



Proposed Ōpōtiki District Plan

# Section 32 Evaluation Report

## Chapter 2 - Residential Zone

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## 1. Introduction

The Residential Zone comprises the residential areas of the Opotiki township, including those to the east and west of St John Street, and the Woodlands residential area. Residential areas have particular amenity values that require maintenance and enhancement.

The urban areas of the district have grown steadily in the last 15 years. There has been an identifiable increase in residential development in the Woodlands residential area. The District Plan needs to provide for additional residential areas to accommodate further expansion. These areas have been provided for in the Woodlands residential area, and in some of the coastal residential areas of the district. Most of the residential areas of the township are characterised by medium density, single-dwelling structures. However there are also a small number of multi-unit dwellings.

Characteristics that contribute to the character of the Residential Zone are:

- High concentration of residential activities.
- Continuity of the height of structures.
- Low noise levels, particularly at night.
- Low levels of glare and light spill.
- Safe and efficient transport networks.
- Low numbers of visual intrusions from signage.
- Areas of public open space.
- Variety of building design.
- Provision of service courts and living courts around residential buildings.
- Provision of on-site vehicle parking and manoeuvring area.
- Diversity of design and style.
- Limited intrusion from commercial activities.
- Vegetation and yards surrounding residential structures.

The objective, policies and rules of this section seek to maintain or enhance the amenity values of the Residential Zone. The resource management strategy implemented in this section will manage and control all proposed activities within the district's Residential Zone to ensure that the amenity values are not compromised.

Section 32 of the RMA requires Council to carry out an evaluation before a plan is publicly notified and before making a decision on submissions. The evaluation must examine whether each objective is the most appropriate way to achieve the purpose of the RMA and whether, having regards to their efficiency and effectiveness, the policies and other methods including rules are most appropriate or achieving the objectives. The evaluation must take into account the benefits and costs of policies, rules or other methods, as well as the risk of acting or not acting if there is uncertain or insufficient information about the subject. This report provides the required evaluation of the objectives, policies and methods including rules relating to activities in the Residential Zone.

## 2. Legislative Framework

### 2.1. Resource Management Act 1991 (RMA)

Section 5 of the RMA sets out the purpose of the RMA as follows:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Section 7 requires that regard is given to a number of matters relevant to activities in the Residential Zone, as follows: the efficient use and development of natural and physical resources, maintenance and enhancement of amenity values, and maintenance and enhancement of the quality of the environment.

Section 31 of the RMA gives Council the responsibility for managing any actual or potential effects of activities in relation to the control of the emission of noise and mitigation of the effects of noise.

### 2.2. Regional Policy Statement (RPS)

Section 74 of the RMA requires that the District Plan must give effect to the Operative RPS.

Objective	RPS Objective	Policies	Relevance
1	The adverse effects of odours, chemical emissions and particulates are avoided, remedied or mitigated so as to protect people and the environment.	AQ1A AQ 2A	Managing locations of residential zones in order to minimise the potential adverse effects from non-residential activities in adjacent zones and hence reverse sensitivity effects on the residential environment.
23	A compact, well designed and sustainable urban form that effectively and efficiently accommodates the region's urban growth.	UG 8B	The design and layout of residential dwellings in order to manage the overall amenity of the Residential Zone and accommodate growth.

## 3. Key Issues

The key issues to be addressed in relation to activities in the Residential Zone are as follows:

#	Issue	Commentary
1	The generation of adverse effects from non-residential activities undertaken within the zone may compromise the predominant residential character of the zone.	Expectations within the Residential Zone are that activities will be residential in scale and effect.

#	Issue	Commentary
2	There is a need to accommodate anticipated residential growth so that it will not result in adverse environmental effects.	Unplanned growth has the potential to lead to adverse effects. There is also a need to plan for the provision of servicing.
3	The potential for non-residential activities, traffic through routes, noise, dust and vibration from adjacent activities all have the potential to detract from the amenity of a residential area.	Higher amenity values are expected within a residential environment. Non-residential activities are likely to have higher volume of people creating higher traffic volumes, and higher noise levels.
4	Non-residential activities are likely to generate higher levels of vehicle movements than residential activities, which can affect the character of the zone.	The nature of non-residential activities creates higher volume of traffic that is often experienced during business hours.
5	Effects of land use activities, such as earthworks, may compromise the capacity of ponding areas, and that, compounded with the effects from flooding, may affect some residential areas of the Ōpōtiki township.	Ponding areas have been identified within the Ōpōtiki Township. These areas need to be maintained to avoid flooding effects within surrounding properties.
6	Residential <b>sites</b> need to be of a sufficient size, so that where on-site effluent treatment is required there will be no unacceptable adverse effects on the <b>site</b> , adjoining <b>sites</b> , or on the natural and physical resources of the District.	Minimum lot sizes for non-reticulated sites need to align with the Bay of Plenty Regional Council's On-site Effluent Treatment Plan. These sizes need to be large enough to cater for on-site effluent treatment systems so as to protect people's health and safety.

