



**HOROWHENUA
DISTRICT
COUNCIL**

HOROWHENUA DISTRICT PLAN

PROPOSED PLAN CHANGE 22 Outstanding Natural Features and Landscapes

SECTION 32 ANALYSIS

September 2009

Horowhenua District Council

**Outstanding Natural Features And
Landscapes**

SECTION 32 ANALYSIS

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ENVIRONMENTAL MANAGEMENT SERVICES
Limited

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1 INTRODUCTION

Horowhenua District Council has undertaken a review of the assessment of landscape values in order to refine the identification of outstanding natural landscapes, outstanding natural features and high amenity landscapes.

As a result of this work the existing District Plan policies and rules have been reviewed in terms of their efficiency and effectiveness and a Plan Change has been developed to amend the existing Plan provisions.

As part of this process an evaluation of the proposed Plan Change is to be undertaken in accordance with the requirements of section 32 of the Resource Management Act.

This requires consideration of

- the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and
- whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

This report therefore documents the:

- back ground to the Plan Change,
- efficiency and effectiveness of the existing provisions,
- issues considered in preparing the Plan Change and
- evaluation of the Plan Change in accordance with Section 32.

2 REVIEW CONTEXT

Section 6 of the RMA requires that Councils in their District Plans recognise and provide for matters of national importance. One of these matters is “the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development”.

In addition, section 7 requires that Councils in their District Plans shall have particular regard to amongst other matters “the maintenance and enhancement of amenity values (7c) and the quality of the environment (7f). Some Landscapes and natural features contribute to the amenity of the District but may not fall within the status of “outstanding”.

The existing District Plan currently addresses issues and policies relating to outstanding natural features and landscapes in Objective 4.3 and Policies 4.12 to 4.14. The thrust focuses on identifying outstanding values, protecting them and raising community appreciation of these values. The Plan identifies a methodology for identifying outstanding landscapes.

Schedule 4 identifies the Outstanding Natural Landscapes and Natural Features but these have not been mapped. There are 23 Outstanding Landscapes and 8 Outstanding Natural Features. Some areas are common to both lists and overall the areas appear to cover a large part of the District.

Planning Maps 32 and 33 show a different scope of “Outstanding Landscape Area” which are labelled as:



- Tararua Forest Park
- Foxton Ecological Area
- Coastal Buffer Area
- Manawatu River Estuary
- Coastal Environment
- Manakau Downlands

Other methods that the Plan commits Council to include consultation with tangata whenua on relevant applications, development of landscape guidelines and promotional material.

Within the existing rules there is a limited number of rules that apply specifically to areas within outstanding natural features and landscapes. These are:

- 19.2.5 A permitted activity condition in relation to effluent disposal on any outstanding natural landscape or natural feature.
- 19.4.2 Subdivision Controlled matter in relation to (ii) the disturbance of land and effects of earthworks on any outstanding natural features or landscapes and (iii) adverse effects of subdivision on outstanding landscape or natural feature.
- 19.5 Limited Discretionary Activity rule for network utilities on outstanding landscapes and natural features.
- 19.6 (a) and (b) Discretionary Activity rule for buildings structures and the subdivision of land in the Coastal Buffer Area and “all earthworks and new roading” in Outstanding Landscapes and on Natural Features. Note that “Earthworks” is defined in the plan as excavation or fill exceeding 1 metre depth or height.
- 22.1.10 Network Utilities permitted activity condition requiring that no masts, pylons or power poles shall be located on an outstanding natural feature (note this does not include landscapes).

More recently Council has notified Plan Changes 20 and 21. Both of these are very significant plan changes and have a relationship to landscape issues. PC 20 establishes new policies and rules associated with rural subdivision based around “domains”. Subdivision approved as a controlled activity is more tightly controlled. In particular, subdivision (other than boundary adjustments) is a non complying activity in the Coastal Environment, Coastal Lakes, Hill Country, Moutoa-Opiki Plains and Kuku landscape domains. Assessment criteria are specified for all subdivision applications which cover a wide range of potential adverse effects.

Subdivision is a precursor to enabling activities permitted within the rural zone such as a residential dwelling on each lot. However, the Plan Change does not change the existing provisions applying to activities such as primary production activities, structures, network utilities etc.

Plan Change 21 sits along side the more strict regime for general rural subdivision by providing a planned approach to low density rural residential growth through specific green belt zoned land for which structure plans have been prepared.



The focus of review for this Plan Change is squarely on section 6(b) Outstanding Landscapes and Natural Features and & section 7(c) maintenance and enhancement of amenity values as they relate to landscape.

It is important to stress that while landscape matters overlap onto other section 6 matters, these other matters are not addressed by this Plan Change process but will be subject to more comprehensive consideration as part of the overall Plan Review.

The scope of the Plan Change therefore does not review:

- Preservation of natural character of coastal environment - 6(a)
- Protection of significant indigenous vegetation and habitats of indigenous fauna 6(c)
- Public access to coast, lakes and rivers 6(d)
- Maori cultural issues 6(e)
- Historic heritage 6(f)

It also does not address matters under section 7 apart from landscape amenity. Notably section 7 includes the benefits from development of renewable generation.

