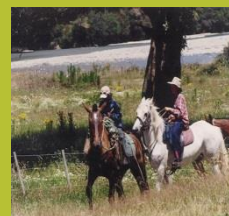


Opotiki

District Plan Review



Proposed Ōpōtiki District Plan

Section 32 Evaluation Report

Chapter 18. Natural Hazards

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1. Introduction

The Ōpōtiki District Council is responsible for the management of natural hazards within the Ōpōtiki District, along with the Bay of Plenty Regional Council. The Council also has a role in communicating information outside the Resource Management Act 1991 (RMA) planning framework. This includes the provision of information through a Land Information Memorandum (LIM) and Project Information Memorandum (PIM).

Those natural hazards that have the potential to affect the district include:

- River flooding - inundation and erosion hazards
- Coastal hazards - inundation and erosion hazards
- Earthquake hazards - ground shaking and liquefaction
- Volcanic hazard - ash fall and lahars
- Storm surge - combination of low barometric pressure on-shore wind, and high tide events leading to coastal inundation.
- Tsunami
- Landslide and land erosion hazards
- Wind
- Fire.

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 regard 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 natural hazards.

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.*

Sustainable management of the land resource is fundamental to achieving the purpose of the RMA as set out in section 5.

While aspects of the management of the coastal environment are a matter of national importance, natural hazards are not identified as a matter of national importance. Section 7 – other matters includes matters to which regard must be given, including:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development and protection of natural and physical resources, shall have particular regard to –

- (i) *The effects of climate change.*

Section 31(1) of the RMA gives Council the responsibility for:

“The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of –

- (b)(i) The avoidance or mitigation of natural hazards”*

2.2. National Policy Statements

The Council must give effect to National Policy Statements in the District Plan under sections 55 and 75(3)(a) of the RMA. The New Zealand Coastal Policy Statement is the only one relevant to this chapter.

New Zealand Coastal Policy Statement (NZCPS)

The NZCPS guides local authorities in their day to day management of the coastal environment. The purpose of the NZCPS is to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. The preamble of the statement includes the following description:

“The coastal environment has characteristics, qualities and uses that mean there are particular challenges in promoting sustainable management: ...

- *activities in the coastal environment are susceptible to the effects of natural hazards such as coastal erosion and tsunami, and those associated with climate change; ...*

The coastal environment is facing the following key issues:

- *The ability to manage activities in the coastal environment is hindered by a lack of understanding about some coastal processes and the effects of activities on them; ...*
- *continuing coastal erosion and other natural hazards that will be exacerbated by climate change and which will increasingly threaten existing infrastructure, public access and other coastal values as well as private property; ...”*

The NZCPS provides guidance for addressing issues relating to Natural Hazards. The relevant objective is Objective 5:

To ensure that coastal hazard risks taking account of climate change, are managed by:

- *Locating new development away from areas prone to such risks*
- *Considering responses, including managed retreat, for existing development in this situation; and*
- *Protecting or restoring natural defences to coastal hazards.*

The relevant policies are

- Policy 24: Identification of coastal hazards
- Policy 25: Subdivision, use and development in areas of coastal hazard risk
- Policy 26: Natural defences against coastal hazards
- Policy 27: Strategies for protecting significant existing development from coastal hazard risk.

2.3. Regional Policy Statement

Section 74 of the RMA requires that the District Plan must give effect to the Operative RPS. The natural hazards section of the RPS was made Operative in July 2016.

The proposed plan includes provisions to manage natural hazards and Council is working closely with the Bay of Plenty Regional Council on a project to manage natural hazard risk in the District.

The RPS identifies the following issues as being regionally significant:

1. *Potential for natural hazard events to generate major or catastrophic consequences*
2. *Availability of natural hazard risk information*
3. *Existing risks from natural hazards*
4. *Co-ordinating agencies' roles to avoid and mitigate natural hazards and manage residual risk.*

The relevant objective and policies are listed below:

Objective 31	Policies
Avoidance or mitigation of natural hazards by managing risk for people's health and safety and the protection of property and lifeline utilities.	Policy NH1B Policy NH2B Policy NH3B Policy NH4B Policy NH5B Policy NH6B Policy NH7B Policy NH8B Policy NH9B Policy NH10B Policy NH11B Policy NH12A Policy NH13C Policy NH14C

The intention of the RPS is to achieve a risk based approach which avoids increasing natural hazard risk and encourages reducing natural hazard risk. Policy NH 13C clarifies the roles and responsibilities of the BOPRC and city and district councils for area-based natural hazard identification and risk assessment. BOPRC has responsibility for most of the susceptibility mapping, except for urban flooding, landslip and debris flow that is the responsibility of the Council.

