or referred to in this Plan; and
- (ii) was not in existence anywhere in the Otorohanga District on or before 16 September 2010;

is a discretionary activity.

Note: Any adverse effects that are already associated with other existing lawfully established activities undertaken elsewhere in the Otorohanga District are not subject to this rule.

Natural Hazards

Any activity that does not comply with one or more of standards 6A, 6B, 6C, 6E, or 6H is a discretionary activity.

Any activity that does not comply with standard 6L is a discretionary activity.

Electricity, Gas and Telecommunications Infrastructure

Any activity which does not comply with **permitted** earthworks rules is a discretionary activity.

Building Construction, Alteration or Relocation

Any building which does not comply with one or more of the standards, except where rules 7.3, 7.4 and/or 7.5 apply, will be considered as a discretionary activity.

Non-Complying

Earthworks

Any activity which does not comply with the **earthworks controlled activity rule** is a non-complying activity.

Electricity, Gas and Telecommunications Infrastructure

Any activity which is provided for in Rule 1.10 which is to be located in an **Outstanding Landscape** but does not comply with standard 2A of the Land Use Chapter is a noncomplying activity;

Natural Hazards

Any activity that does not comply with one or more of standards 6D, 6F, 6G, 6I, 6J, 6K or 6M is a non-complying activity.

Prohibited

Natural Hazards

Any activity that does not comply with standard 6N is a prohibited activity.

Standards

Site Standards

Earthworks Standards

- 5A** The earthworks:
- (i) are undertaken more than 5 metres from natural waterbodies except at the point of crossings or within the Waipapa Core Site – Renewable Electricity Generation Policy Area;
 - (ii) are to be more than 12 metres from the centreline of any existing high voltage electricity transmission line and/or support structure identified on the planning maps, except within the Waipapa Core Site – Renewable Electricity Generation Policy Area;
 - (iii) will involve exposing and working an area of less than 5000m²; and
 - (iv) will not be undertaken within the **Te Tahi Water Catchment Area**.
- 5B** The earthworks are to be undertaken within the **Urban Services** or **Urban Limited Services Effects Area** and:
- (i) involve the movement of less than 100m³ of soil and/or rock during any 12 month

- period; and
(ii) have a cut face or fill height of less than 2 metres.
- 5C** The earthworks are to be undertaken within the **Rural Effects Area** (including **Landscape of High Amenity Value (Hinterland)**), outside the **Coastal Policy Area**, **Outstanding Landscapes** and **Landscapes of High Amenity Value (Coastal)** and:
(i) involve the movement of soil and/or rock of less than 1000m³ during any 12 month period and have a cut face or fill height of more than 2 metres; or
(ii) involve the movement of soil and/or rock of less than 5000m³ during any 12 month period and have a cut face or fill height less than 2 metres.
- 5D** The earthworks are undertaken outside the **Coastal Policy Area**, **Outstanding Landscapes** and **Landscapes of High Amenity Value (Coastal)** and are for the purpose of:
(i) constructing a firebreak; or
(ii) constructing a fenceline; or
(iii) constructing a survey line; or
(iv) reconstructing or maintaining any road or track.
- 5E** The earthworks are undertaken within the **Coastal Policy Area** or an **Outstanding Landscape** and are for the sole purpose of track maintenance, fencing, establishing a building platform in association with any building consent or resource consent granted by Council, constructing a firebreak or survey line; and
(i) involve the movement of soil and/or rock of less than 1000m³ during any 12 month period; and
(ii) have a cut face or fill height less than 2 metres.
- 5F** The earthworks are undertaken within a **Landscape of High Amenity Value (Coastal)** and are for the sole purpose of track construction or maintenance, fencing, establishing a building platform in association with any building consent or resource consent granted by Council, constructing a firebreak or survey line; and
(i) involve the movement of soil and/or rock of less than 1000m² during any 12 month period; and
(ii) have a cut face or fill height less than 2 metres