Notwithstanding this, the methodology required for landscape assessment review does require assessment of criteria that relate to some of the above matters including:

- Natural science values
- Value to tangata whenua.
- Historical associations

These are part of the Pigeon Bay Criteria which the Environment Court developed and have since received broad general acceptance. Indeed they are intended to be referred to in the amended One Plan in order to achieve methodology consistency across the region.

3 EFFECTIVENESS AND EFFICIENCY REVIEW

There is considerable scope for confusion and poor administration of the plan in relation to Outstanding Natural Landscapes and Features. In particular Schedule 4 does not line up with the Planning Maps.

Overall Planning Maps 32 and 33 show somewhere between 40% and 50% of the District is considered to be Outstanding Natural Landscape. Schedule 4 includes some additional areas which would further increase this.

Case law since the Plan was prepared has identified specific criteria for assessment and evaluation of landscapes and natural features. The areas currently stated in the Plan were not evaluated on the currently accepted "Modified Pigeon Bay" criteria and, therefore, may not be able to be defended if challenged.

Outstanding has been considered by the Environment Court to mean "conspicuous, eminent, especially because of excellence" or "remarkable" in (*WESI v QLDC 2000*). This has been widely acknowledged by professionals as meaning that an outstanding landscape was an "exceptional" and "remarkable" landscape. It needs to have a "wow" factor.

Currently the scope of land recognised as outstanding landscape is extensive. As a result the necessary Plan approach has been one of a low level of protection for a large area.



The existing protection relies heavily on the discretionary activity rule relating to earthworks and roading. The latter being not well defined and probably does not include private accessways, driveways and tracks.

Earthworks rules are difficult to enforce and monitor. Often it relies on the public bringing earthworks that may not be consented to the Councils attention. However by this point the landscape and landform effects may not be able to be avoided. This is particularly the case with fragile dune areas. The evidence suggests that there has been a degree of non consented earthworks associated with farm development in some areas and particularly associated with dairy farm development and accommodating spray irrigation systems.

Similarly there are some uncertainties and lack of clarity about the way in which the network utilities apply and the related definitions.

The existing plan provisions are therefore not considered to be either efficient or effective in relation to protecting outstanding natural landscapes and natural features from the effects of use and development.

4 NEW LANDSCAPE ASSESSMENT

A new landscape assessment has been undertaken by Nicky Treadwell of Treadwell Associates. This is documented in a separate report titled "*Assessment of the Outstanding Landscape & Natural Features of the Horowhenua District*".

The assessment considers the entire district and builds on the landscape character analysis undertaken for Proposed Plan Change 20.

The landscapes of the District have been reassessed to bring the Plan in line with case law and to apply a consistent landscape evaluation methodology. The aim of this has been to identify robustly the outstanding natural landscapes and features of the district and also other landscapes that are of high amenity to the community.

The assessment has taken into account,

- Natural science features,
- Aesthetic values,
- Expressiveness,
- Transient values,
- Shared and recognised values,
- Value to tangata whenua, and
- Historical associations.

In summary the assessment has concluded that:

1. The Coastal Landscape is a High Amenity Landscape within which are a number of Outstanding Natural Features including the coastal foredunes and estuaries.
2. The Coastal Lakes domain is a high amenity landscape within which are Outstanding Natural Features including Lake Papaitonga, Lake Horowhenua and the Hokio Stream, and Moutere Hill.
3. The Foxton Dunefields domain is an Outstanding Natural Landscape based around the dune landforms.



4. The Tararua Ranges above the native bush line is an Outstanding Natural Landscape and the Tararua foothills and the Manukau Downlands are High Amenity Landscapes.
5. The Manawatu, Ohau and Tokomaru Rivers and the Mangaore and Waikawa Streams and their respective margins are all high amenity landscapes.

5 RESOURCE MANAGEMENT RISKS

The principal threats to these values are from the effects of:

- Development facilitated by subdivision
- Large buildings or inappropriately designed and sited buildings in each landscape type.
- Structures such as transmission pylons, telecommunication towers and wind farm turbines.
- Earthworks for developments and access.
- Removal of native vegetation

Plan Change 20 puts in place a robust regime of control in relation to subdivision. However, a large number of subdivision consents have been granted over the last ten years. For many of these built development has yet to occur. Where these are located within outstanding or high amenity landscapes there is the risk that development authorised by the subdivision consent is not ultimately appropriate to the landscape values in which it is located. Notably Plan Change 20 includes a Rural Residential Design Guide which is designed to promote low impact design within rural landscapes.

In this regard the visibility of development varies across the district. In the Tararua foothills, for example, development can be expected to be, in many cases, highly visible. Whereas in the dune and coastal landscapes development may be concealed by existing landforms or forestry areas. The risks of adverse effects therefore varies according to the landscape character.

Exotic forestry development does affect landscape values in certain circumstances. However, it can also create amenity values for recreation and facilitate soil conservation. The existing Plan rules require replanting of exotic forestry after harvesting. This may not always be the best option in terms of landscape values.