3. Other Legislation

3.1. Civil Defence Emergency Management Act 2002

Section 64 sets out duties of local authorities, which include:

- (1) *A local authority must plan and provide for civil defence emergency management within its district.*
- (2) *A local authority must ensure that it is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency.*

4. Key Issues

The key issues to be addressed in relation to natural hazards are as follows:

#	Issue
1	Ōpōtiki Township is subject to flood occurrences, with particular areas of the urban area subject to ponding of flood waters.
2	Accelerated land degradation has resulted from inappropriate land practices, such as clearing of steep slopes, overgrazing or over cropping of land, and poor subdivision and development design. Resultant effects include increased sediment run-off, soil structure instability, destabilisation of hill slopes, and increased downstream flooding.
3	There is potential for damage to existing and future coastal and river settlements from the effects of coastal erosion and inundation.
4	There is a need for mitigation measures to be taken by those persons wishing to locate on areas susceptible to natural hazards, particularly river inundation and coastal hazard areas.
5	Some parts of the District are unsuitable for development due to coastal erosion and land erosion.
6	There is an increased risk of some areas in the District from flooding due to the inability of watercourses to handle run-off from intensive rainfall, and inadequate on-site ponding.
7	In some instances the effects of natural hazards can be mitigated by the acquisition of esplanade areas adjoining inland and coastal water bodies.
8	The ponding areas within the Ōpōtiki Township that act as natural flood water catchment areas need to be protected from development that may decrease their effectiveness.
9	The need to locate and design new subdivision, use, and development so that the need for hazard protection works is avoided.
10	There is increased risk in some areas of the District from fire, particularly where there is plantation forestry and a limited capacity of water for fire-fighting purposes.

5. Changes Made to ODP Approach

- 5.1 The ODP has a chapter dedicated to Natural Hazards, Chapter 7. This approach has been largely carried into the Proposed Plan. Changes made have made activities in areas identified as being susceptible to coastal hazards a discretionary activity instead of a controlled activity. Minimum floor levels have been increased to align with the Building Act – 2 percent annual exceedance probability flooding event. This rule sits within the relevant zone chapters.
- 5.2 Some minor amendments have also been made to the objectives, policies, rules and other methods to clarify provisions where unclear, delete unnecessary text and update references.

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	Ensuring that the effects of natural hazard occurrence within the District are avoided or mitigated when making resource management decisions.	Addresses Issues 1, 3, 4, 5, 6, 7, 8, and 9. Section 5: The objective will achieve the purpose of the RMA by seeking that the effects of natural hazards are avoided or mitigated at the time of decision making on applications for resource consents. Section 6: There are no relevant matters of national importance addressed through this objective. Section 7: The objective will enable the effects of climate change through natural hazard risk to be considered through decision making. Section 8: The objective is consistent with the principles of the Treaty. RPS: It gives effect to Objective 31 of the RPS and associated policies
2	Encourage the use of sustainable land management practices that assist in avoiding and mitigating the effects of natural hazards on the land and coastal environment.	Addresses Issues 2, 4, 5, 6, 7, 8, 9, and 10. Section 5: The objective will achieve the purpose of the RMA by seeking sustainable management of the physical land resource so that the effects of natural hazards are avoided or mitigated at the time of decision making on applications for resource consents. Section 6: The objective supports the avoidance of inappropriate subdivision, use and development which could adversely affect the natural character of the coastal