Natural Hazards

- 6A** The property is located outside the **River Hazard Zone** and the floor levels of any habitable rooms are located 0.5 metres above the 1% annual exceedance probability flood level or if this level is not known the highest known flood level.
- 6B** The property is not served by a public reticulated wastewater system and on-site wastewater disposal is able to be undertaken in areas of the site which are not liable to flooding during a 1% annual exceedance probability level or if this level is not known the highest known flood level.
- 6C** The proposal involves the construction of a building and the land on which it is to be built has not previously been filled or is not proposed to be filled.
- 6D** The proposal involves the construction of a building and the land on which it is to be built is not, or is not likely to be subject to damage by erosion, subsidence, falling debris or slippage.
- 6E** It is not proposed to increase the floor area of any existing habitable building within the **River Hazard Zone**.
- 6F** It is not proposed to construct a habitable building within the **River Hazard Zone**.
- 6G** It is not proposed to construct a new building within any **Coastal Dunelands Development Setback**.
- 6H** The property is not located within the **Kawhia Township Hazard Risk Area**.
- 6I** It is not proposed to construct a sea control structure or other structures designed to control the erosion of land by the sea.
- 6J** It is proposed to construct a new building within any **Wetland or Hardshore Development Setback**; and it is demonstrated that:
(i) There are no alternative locations on the subject property where a building, complying with the requirements of Section 7 of the Land Use Chapter of this plan, could be built that is located outside the **Wetland Development Setback**; and

- (ii) The floor level of any habitable buildings is located above RL3.5 measured in terms of the Moturiki Datum
- 6K** Any additions to an existing building within any **Coastal Development Setback** do not increase the floor area of the building as it existed at 16 September 2010 by more than 50m².
- 6L** It is proposed to construct a new habitable building or an addition to an existing habitable building within the **Moderate Hazard Risk Area** at Aotea Township and it is demonstrated that the new building or the addition following construction will be relocatable.
- 6M** It is proposed to construct a new habitable building or an addition to an existing habitable building within the **High Hazard Risk Area** at Aotea Township and it is demonstrated that:
 - (i) the new building or the addition following construction will be relocatable; and
 - (ii) any proposed on-site wastewater management system is not located on the seaward side of the closest habitable building as measured from the seawall.
- 6N** It is proposed to construct a new habitable building or an addition to an existing habitable building within the **Extreme Hazard Risk Area** at Aotea Township and it is demonstrated that:
 - (i) the building following construction will be relocatable; and
 - (ii) any proposed on-site wastewater management system is not located on the seaward side of the closest habitable building as measured from the seawall.

Building Construction, Alteration or Relocation

<insert permitted standards table>

7B. Number of Dwellings

The total number of dwellings on a site including existing dwellings shall not exceed;

Effects area Site Size Number of dwellings

Rural Effects Area Up to 20 hectares 1

20 – 40 hectares 2

40 – 100 hectares 3

More than 100 hectares 5

Urban Services and Urban Limited

Services Effects Areas

N/A 1

7C. Buildings in Airspace above Roads and Footpaths

No new building or part of a building, structure or sign which requires a building consent, except a verandah, required by this Plan shall encroach into the airspace above footpath or road reserve.

7D. Verandahs

Urban Services and Urban Limited Services – Pedestrian Precinct only

All new buildings shall provide a verandah which shall extend from the face of the supporting building to a distance 450mm inside the vertical line drawn from the face of the kerb and for the full length of the building fronting the road. Verandah clearance from the finished level of the footpath shall be not less than 2.9 metres. All verandahs shall be provided with under-verandah lighting to enable the full length of the footpath in front of the site to be illuminated.

7E. Internal Noise Levels Waipapa Noise Control Boundary

It is proposed to construct a new building or undertake additions to an existing building to be used for a noise sensitive activity within the Waipapa Noise Control Boundary, and:

- (i) The new building or extension to an existing building is to be designed and constructed to ensure that noise received within any new habitable room created will not exceed 40dB Laeq(24 hour);

- (ii) If windows are required to be closed to achieve the noise limits the building shall be designed and constructed to provide an alternative means of ventilation in accordance with the Clause G4 of the New Zealand Building Code
- (iii) An acoustic design report prepared by an acoustics specialist confirming compliance with
- (i) or (ii) above is submitted to Council as part of any resource or building consent application.

7F. Internal Noise Levels Railway

It is proposed to construct a new building or undertake additions to an existing building to be used for a noise sensitive activity within 40 metres of a railway track, and:

- (i) The new building or extension to an existing building is to be designed and constructed to ensure that noise received within any new habitable room created will not exceed:
 - (a) 45dB Laeq(1 hour) **Urban Services Effects Area, Urban Limited Services Effects Area**
 - (b) 40dB Laeq(1 hour) **Rural Effects Area;**
- (ii) If windows are required to be closed to achieve the noise limits the building shall be designed and constructed to provide an alternative means of ventilation in accordance with the Clause G4 of the New Zealand Building Code
- (iii) An acoustic design report prepared by an acoustics specialist confirming compliance with (i) or (ii) above is submitted to Council as part of any resource or building consent application.