Network utilities and more recently intensive developments such as wind farms are a significant threat to outstanding and high amenity landscape values and policies and rules need to be developed that set a clear policy framework in relation to these threats. The reality is that wind generation efficiency is entirely dependent on wind strength and reliability of that wind strength. Hence wind farms need to be located often in elevated positions as is evident from the New Zealand experience to date.

Agricultural development can also be a threat to outstanding landscape values either through inappropriate siting of large functional buildings or earthworks for access tracks and irrigation.

Removal of indigenous vegetation is a further important risk but this is managed by existing Plan rules.

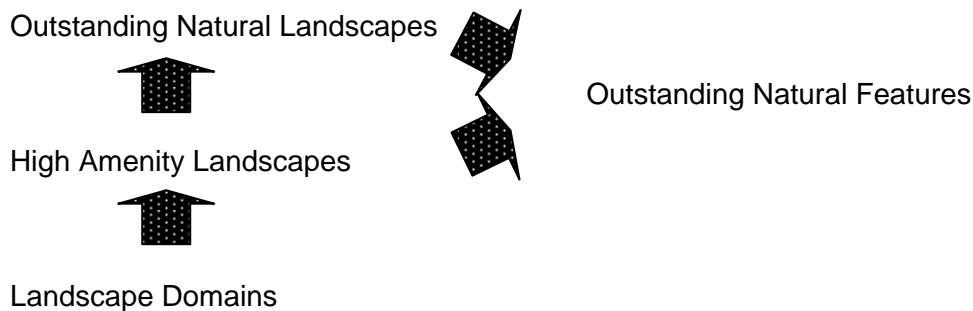


6 POLICY ISSUES

6.1 THE POLICY HIERARCHY

The scope of this review extends beyond outstanding natural landscapes and features to what we are terming high amenity landscapes. This provides something of a hierarchy of landscape value and sensitivity.

At the bottom level is the district wide classification into domains which forms the fundamental basis of Plan Change 20. Some of these domains contain high amenity landscapes and ranked above that are outstanding landscapes. Outstanding natural features may be located in any of these areas but in this case are limited to being located within the Coastal Lakes High Amenity Landscape and the Coastal High Amenity Landscape.



6.2 THE COASTAL LANDSCAPE

The landscape assessment has identified an extensive area of foredunes as an Outstanding Natural Feature. This excludes the existing settlements and the Waitarere Forest. However, it does include extensive areas of exotic forestry woodlot and pasture.

The coastal landscape is complicated in policy terms by the need for the Plan to protect the natural character of the coastal environment which clearly overlaps with landscape issues. However, this will be addressed further in the full review of the District Plan. As an interim measure the option of reducing the ONF to a narrower dune band similar to the existing “coastal buffer” has been considered and is evaluated in the section 32 evaluation below.

It is proposed to include a definition as part of this Plan Change to define the Coastal Foredune Outstanding Natural Feature rather than a defined area or line on the Planning maps.

6.3 THE TARARUA RANGES OUTSTANDING NATURAL LANDSCAPE

This landscape is defined extensively by the existing native bush line and therefore excludes pasture and forestry. In front of this area is the Tararua foothills and Manakau Downlands which have been classed as High Amenity Landscapes. Given that the foothills provide the landscape foreground and setting for the higher ranges there is potential for development occurring within the High Amenity Landscape to have an adverse effect on the higher Outstanding Natural Landscape despite none of this land being directly affected. This is particularly important as the main settlements of the District look across the foothills towards the range and this is one of the dominant landscape characteristics of the District. The proposed policies therefore signal that weight should be given to indirect effects on Outstanding Natural Landscapes as well as direct effects.

6.4 STRUCTURES IN THE LANDSCAPE

The Rural Subdivision Design Guide, prepared as part of Proposed Plan Change 20, provides advice on how to minimise the impacts of built form and structures in the different landscapes of the District. This is a helpful tool for managing high amenity landscapes where development of buildings may be acceptable depending on the detailed siting and design considerations.

6.5 POTENTIAL FOR POSITIVE EFFECTS

The District has significant areas of exotic forestry particularly in the coastal landscape, the foothills of the Tararuas and in the Foxton Dunefields. In some cases the value of the forestry in terms of soil conservation and stability means that replanting after harvesting is the most sustainable land use. However, there may also be cases where harvesting or partial harvesting provides other opportunities to accommodate other land uses and re-establish the original vegetation cover. This may be native bush in the foothills or dune vegetation towards the coast.

It is important that benefits for the sustainability of the natural and physical resource of the district particularly where they affect a High Amenity or Outstanding Natural Landscape are given a degree of weight and this can be signalled in the Plan policy.

6.6 EXISTING LAND USE CHARACTERISTICS

The areas identified as High Amenity Landscapes are largely areas used for productive farming and forestry. Further, the Foxton Dunefield which has been assessed as an Outstanding Natural Landscape due to the significance of the dunefield formation and associated landscape values is also used for productive farming and forestry. While it is important to provide a degree of protection of the landscape values in these areas it is also important not to impose unreasonable constraints on the existing agricultural economic activities.