#### 4. Summary of Plan Provisions

4.1. Summary of relationship between issues, objectives, policies, rules and other methods.

Issue(s)	Objective(s)	Policy	Rules
2.1.1-6	2.2.1	2.2.1.1 – 5	2.7 Zone Standards, 2.3.2.2 Matters of control – Restricted Discretionary Criteria
2.1.2	2.2.2	2.2.2.1-2	2.7 Zone Standards, 2.3.2.2 Matters of control – Restricted Discretionary Criteria

#### 5. Changes Made to Operative District Plan Approach

The Operative District Plan has a stand-alone chapter for activities within the Residential Zone. The majority of the chapter is still relevant and has carried through into the Proposed Plan.

The Operative District Plan also included an introduction at the beginning of the Residential Zone section. This has been removed and included in this evaluation report, where relevant. Two new policies have been introduced.

#### 6. Evaluation – Appropriateness of Objectives

6.1. Objectives are to be assessed as to whether they are the most appropriate to achieve the purpose of the RMA. 'Most appropriate' has been interpreted to mean 'suitable'.

	Objectives	Appropriateness
1	A high quality residential environment where residential activities are undertaken in a manner that maintains and enhances the characteristics of the zone.	Addresses Issues 2.1.1 - 6 Section 5: The objective will achieve the purpose of the RMA by managing the use and development of residential land so as to provide for people and communities' social

	<b>Objectives</b>	<b>Appropriateness</b>
		well-being and for their health and safety.
2	To manage potential adverse effects of non-residential activities to ensure that the activities complement the amenity values of the District’s residential areas.	Addresses Issues 2.2..1, 3 & 4 Non-residential activities can contribute to a more liveable environment in the residential area provided that they are located where they do not diminish residential amenity and managed appropriately. This objective provides for people and communities’ overall well-being.

6.2 These objectives are considered to be the most appropriate methods of achieving the purpose of the RMA as they recognise the matters set out in Part 2 of the RMA, they give effect to the relevant objectives and policies in the RPS, and they will guide the appropriate management of activities within the Residential Zone.

## **7. Evaluation – Achieving the Objectives**

### **7.1. Section 32(1)(b) Requirements**

Section 32(1)(b) of the RMA requires examination of whether the provisions (being policies, rules and other methods) in the Proposed Plan are the most appropriate way to achieve the objectives. The appropriateness must be considered in relation to:

- “(i) identifying other reasonably practicable options for achieving the objectives; and*
- (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
- (iii) summarising the reasons for deciding on the provisions”.*

The assessment must be at a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects of the Proposed Plan. The Operative District Plan contains an existing chapter, Chapter 13, to address the effects of activities in residential areas. The approach taken in the Proposed District Plan is to amend the provisions only where necessary to:

- Clarify the provisions;
- Improve consistency across the Plan;
- Respond to new statutory requirements, such as through a national or regional policy statement;
- Delete unnecessary text; and/or
- Update references.

The provisions need to be examined in more detail only where there are new statutory requirements through a national policy statement or regional policy statement or a change in activities or the way they are managed.

In this case, a detailed re-examination of the plan provisions is not considered to be necessary because the plan provisions (being policies and rules) have not materially changed and are generally

well understood and accepted as appropriate mechanisms to achieve environmental outcomes sought through the District Plan.

## 7.2. Efficiency and Effectiveness

In assessing the efficiency and effectiveness of the proposed provisions, the RMA requires the Council to *“identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for:*

- (i) economic growth that are anticipated to be provided or reduced; and*
- (ii) employment that are anticipated to be provided or reduced”.*

If practicable, the benefits and costs referred should be quantified.

## 7.3. Reasonably Practicable Options

In terms of reasonably practicable options, as discussed in 7.1 above, the plan provisions have been generally carried forward. The reasonably practicable options are therefore considered to be:

Options	Response
Do nothing	<ul style="list-style-type: none"> <li>▪ No policy or rule in the plan.</li> <li>▪ Rely on other non-statutory methods as set out in the chapter.</li> <li>▪ BOPRC plan provisions address the issue and duplication is unnecessary.</li> </ul>
Status quo	<ul style="list-style-type: none"> <li>▪ Carry forward the policy or rule without change or with only minor amendment.</li> </ul>
New policy or provision	<ul style="list-style-type: none"> <li>▪ Address an issue that is not addressed or is ineffective in the operative plan.</li> <li>▪ Give effect to a new requirement in a NPS or RPS.</li> <li>▪ Align with plans or other statutory documents.</li> </ul>

The plan provisions have been generally carried forward with amendments to clarify and improve consistency across the plan and with other documents. The status of activities and standards to be applied are well known to the community and well understood.

The “Do Nothing” option has not been selected as it is not acceptable where a policy or rule is required to achieve the purpose of the RMA and the objectives set out above. Either the status quo (with or without minor amendments for clarification) or a new provision have been assessed as reasonably practicable options.

## 7.4. Policies and methods

### 7.4.1. Efficiency and Effectiveness

In assessing the efficiency and effectiveness of the proposed provisions, the RMA requires the Council to “*identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for:*

- (i) *economic growth that are anticipated to be provided or reduced; and*
- (ii) *employment that are anticipated to be provided or reduced”.*

If practicable, the benefits and costs referred should be quantified.