7G. Internal Noise Levels State Highways

It is proposed to construct a new building or undertake additions to an existing building to be used for a noise sensitive activity within 80 metres of a State Highway, and:

- (i) The new building or extension to an existing building is to be designed and constructed to ensure that noise received within any new habitable room created will not exceed:
 - (a) 45dB Laeq(24 hour) **Urban Services Effects Area, Urban Limited Services Effects Area**
 - (b) 40dB Laeq(24 hour) **Rural Effects Area**
- (ii) If windows are required to be closed to achieve the noise limits the building shall be designed and constructed to provide an alternative means of ventilation in accordance with the Clause G4 of the New Zealand Building Code
- (iii) An acoustic design report prepared by an Acoustic specialist confirming compliance with (i) or (ii) above is submitted to Council as part of any resource or building consent application.

7H. Relocated Buildings

Any building to be relocated on to any site and intended for use as a dwelling must:

- (i) have previously been designed, built and used as a dwelling; and
- (ia) have obtained building consent under the Building Act 2004 prior to relocation; and
- (ii) as part of the building consent application be accompanied by an inspection report prepared by an independent Licensed Building Practitioner (Design Minimum Competency 2) which identifies:
 - (a) all reinstatement works, including re-cladding and painting, required to be undertaken to the exterior of the building so that it is reinstated to a reasonable standard.
 - (b) works required to be undertaken to comply with the New Zealand Building Code requirement that the building is not dangerous or insanitary.
 - (c) proposed insulation to meet Clause H1 (energy efficiency) of the New Zealand Building Code (for Zone 2) to underfloor and ceiling insulation (compliance is to be ascertained in accordance with the compliance document for the New Zealand Building Code, Clause H1 Energy Efficiency – third Edition, or any equivalent alternative solution).
 - (d) the cost of undertaking all required works to be identified in the inspection report; and
 - (iii) be located on permanent foundations as approved by building consent and connected to infrastructural services within 2 months of being moved onto the site; and

- (iv) have all work to underfloor and ceiling insulation completed and certified by Council prior to occupation of the dwelling; and
- (v) have all reinstatement work completed within twelve months of the dwelling being relocated onto the site.
- (vi) the owner of the relocated building must certify to the Council that the reinstatement work will be completed within twelve (12) months of being relocated onto the site.

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Appendix 2: Examples of different language used in plan provisions

Example of positive language: Ashburton District Plan

4.8.2 Permitted Activities

The following activities shall be Permitted Activities, provided that they comply with all of the relevant Site and Zone Standards below, all relevant District Wide rules, and are not specifically listed as Discretionary, Non-Complying or Prohibited Activities:

- a) **Residential Activities;**
- b) **Home Occupations;**
- c) **Recreational Activities;** limited to:
 - outdoor recreation activities on public reserves;
- d) **Visitor Accommodation;** limited to:
 - home stays accommodating no more than 5 visitors at any one time.
- e) **Commercial Activities** in the Residential D zone; limited to group visits.
- f) **Farming;** limited to pastoral farming.

Example of negative language: Tasman Resource Management Plan

17.1.2.1 Permitted Activities (Land Use - General)

C19 5/10
Op 8/12

Any land use is a permitted activity that may be undertaken without a resource consent, if it complies with the following conditions:

Particular Activities

- (a) The activity is not one of the following:
 - (i) an activity that emits odour causing a nuisance beyond the site boundary;
 - (ii) intensive livestock farming or commercial boarding or breeding of animals;
 - (iii) an industrial or commercial activity, except:
 - as allowed as a home occupation; or
 - as provided for in rule 16.6.2.1(o)(i)
 - (iv) spray painting, motor vehicle repairs or dismantling, fibre-glassing, sheet-metal work, bottle or scrap storage, rubbish collection, motor body building, or fish or meat processing;
 - (v) a landing area or pad for helicopters (other than for medical or fire fighting purposes), an aircraft landing strip, aerodrome or airport;
 - (vi) a papakainga development, comprehensive residential development or compact density development;
 - (vii) clearance of more than 20 percent of indigenous coastal shrubland or coastal forest on CT 13A/194 or its successive titles between Cook Crescent and Rowling Road and in the Coastal Environment Area;
 - (viii) a community activity, where the total vehicle movements in combination with any other permitted activity on the site exceed 30 per day on any one day;
 - (ix) a home occupation, except as allowed by rule 17.1.2.2.