It is appropriate to recognise the need for this balance in the Plan policies as well as in the crafting of rules.

6.7 USE OF NON COMPLYING ACTIVITIES

The Horowhenua District Plan was originally developed without classifying any activities as non complying activities. This was an enabling approach encouraging parties to carefully consider how adverse effects might be mitigated even in sensitive environments and landscapes and to assess proposals on the basis of the section 104 tests.

This also reflected the nature of first generation District Plans where there was not the resources to develop coherent policy on all issues covered by the Plan. In my opinion the use of non complying activities is appropriate where the Act signals that effects must be avoided or resources protected. Similarly non complying activity status is appropriate where the policy proposed requires a protection or avoidance approach to be taken in specific areas such as Outstanding Natural Landscapes.

Parliament developed proposals in the RMA Streamlining and Efficiency Bill 2009 to phase out non complying activity status from the Act. However, the Select Committee has recommended that this change be deleted from the amendment.



7 THE STATUTORY REQUIREMENTS

Before explaining the proposed Plan Change it is important to ensure that the statutory requirements of the Act have been met in the development of the Plan Change and these are therefore summarised below.

They are:

- *A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, a direction given under section 25A (2), its duty under section 32, and any regulations.*
- *In addition to the requirements of section 75 (3) and (4), when preparing or changing its district plan, a territorial authority shall have regard to –*
 - (a) *Any –*
 - (i) *Proposed regional policy statement; or*
 - (ii) *Proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and*
 - (b) *Any –*
 - (i) *Management plans and strategies prepared under other Acts; and*
 - (ii) *Repealed;*
 - (iia) *Relevant entry in the Historic Places Register; and*
 - (iii) *Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing), -*

to the extent that their content has a bearing on resource management issues of the district; and
 - (c) *The extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.*
- (2A) *A territorial authority, when preparing or changing a district plan, must-*
 - (d) *take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on resource management issues of the district; and*
 - (e) *recognise and provide for the management plan for a foreshore and seabed reserve adjoining its district, once the management plan has been lodged with the territorial authority, to the extent that its contents have a bearing on the resource management issues of the district.*
- *In preparing or changing its district plan, a territorial authority must not have regard to trade competition.*

In terms of those section 74 requirements, the following is noted:

S. 74 (1): There are no relevant section 25A directions that have to be considered. The contents of the proposed Plan Change fall squarely within the scope of the Council's functions



under section 31. The proposed Plan Change is assessed as being consistent with the sustainable management purpose of the Act and in particular the provisions of Part 2 of the Act for the reasons earlier. The section 32 evaluation is contained in section 9. There are no relevant regulations under the Act.

S. 74 (2): Section 75 (3) states that:

- *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.*

The only national policy statement current is the Proposed National Policy Statement On Electricity Transmission which is relevant to the requested Plan Change in some respects. The New Zealand Coastal Policy Statement is also relevant to this inland site. These are considered in Section 10.

The Regional Policy Statement for Manawatu Wanganui was made operative in August 1998. A new proposed Regional Policy Statement is included in the One Plan which was publicly notified in May 2007 and hearings of submissions are well underway. The provisions of both are considered in Section 11.

S. 74 (2): Section 75 (4) states that:

- *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).*

There are no relevant water conservation orders. The relevant regional plan issues are considered in Chapter 7.

S. 74 (2) (b) (i): A number of strategies prepared under other legislation are considered to be potentially relevant and are discussed in Section 12.

S. 74 (2) (b) (iia): There are a number of relevant entries in the Historic Places Register and these have been taken into account in the landscape assessment undertaken by Nicky Treadwell.

S. 74 (2) (b) (iii): There are no relevant fisheries or customary fishing regulations.

S. 74 (2) (c): The Plan Change addresses the whole District and therefore does interface with adjacent local authorities.

S. 74 (2A): There are no relevant iwi planning documents that have been lodged with Horowhenua District Council.

8 THE PROPOSED PLAN CHANGE

The proposed Plan Change effectively builds on Proposed Plan Change 20 which puts in place tougher hurdles for rural subdivision and applies design guide controls. The Plan Change already includes assessment criteria that are relevant to the consideration of high amenity and



outstanding landscape values and similarly the design guide will be an effective tool to promote high quality development in these areas.

However, the scope of Proposed Plan Change 20 is limited to subdivision and ensuing development permitted by subdivision. Proposed Plan Change 20 has not therefore reviewed and amended provisions relating to:

- Development of buildings where there is no subdivision involved.
- Structures including network utilities
- Earthworks

The key features of the proposed Plan Change 22 are:

- Replacement of Section 3 Issue 4.3 with the new policies and explanation
- Replacement of Planning Maps 32 and 33 with new Planning Maps showing the revised Outstanding Natural Landscapes, Outstanding Natural Features and High Amenity Landscapes.
- Addition of further rules to ensure there is adequate protection and scrutiny of development in these area
- Addition of assessment criteria as appropriate.