		<p>environment.</p> <p>Section 7: The objective will enable the efficient use and development of the physical land resource and address the effects of climate change.</p> <p>Section 8: The objective is consistent with the principles of the Treaty.</p> <p>RPS: It gives effect to Objective 31 of the RPS and associated policies</p>
3	An informed community aware of the natural hazards that can occur in the District, including the likely frequency, scale, and intensity anticipated from these hazards.	<p>Addresses Issues 1, 2, 3, 5, 6, & 9.</p> <p>Section 5: The objective will achieve the purpose of the RMA by increasing awareness in the community of natural hazard risks and effects to support sustainable management of the physical land resource.</p> <p>Section 6: There are no matters of national importance addressed.</p> <p>Section 7: The objective will enable the efficient use and development of the physical land resource and address the effects of climate change.</p> <p>Section 8: The objective is consistent with the principles of the Treaty.</p> <p>RPS: It gives effect to Objective 31 of the RPS and associated policies</p>

6.2 These objectives are considered to be the most appropriate methods of achieving the purpose of the RMA. However they do not currently give effect to the recently operative natural hazards section of the RPS.

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”.*

These are set out below.

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 7, to address the effects of Natural Hazards

and this approach has been carried forward into this Plan. As set out in section 5 above, the approach taken in the Proposed 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;
- Update references.

Only where there are new statutory requirements through a national policy statement or regional policy statement have new provisions been introduced. A change in activities or the way they are managed requires examination of the provisions in more detail.

Therefore, as 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, a detailed re-examination of the plan provisions is not considered to be necessary.

7.2 Reasonably Practicable Options

In terms of reasonably practicable options, as discussed 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"> ▪ No policy or rule in the plan. ▪ Rely on other non-statutory methods as set out in the chapter ▪ BOPRC plan provisions address the issue and duplication is unnecessary
Status Quo	<ul style="list-style-type: none"> ▪ Carry forward the policy or rule without change or with only minor amendment
New policy or provision	<ul style="list-style-type: none"> ▪ Address an issue that is not addressed or is ineffective in the operative plan ▪ Give effect to a new requirement in a NPS or RPS ▪ Align with plans or other statutory documents

7.1.5 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. The proposals are concluded to be the only reasonably practicable options to evaluate.

7.3 Policies and methods

7.3.1 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.

7.3.2 Efficiency

The proposed policies will be efficient in achieving the objectives as they give clear direction for managing natural hazards and guidance for decision makers.

7.3.3 Effectiveness

Objective 18.2.1

Issue relationship	1,3,4-9
Objective 18.2.1	Ensuring that the effects of natural hazard occurrence within the District are avoided or mitigated when making resource management decisions.
Policies	
18.2.1.1	Control activities and the location of buildings to avoid or mitigate the effects of natural hazards.
18.2.1.2	Require detailed site investigations prior to subdivision, use, or development of land subject to or likely to be subject to natural hazards.
18.2.1.3	Apply conditions on subdivision and resource consents to mitigate adverse effects of natural hazards from the use and development of land.
18.2.1.4	Ensure that the ponding areas of the Ōpōtiki Township are kept free from activities that affect the effectiveness of the ponding areas.
18.2.1.5	Require esplanade reserves or esplanade strips where appropriate as a mechanism to mitigate potential effects from natural hazards.
18.2.1.6	Avoid new development in areas at risk of coastal hazards in the Ōhiwa Spit Coastal Hazard Overlay Area.
Methods	<ul style="list-style-type: none"> ▪ Activity status for activities ▪ Assessment criteria ▪ Other methods ▪ Permitted activity status for structures that have a high floor level
Benefits	

Environmental benefits	<ul style="list-style-type: none"> ▪ Provides clear guidance through objectives, policies, rules and zoning. ▪ Sets clear expectations as to what requires mitigation ▪ Clear directives to provide for people and community health and safety. ▪ No specific cultural benefits identified.
Economic Benefits	
Social Benefits	
Cultural Benefits	
Costs	
Environmental Costs	<ul style="list-style-type: none"> ▪ Risk of adverse environmental effects is addressed through the policy ▪ Some opportunity remains for activities to be adversely affected by natural hazards ▪ May be increased application costs associated with management of activities ▪ The policy may result in higher costs for landowners and operators through resource consent application costs ▪ Some activities may be limited where land will be affected by natural hazards. ▪ No specific cultural costs identified
Economic Costs	
Social Costs	
Cultural Costs	
Risk of Acting or Not Acting	Risk is a factor of potential consequences and the likelihood of a consequence occurring.
	<p>The risk of not acting may lead to inappropriate development on land that is susceptible to natural hazards. There may be consequentially loss of social and economic opportunities.</p> <p>The risk of not acting is not consistent with achieving the purpose of the RMA.</p>
Overall Assessment	The inclusion of the provisions above is supported as enabling the purpose of the RMA.