C22 2/11
Op 1/15

C19 5/10
Op 8/12

Example of neutral approach: New Plymouth District Plan

Rule No.	Parameter	Conditions Permitted	Standards and Terms		Matters over which control is reserved	Assessment Criteria
			Controlled	Discretionary		COUNCIL has restricted the exercise of its discretion to these matters for <u>land use consents</u>
CONSUMPTION OF LIQUOR						
Use of a SITE for the on-SITE consumption of liquor where a license is required under the Sale of Liquor Act 1989 (excluding TEMPORARY EVENTS)						
Res53		n/a	n/a	under all circumstances	n/a	1) The nature and scale of the activity and its compatibility with residential activity. 2) Noise (including from entertainment and patrons) and traffic generation effects. 3) The topography of the SITE and neighbouring areas. 4) The ability to remedy or mitigate any adverse effects of the activity by the layout or design of the SITE or BUILDINGS, or by the provision of landscaping or similar measures. 5) The adequacy of car parking on the SITE and its location in relation to neighbouring residential activities. 6) The days of the week which the premises are open and the frequency of entertainment activities.
SUBDIVISION						
Subdivision of land						
Res54	of an ALLOTMENT that requires access to an existing RIGHT OF WAY where there is an increase in the number of ALLOTMENTS being served by, or having ownership of, a RIGHT OF WAY	n/a	n/a	under all circumstances	1) Design and layout of the subdivision, including position of boundaries. 2) Development of the subdivision and SITES having regard to: - appropriate VEHICLE access; and - provision and location of services. 3) Protection of: - natural features; - OUTSTANDING and REGIONALLY	1) Where access is via a RIGHT OF WAY: - the extent to which the RIGHT OF WAY is capable of handling extra traffic or parking from the land use associated with the subdivision; - whether the RIGHT OF WAY could be reasonably upgraded to meet the extra usage; - whether the extra use of the RIGHT OF WAY places it beyond the scale of development which a RIGHT OF WAY could reasonably be expected to provide access; - effects on the amenity of ALLOTMENTS adjoining the RIGHT OF WAY; and - any adverse effects on the ROAD TRANSPORTATION NETWORK. 2) Where an ALLOTMENT includes a CONTAMINATED SITE, the extent of contamination, proposed use of the ALLOTMENT and mitigation measures proposed. 3) Effects of ALLOTMENT size and shape on the character of
Res55	minimum ALLOTMENT size, not including the area required to provide access to rear ALLOTMENTS: - where created solely for NETWORK UTILITIES, ROADS, reserves or access	n/a	no minimum	n/a		

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Appendix 3: Tools and resources

A number of resources and tools have been used to undertake this research:

Websites

Quality Planning Website: <http://www.qualityplanning.org.nz/index.php/plan-steps/structuring-plans/plan-structure-common-first-generation-types>

Internal Reports

Submissions on the Ministry for the Environment's (MfE's) public consultation on the "Improving our resource management system. A discussion document", dated 2013.

External Reports

Cooper, Z. (2007). *"Effects-based vs activity-based planning."* Planning in London, Issue 61, April-June 2007, pp 19-20.

<http://www.planninginlondon.com/assets/pil%2061%20assets/cooper%20pil%2061.pdf>

Douche, M. (2008). *"Zoning and the Resource Management Act – an investigation into the zoning approaches of local authorities"*. Bachelor of Planning Research project, School of Architecture and Planning, The University of Auckland.

Contains further references to:

Auton, L. (1992). *"How will District Plans affect your company?"* in *Managing the impact of the RMA*. Conference notes, 4-5 March 1992, Auckland, pp 4-6.

Peart, R. (2007). *Is the RMA Past its 'Use-by Date'?*. Environmental Defence Society, http://www.eds.org.nz/eresources/opinion.cfm?content_id=110717.

Hughes, P (2000). *The Contribution of the Resource Management Act 1991 to sustainability – a report card after eight years*. Resource Management Bulletin, Volume 3, Issue 13, pp 146-151.

Horowhenua District Plan, *"Shaping Horowhenua – Proposed Horowhenua District Plan: Section 32 Report – Rural"*, September 2012, pp. 5 - 6.

http://www.horowhenua.govt.nz/Documents/Consultation/Proposed%20District%20Plan/Section_32_Report_Rural_FinalPDF_20120913.pdf

Waimakariri District Council (2015). *"Waimakariri District Plan: Proposed Retail District Plan Change Background Paper"*, 15 May 2015, pp. 10.

http://www.waimakariri.govt.nz/Libraries/Planning_and_Resource_Consents/Waimakariri_District_Plan_Review_Report_Final.sflb.ashx