The new Section 3 Issue 4.3 explains the review of landscape status and sets out the revised objective and policies. The objective and policies reflect the policy issue discussion above and are as follows:

OBJECTIVE 4.3:	<i>Ensure that subdivision, use and development does not adversely affect outstanding natural landscapes and features and also has regard to high amenity landscapes.</i>
POLICY 4.12:	<i>Ensure that specified outstanding natural landscapes and features are protected from inappropriate subdivision, use and development.</i>
POLICY 4.13:	<i>Ensure that subdivision, use and development in high amenity landscapes does not detract from the amenity values of that landscape.</i>
POLICY 4.14:	<i>Avoid the development of large buildings on outstanding natural landscapes and outstanding natural features.</i>
POLICY 4.14A	<i>Ensure that dwellings on high amenity landscapes have low impact siting and design and have particular regard to the Horowhenua Rural Subdivision Design Guide.</i>
POLICY 4.14B	<i>Have regard to any positive effects associated with landscape and biodiversity restoration.</i>
POLICY 4.14.C	<i>Have regard to the ability of existing land uses within landscape areas to accommodate subdivision, use and development without adverse landscape effects.</i>
POLICY 4.14D	<i>Have regard to the potential adverse effects on the landscape values of an outstanding natural landscape or feature from development on a nearby high amenity landscape.</i>
POLICY 4.14E	<i>Have regard to the needs of primary production activities within the Foxton Dunefields Outstanding Natural Landscape.</i>



Policies are important in two respects. Firstly they set the overall course of action to achieve the objective. They then are the key to setting the methods to ensure that those policies can be achieved.

Secondly the policies are a specific matter of assessment when determining resource consents and can give direction to what weight should be given to some matters over others.

The key changes related to the maps are as follows:

- There is a significant reduction in the overall area of the District that has been given the status of Outstanding Natural Landscape in particular:
- A large part of the Coastal Environment and Coastal Lakes Landscape Domains, which are currently Outstanding Landscapes, are now classed as High Amenity Landscape.
- The Manakau Downlands has been changed from Outstanding Landscape to be a High Amenity Landscape
- The Tararua Ranges Outstanding Landscape has been enlarged to cover all native vegetation areas and remains an Outstanding Natural Landscape.
- The Tararua Foothills have been classed as High Amenity Landscape.
- The Manawatu, Ohau and Tokomaru Rivers and the Waikawa and Mangaore Streams and their margins have been identified as High Amenity Landscapes.
- The Hokio Stream has been classed an Outstanding Natural Feature.
- A large number of other Outstanding Landscape areas listed in Schedule 4 but not mapped have been removed.

The proposed changes to the Rural zone rules are shown below and in the Plan Text Amendments document.

19.5 LIMITED DISCRETIONARY ACTIVITIES

- (a) *Any permitted or controlled activity which fails to comply with any condition in Clauses 19.2 and 19.4 and Sections 20-24 of this Plan shall be a limited discretionary activity, except for activities that are specified as discretionary activities or non complying activities in rules 19.6 and 19.9 below.*

The matters over which the Council will exercise its discretion in granting or refusing any application shall be limited to the effect of the particular non-compliance on the environment.

All other aspects of the activity shall comply with any other applicable performance conditions or standards.

- (b) *Buildings on land shown as High Amenity Landscape on Planning Maps 32 and 33, except for primary production buildings that comply with the permitted activity conditions. The exercise of Council's discretion shall be restricted to design, siting, external appearance and landscaping.*
- (c) *Earthworks on land shown as High Amenity Landscape on Planning Maps 32 and 33. The exercise of Council's discretion shall be restricted to the effects of the earthworks.*
- (d) *Earthworks and buildings except for primary production buildings that comply with the permitted activity conditions not on a dune within the Foxton Dunefields Outstanding Natural Landscape. The exercise of Council's discretion shall be restricted to design, siting, external appearance, associated landscaping and effect of earthworks.*



(Note PC 20 introduces a new section numbered 19.5.1)

19.6 DISCRETIONARY ACTIVITIES

Any activity that is not a permitted, controlled, limited discretionary, or non-complying activity is a discretionary activity. In addition the following are discretionary activities:

- (a) Community Signs on State Highways 1 and 57.*
- (b) Network utilities with a height of more than 8 metres located on a High Amenity Landscape.*
- (c) Network utilities with a height of more than 8 metres located in the Foxton Dunefields Outstanding Natural Landscape on land that is not a dune.*

19.7 Conditions For Discretionary Activities

The conditions specified for permitted activities shall, where appropriate, be referred to as a guideline when determining whether or not any resource consent should be granted and any condition of such consent.

19.9 Non Complying Activities

19.9.3 Outstanding Natural Landscapes and Features.

Any building, network utility with a height of more than 3 metres or earthworks on land on any land shown or specified as Outstanding Natural Landscape or Outstanding Natural Feature on Planning Maps 32 and 33, except for land within the Foxton Dunefields Outstanding Natural Landscape that is not a dune.