Objective 18.2.2

Issue relationship	2, 4, 5, 6, 7, 8, 9, & 10
Objective 18.2.2	Encourage the use of sustainable land management practices that assist in avoiding and mitigating the effects of natural hazards on the land and coastal environment.
Policies 18.2.2.1 18.2.2.2 18.2.2.3	Encourage land management practices that reduce soil loss. Locate and design subdivision, land use, and development within coastal areas so that the need for hazard protection works is avoided. Where subdivisional land use activities are threatened by a coastal hazard, the following options will be considered: <ol style="list-style-type: none"> 1. Abandonment of buildings and other assets. 2. Relocation of buildings and other assets. 3. Alteration of buildings to reduce vulnerability (including the raising of floor levels). 4. Soft protection works, including beach replenishment. 5. Protection works (protection works should only be permitted where they are the best practicable option for the future).
Methods	<ul style="list-style-type: none"> ▪ Discretionary status for buildings within the ASCH line area ▪ Requirement to undertake an assessment of coastal hazard risk for

	<p>discretionary activities.</p> <ul style="list-style-type: none"> ▪ Non-complying status for structures in the Ōhiwa Spit Coastal Hazard Overlay Area ▪ Other methods that encourage soft protection.
Benefits	
Environmental benefits	<ul style="list-style-type: none"> ▪ Environmental benefits from better land management practices ▪ Less need for hard protection structures and therefore there will be economic benefits. ▪ Potential to reduce the threat to lives and property. ▪ No specific cultural benefits identified.
Economic Benefits	
Social Benefits	
Cultural Benefits	
Costs	
Environmental Costs	<ul style="list-style-type: none"> ▪ No specific cultural costs identified ▪ Some activities may be limited where activities are threatened by coastal hazard. ▪ Some pieces of land maybe considered unsuitable for development and opportunities for development maybe lost.
Economic Costs	
Social Costs	
Cultural Costs	
Risk of Acting or Not Acting	Risk is a factor of potential consequences and the likelihood of a consequence occurring.
	<p>The risk of not acting may lead to development in inappropriate locations that require significant funds to protect them. There may be consequentially loss of social and economic opportunities.</p> <p>The risk of not acting is not consistent with achieving the purpose of the RMA.</p>
Overall Assessment	The inclusion of the provisions above is supported as enabling the purpose of the RMA to be achieved.

Objective 18.2.3

Issue relationship	1, 2, 3, 5, 6, & 9
Objective 18.2.3	An informed community aware of the natural hazards that can occur in the District, including the likely frequency, scale, and intensity anticipated from these hazards.
Policies	
18.2.3.1	Ensure that all Council databases on natural hazards are kept as current as possible.
18.2.3.2	Provide the community and resource consent applicants with all available information that Council holds on natural hazards within the District.
18.2.3.3	Council will undertake a programme of natural hazard risk assessment for the District. As this natural hazard information is obtained it will be inserted into the District Plan by way of variation or through the Plan Change process.
Methods	<p>Methods to give effect to the policies relate to:</p> <ul style="list-style-type: none"> ▪ Other methods
Benefits	
Environmental benefits	<ul style="list-style-type: none"> ▪ Provides a holistic approach to hazard management.

Economic Benefits	<ul style="list-style-type: none"> ▪ Benefits to applicants as some information will be available.
Social Benefits	
Cultural Benefits	
Costs	
Environmental Costs	<ul style="list-style-type: none"> ▪ No environmental costs identified ▪ Economic costs will be incurred to undertake plan changes. ▪ No cultural costs identified
Economic Costs	
Social Costs	
Cultural Costs	
Risk of Acting or Not Acting	Risk is a factor of potential consequences and the likelihood of a consequence occurring.
	<p>The risk of not acting may lead to inappropriate development on land that is susceptible to natural hazards. There may be consequentially loss of social and economic opportunities.</p> <p>The risk of not acting is not consistent with achieving the purpose of the RMA.</p>
Overall Assessment	The inclusion of the provisions above is supported as enabling the purpose of the RMA to be achieved.