### 7.4.2. Efficiency

The proposed policies will be efficient in achieving the objectives as they give clear direction for potential activities in the Residential Zone and guidance for decision makers.

### 7.4.3. Effectiveness

#### Objective 2.2.1

<b>Issue Relationship</b>	2.1.1 - 6
<b>Objective 1</b>	A high quality residential environment where residential activities are undertaken in a manner that maintains and enhances the characteristics of the Residential Zone.
<b>Policies</b>	<p><b>2.2.1.1</b> Avoid, remedy, or mitigate the adverse environmental effects associated with residential expansion.</p> <p><b>2.2.1.2</b> Avoid, remedy or mitigate the adverse effects of activities within the Residential Zone so that the quality and characteristics of the zone are maintained.</p> <p><b>2.2.1.3</b> Management of the potential effects of activities on ponding areas so that their effect on the capacity of ponding areas is minimal.</p> <p><b>2.2.1.4</b> Management of activities in flood prone areas so that the effects of natural hazards can be mitigated through the use of protection measures such as stop banks, minimum floor levels, or design.</p> <p><b>2.2.1.5</b> To ensure adequate sunlight and daylight enters dwellings.</p>
<b>Methods</b>	<p>Methods to achieve the policy will include:</p> <ul style="list-style-type: none"> <li>▪ Zone standards that apply to all permitted and controlled activities – these include standards for noise, height, daylight protection, yards, landscaping, parking, relocation of buildings.</li> <li>▪ Requiring resource consent applications for non-residential activities.</li> <li>▪ Controls on signage.</li> </ul>
<b>Benefits</b>	
<b>Environmental Benefits</b>	The policies are structured to implement Objective 2.2.1’s overall intent to achieve a high quality residential environment where the characteristics identified in section 1 of this report are enhanced.
<b>Economic Benefits</b>	
<b>Social Benefits</b>	

<b>Cultural Benefits</b>	<p>Policy 2.2.1.2 directly supports the objective and identifies that activities with higher levels of effects will be allowed subject to controls.</p> <p>There are limited economic benefits as the purpose of the zone is to provide for living with limited non-residential activities.</p> <p>Policy 2.2.1.5 provides for well-designed dwellings to ensure light enters the dwelling.</p>
<b>Costs</b>	
<b>Environmental Costs</b>	<p>Costs for design of non-residential buildings to maintain characteristics of the zone and ongoing management.</p> <p>Potential higher cost of applications for non-residential activities.</p> <p>Reduced commercial development opportunities.</p>
<b>Economic Costs</b>	
<b>Social Costs</b>	
<b>Cultural Costs</b>	
<b>The Risk of Acting or Not Acting</b>	<p>The risk of not acting may lead to development that does not reflect the purpose of the zone and may compromise the overall intent. The risk of not acting is not consistent with the RMA. There is sufficient information known about the consequences.</p>
<b>Overall Assessment</b>	<p>The inclusion of the policy is supported as enabling the purpose of the RMA to be achieved, including sections 5 and 7 matters.</p>

## Objective 2.2.2

<b>Issue Relationship</b>	2.2.1, 3 & 4 and 3
<b>Objective 2.2.2</b>	To manage the potential adverse effects of non-residential activities to ensure that the activities complement the amenity values of the district's residential areas.
<b>Policies</b>	<p><b>2.2.2.1</b> Design of non-residential activities to retain a residential character, as far as practical, including compatible lighting, noise, landscaping and screening requirements.</p> <p><b>2.2.2.2</b> Management of the effects of non-residential activities on the transport network to ensure safety for motorists and pedestrians.</p>
<b>Methods</b>	<p>Methods to achieve the policies will include:</p> <ul style="list-style-type: none"> <li>▪ Zone standards that apply to all permitted and controlled activities – these include standards for noise, height, daylight protection, yards, landscaping, parking, relocation of buildings.</li> <li>▪ Requiring resource consent applications for non-residential activities.</li> <li>▪ Assessment criteria.</li> </ul>
<b>Benefits</b>	
<b>Environmental Benefits</b>	<p>The policies manage non-residential development at a scale that supports people's health and safety and social well-being while not detracting from the intent of the Residential Zone to provide for</p>
<b>Economic Benefits</b>	
<b>Social Benefits</b>	

<b><i>Cultural Benefits</i></b>	residential amenity.
<b><i>Costs</i></b>	
<b><i>Environmental Costs</i></b>	Regulatory cost to developing non-residential activities in the residential zone because these activities require resource consent.
<b><i>Economic Costs</i></b>	
<b><i>Social Costs</i></b>	
<b><i>Cultural Costs</i></b>	Restrictions on size and scale of non-residential activities may result in lost opportunities.
<b><i>The Risk of Acting or Not Acting</i></b>	The risk of not acting may lead to non-residential activities within the zone that do not maintain residential amenity, there may be social and health and safety costs. The risk of not acting is not consistent with achieving the purpose of the RMA. There is sufficient information known about the consequences.
<b><i>Overall Assessment</i></b>	The inclusion of the policy is supported as enabling the purpose of the RMA to be achieved, including sections 5 and 7 matters.