So what does this mean. Firstly, there is an increase in control over buildings, earthworks and network utilities in High Amenity Landscape areas. Buildings and earthworks are to be classed a limited discretionary activities where discretion is limited to design, external appearance siting and landscaping. This means that where subdivision is not necessary or has already occurred buildings within High Amenity Landscapes will require a resource consent and the Design Guide will be used to help assess applications. Primary production buildings are specifically excluded. So this rule would not apply to a new dairy shed but would apply to a new farm dwelling. Earthworks in much of this area is currently classed as a discretionary activity and is reduced to a limited discretionary activity. However network utilities with a height greater than 8 metres will be classed as a Discretionary Activity where all relevant matters can be considered in determining the application in accordance with section 104 of the Act.

Secondly, a more strict regime is proposed for the more limited areas that are now classed as Outstanding Natural Landscapes and Features. This involves the coastal foredunes, Tararua Ranges and the margins of the important rivers, streams and lakes.

Thirdly, changes are also proposed to Section 22 of the Plan which sets out the permitted activity conditions for Network Utilities. Currently any mast, pylon or power pole on an outstanding natural feature is a limited discretionary activity but this does not extend to outstanding natural landscapes.



The amended permitted activity conditions are shown below.

22.1.5 Undergrounding of Services

In urban zoned areas, where practicable, new electricity and telecommunication supply lines shall be reticulated underground.

In areas of Outstanding Natural Landscapes, Outstanding Natural Features and High Amenity Landscapes specified or identified on Planning Maps 32 and 33 and any Significant Natural Area, new electricity and telecommunications and cable television supply lines shall be reticulated underground where this will not adversely affect the values of the natural area.

22.1.7 Size of Network Utilities

A network utility building shall not have a floor area in excess of 50m² and a height in excess of the following (excluding pole-mounted street lights):

- 15 metres in the Rural Zone
 - 8 metres in a High Amenity Landscape
 - 3 metres in an Outstanding Natural Landscape or Outstanding Natural Feature
- 8.5 metres in the Residential 1,2,3,4 and Commercial 2 Zones
- 15 metres in the Commercial 1
- 15 metres in the Industrial Zone

22.1.8 Height of Network Utility Masts, Pylons, Towers Aerials and other Structures.

Apart from 22.1.10 below, all masts, pylons, towers, aerials and other structures associated with the network utilities shall not exceed the following maximum height requirements:

- 20 metres in the Rural Zone, other than Outstanding Natural Landscapes and Features and High Amenity Landscapes .
- 13.5 metres in the Residential Zones
- 13.5 metres in the Commercial 2 Zone
- 20.0 metres in the Commercial 1 Zone
- 20.0 metres in the Industrial Zone

22.1.9 Maintenance, Replacement and Upgrading Network Utilities

- (i) *The conditions in the plan do not restrict the maintenance, replacement or upgrading of existing network utilities.*
- (ii) *Upgrading in the context of network utilities means an improvement, increase in capacity or improved security, provided that the effects of the activity will be the same or similar in character, intensity and scale to those which existed before the upgrading was proposed.*

22.1.10 Outstanding Natural Landscapes and Features and High Amenity Landscapes

No masts, pylons, towers, aerials or other structures associated with network utilities with a height of more than 3 metres shall be located on land shown or specified as an Outstanding Natural Landscape or an Outstanding Natural Feature or have a height of more than 8 metres on a High Amenity Landscape shown on Planning Maps 32 and 33.

Except on the Foxton Dunefields Outstanding Natural Landscape where no masts, pylons, towers aerials, or other structures associated with network utilities of more than 3 metres in height shall be located on land that is a dune or more than 8 metres in height on land that is not a dune.

A number of the changes proposed in this section are largely to provide greater clarity of meaning. The material changes are:



Network utility buildings are limited to a height of 8 metres in High Amenity Landscapes and 3 metres in Outstanding Natural Landscapes or Features.

The height of masts, pylons, towers, aerials and other structures are also limited to the same heights as buildings.

Non compliance with these conditions means a consent will be classed as a discretionary activity in the High Amenity Landscape and a non complying activity in the Outstanding Natural Landscapes and Features.

So the key changes here are that network utilities over 8 metres on high amenity landscapes and 3 metres on Outstanding Landscapes and Features will be subject to more specific control involving discretionary and non complying respectively. Any control right now is reliant on there being associated earthworks resulting in discretionary activity class.

Criteria for assessing land use applications have been added to section 24A and these will follow the assessment criteria proposed in Plan Change 20. Finally some minor changes to definitions have been made for clarity and a new definition of “dune” and “primary production building” introduced.

9 SECTION 32 EVALUATION

Section 32 requires that an evaluation be undertaken. The evaluation must examine:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act.
- Whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objectives

The evaluation must also take into account:

- (a) the benefits and costs of policies, rules, or other methods; and
- (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

9.1 APPROPRIATENESS OF THE OBJECTIVE

The proposed objective is:

Ensure that subdivision, use and development does not adversely affect outstanding natural landscapes and features and also has regard to high amenity landscapes.

The foundations of this objective lie in section 6 and 7 within Part 2 of the Act. Part 2 is the lynch pin around which the whole Act revolves. The Council has no discretion not to provide for the requirements of section 6 which are identified as being of national importance.

The alternatives are to remain with the existing objective “Recognise and provide for the protection of outstanding natural features and landscapes” or some other objective wording. Any objective must relate as a minimum to section 6(b) of the Act. The objective as worded brings together outstanding natural landscapes and features with the high amenity landscapes. It places weight on preventing adverse effects to outstanding natural landscapes and features but applies a more flexible management approach to high amenity landscapes.



The existing objective focuses on recognising and providing for protection. This is not inappropriate, but a greater focus on ensure that a particular outcome is achieved is preferred. Furthermore, the existing objective does not extend to high amenity landscapes.

On balance it is considered that the objective proposed is the most appropriate way of achieving the purpose of the Act.

9.2 APPROPRIATENESS OF THE POLICIES AND METHODS

The focus on evaluation of the policies is whether they are appropriate as a course of action to achieve the objective

The benefits, costs, efficiency, effectiveness and overall appropriateness of the policies are considered below.

- A. *Ensure that specified outstanding natural landscapes and features are protected from inappropriate subdivision, use and development.*
- B. *Ensure that subdivision, use and development in high amenity landscapes does not detract from the amenity values of that landscape.*
- C. *Avoid the development of large buildings on outstanding natural landscapes and outstanding natural features.*
- D. *Ensure that dwellings on high amenity landscapes have low impact siting and design and have particular regard to the Horowhenua Rural Subdivision Design Guide.*
- E. *Have regard to any positive effects associated with landscape and biodiversity restoration.*
- F. *Have regard to the ability of existing land uses within landscape areas to accommodate subdivision, use and development without adverse landscape effects.*
- G. *Have regard to the potential adverse effects on the landscape values of an outstanding natural landscape or feature from development on a nearby high amenity landscape.*
- H. *Have regard to the needs of primary production activities within the Foxton Dunefields Outstanding Natural Landscape.*

Policy A is an important policy that sits at the heart of achieving the objective. While the key word is “inappropriate” there is a strong presumption that development of anything more than small scale structures will require careful scrutiny. This is in the context that the area of outstanding landscapes has been significantly reduced with a number being replaced by high amenity landscapes.

Policy B is the mirror policy for high amenity landscapes focussing on ensuring that changes do not detract from the amenity that those landscapes provide. The focus here is on managing and mitigating effects rather than protection. This matches with Policy D which seeks to ensure low impact development using the Rural Subdivision Design Guide. While there will be some cost associated with implementation of this policy there will be significant benefits for the quality of the landscape.

Policies E and F are targeted at efficiency and effectiveness of the overall policy by recognising that there may be special benefits attached to certain proposals associated with landscape rehabilitation or alternatively there is potential for proposals to be so well integrated into the existing landscape that they do not result in adverse effects. Similarly recognising that there



may be indirect effects on outstanding landscapes and features is an important component of achieving efficiency and effectiveness.

The relationship between costs and benefits have been a particular focus with policy H. This policy first seeks to acknowledge that there could be significant costs if controls are applied across the whole of the Foxton Dunefields while achieving little overall benefits. Similarly further work is required on the Coastal Environment Policy which will be undertaken as part of the Plan Review. Therefore, in order to achieve an improved cost benefit performance an interim approach to the coastal outstanding landscape has been proposed.

The methods proposed focus on Plan rules in conjunction with the promotion of high quality design through the Rural Subdivision Design Guide. A wider suite of methods will be further considered as part of the Plan Review.

The proposed rules focus on:

- Limited Discretionary consents for activities permitted in the rural zone but located in high amenity landscapes focussing on design siting external appearance and landscaping.
- Discretionary Activity consents for activities not permitted in the rural zone (no change made).
- Non Complying Activity consents anything more than small buildings and network utilities on Outstanding Natural Landscapes and Features.

The alternatives that need to be considered include:

1. Do nothing ie leave the rules unchanged.
2. Class the changes currently proposed for limited discretionary and non complying as full discretionary.
3. Use controlled activity status for high amenity landscape controls.
4. Amend the outstanding natural landscapes to include wider coastal landscape.

OPTIONS	EFFECTIVENESS / EFFICIENCY	BENEFITS	COSTS
Proposed rules	These use the range of consent classes available to match the issues and risks to the class of consent. This should ensure efficiency and effectiveness.	The rules structure should have the benefits of ensuring that the objectives and policies are achieved. While case law indicates the Part 2 matters can't be used to refuse a restricted discretionary consent, however, this will pick up a number of building consents on land subject to recent subdivision consents	There will be costs associated with restricted discretionary applications however the benefits for amenity will be significant. Similarly, there are costs associated with not enabling development in Outstanding Natural Landscapes and features and the non complying activity class is appropriate to



OPTIONS	EFFECTIVENESS / EFFICIENCY	BENEFITS	COSTS
		and this does not justify full discretionary status.	use where there is a strong protection policy required.
Do Nothing	The existing provisions have a narrow scope and lack clarity. This legal uncertainty is inefficient and may be ineffective.	Delay until Plan Review would have the benefit of enabling a more integrated approach in areas such as the coastal environment.	There are costs associated with a separate process however these are outweighed by the costs of not having effective provisions in place.
Maximum use of Full Discretionary	This is not efficient where there are specific areas of discretion that are appropriate. This would be inefficient for existing subdivisions who would effectively have to go through a second full process. Similarly earthworks raise specific effects which are capable of being addressed through this class of consent.	Full discretionary would allow all issues to be taken into account however all required issues have been specified in the limited discretionary provisions. This would allow Part 2 matters to be taken into account in refusal of any consent.	There is potential for greater costs associated with full discretionary.
Controlled activity for High Amenity Landscapes	Experience suggests that controlled activities are not effective for issues being addressed in this Plan Change because the discretion is limited to setting conditions.	The benefits for applicants is greater certainty as consent cannot be declined. However this does result in some risks to landscape values.	The processing costs are not likely to be significantly greater.
Wider Coastal Outstanding Natural Landscape (ONL)	A wider coastal ONL would include large areas of agricultural land and forestry woodlots. It would not be efficient or effective to apply non complying status to developments in these areas. Earthworks and buildings will still be a restricted discretionary activity.	There would not be any material benefits of this approach other than retaining consistency with the landscape assessment.	There would be significant costs for rural activities within this area.

10 NATIONAL POLICY STATEMENTS

The National Policy Statement on Electricity Transmission is in force and is directly relevant because this Plan Change does relate to the control of network utilities which includes electricity transmission. The Plan Change does not change the existing provisions which provide for the operation, maintenance and minor upgrading of existing lines.

Policy 8 states that “In rural environments, planning and development of the transmission system should seek to avoid effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.” The Plan Change as proposed is consistent with this policy

The Proposed New Zealand Coastal Policy Statement 2008 has been the subject of Board of Enquiry hearings but at this stage remains a proposed NPS which cannot be given any weight. However, notwithstanding this Policy 32 links outstanding natural features and landscapes into responsibility to preserve the natural character of the coastal environment. The landscape assessment undertaken by Nicky Treadwell is consistent with the approach required by this Policy. A more integrated review of coastal environment provisions will be undertaken as part of the overall Plan review.

The Proposed National Policy Statement on Renewable Electricity Generation has no direct relevance to this Plan Change but will require consideration at the time of full Plan Review when policy on renewable generation will be considered.

11 REGIONAL POLICY STATEMENTS

The existing Regional Policy Statement (RPS) has Objective 8 which is “to protect natural features and landscapes which are outstanding and regionally significant from inappropriate subdivision, use and development.” The RPS also includes guidance on how inappropriate development should be determined. Specific outstanding features are identified which included the Tararua Forest Park and the “coastline of the region”. In this case the coastline is defined as the intertidal area.

This Plan Change is consistent with the RPS.

The Horizons Regional Council's Proposed One Plan was notified on 31 May 2007. Hearings into submissions are currently underway and therefore the final form of the Plan is uncertain.

The Plan carries through from the operative RPS the coastal environment of the District and the skyline of the Tararua Ranges as regionally significant outstanding natural landscapes. However this includes a coastal environment area which is significantly larger in some areas than just the intertidal zone. In the course of the hearings the outstanding landscape mapped areas have been presented as defining areas in which it is expected that outstanding natural landscapes will be present. They have been described as values envelopes and this reflects the fact that no systematic evaluation and assessment has been undertaken. It has also been recommended that the Plan provide guidance and criteria on landscape assessment and evaluation so that there is consistency in methodology across the region. The methodology applied by Nicky Treadwell is consistent with that envisaged by Horizons.

In general terms this Plan Change as proposed is consistent with the intentions as best we understand them of the One Plan.



12 HOROWHENUA DISTRICT STRATEGIES

Horowhenua District Council has recently approved its 2009-2019 Long Term Council Community Plan. Included in the Plan is a vision for environmental well being which includes the following outcome statement:

Outstanding natural district features that are preserved at least in their present state and can be appreciated and enjoyed. These include mountains, rivers, lakes, rural landscapes, native forests and coastal area.

The Proposed Plan Change focuses on protection rather than preservation and also relies on expert assessment as to what is outstanding natural landscape and features and what is high amenity landscape. However it clearly seeks to put in place the intent of this outcome statement.

13 CONCLUSION

This Plan Change proposes a revision of the District Plan provisions relating to Outstanding Natural Landscapes and Features. The reassessment of the areas of Outstanding Natural Landscapes and Features has resulted in a significant reduction of these areas. However the assessment has also identified a new landscape classification relating to section 7 of the Act and termed High Amenity Landscapes. This provides a hierarchy of landscape status from landscape domains to High Amenity Landscapes to Outstanding Natural Landscapes and Features.

The current Plan provisions have some legal uncertainty and lack clarity. They are neither efficient nor effective in achieving the purpose of the Act.

New objectives, policies and rules are proposed. They have been evaluated under section 32 and are considered to be the most efficient and effective approach. The rules focus on requiring limited discretionary activity consents for building (other than primary production building) and network utilities in high amenity landscapes and non complying activity consents within outstanding natural landscapes and features.

The provisions are consistent with relevant National Policy Statements, the Regional Policy Statements and the Horowhenua LTCCP.

The specific provisions proposed are included in the Plan Text Amendments document.

