



## STAFF REPORT

**TO:** Environment & Planning Committee

**FROM:** Rose Biss, Policy Planner

**REFERENCE:** R 430

**SUBJECT:** **AMENDMENTS TO TASMAN RESOURCE MANAGEMENT PLAN**  
– **REPORT EP07/05/09** - Report Prepared for 9 May Meeting

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### 1. PURPOSE OF REPORT

The purpose of this report is to brief the Committee on amendment issues to the Tasman Resource Management Plan arising from administration of the Plan, and to seek direction on priorities for action.

### 2. INTRODUCTION

Since 1999 Council staff have been requesting Policy staff to recommend that the Committee make possible amendments to the Tasman Resource Management Plan (TRMP). The reasons are usually related to avoiding ambiguity or to provide consistency of intent and effect across Plan provisions. Most matters raised have come from administration experience of difficulties of various kinds, in land related provisions. Seven Variations (13, 35, 37, 40, 42, 43, 44) have already been completed to address these matters (see Appendix 1). In addition some matters have been minor and have been able to be addressed as Clause 16 amendments to the TRMP. Part IV dealing with rivers & lakes will address the provision of farm bridges and culverts. However there are a number of other matters that are still pending. These are the subject of this report and have been organised into the following topic headings:

- Residential
- Earthworks / Landfill
- Coastal Marine
- Coastal Structures
- Discharges
- Rural General
- Building General
- Natural Hazards
- Contaminated sites
- Temporary Activities
- Network Utilities
- Commercial
- Rural Residential
- Subdivision Criteria

### **3. RESIDENTIAL MATTERS**

#### **3.1 Decks / Balconies**

The present rule 17.1.4 (l) for balconies above 2 metres high requires them to be setback at least 4 metres from site or internal boundaries. It has been suggested that decks should be similarly setback. As the setback purpose is to mitigate overlooking it is appropriate that it apply to both balconies and decks above 2 metres high. It is recommended the rule is altered to refer to decks as well as balconies.

#### **3.2 Long Walls in Residential and Tourist Services Zone**

To break up the visual dominance of long walls a step in the plan of at least 2.5 metres is required at intervals of no more than 15 metres. This rule applies in the Residential and Tourist Services Zone. However the current rule is unclear as to whether 2.5 metres refers to length, breadth or both. This causes unnecessary uncertainty which is undesirable in a rule. Other councils use the terms "offset in plan" or "recess." It is recommended the council clarify the wording as to length and breadth.

#### **3.3 Gable Ends in Residential Zone**

The residential zone has provision for gable ends to protrude into the daylight admission plane (rule 17.1.4(p)). The consents planner has asked for a general exclusion provided the infringement is limited to a certain dimension. This would then allow for changes in architectural fashion. It is recommended that Council change the wording.

#### **3.4 Storage of Vehicles in the Residential Zone**

While the TRMP limits the number of heavy vehicles that may be stored or parked on a residentially zone to one it is silent on the number of other vehicles that may be stored or parked on a site. While there has been one complaint about excessive number of vehicles parked at a Mapua residential property it is more commonly an issue in the rural area where there is more space for storage of vehicles. No change to the residential rules is recommended at present.

#### **3.5 Ridgeline – Kaiteriteri**

The ridgeline in the Little Kaiteriteri area has been altered by earthworks. It is recommended that the position of the ridgeline on the planning maps is corrected.

#### **3.6 Beehives in Residential Zone**

There have been several complaints about beehives being allowed in the residential area.

The residential rules allow two hives (rule 17.1.4(ka)). While beehives may not be suitable on the very smallest sites, on most sites they can generally be repositioned to redirect the flight path. No change to the rule is recommended at present.

### **3.7 Noxious Activities in Residential Zone**

Certain activities that can have adverse amenity effects are not permitted in the residential zone e.g. spray painting, rubbish collection, fish and meat processing. It has been suggested the relevant rule 17.1.2(b)(iv) captures some activities that may be part of normal residential activities. However that is an extreme interpretation. No change to the rule is recommended.

### **3.8 Setback from Rural Zone Boundaries**

The current residential zone setback rule 17.1.4(v) is that dwellings are setback at least 25 metres from a rural zone boundary. This rule was added as a result of a submission on the TRMP. The original submission referred to the Rural 1 and Rural 2 zones. Now there is a Rural 3 zone as well as the Rural 1 and 2 zones. For the avoidance of doubt a clause 16 amendment could also clarify that rural residential and rural industrial zones are excluded.

### **3.9 Accessory Buildings on Boundaries**

The current residential zone rule 17.1.4(u)(ii) limits the length of walls of accessory buildings to 7.2 metres or 50% of the length of the boundary - whichever is the lesser. This means that accessory storage buildings without walls (i.e. pole structures) can be built right along some internal boundaries without restriction. Such buildings may detract from the amenities of the neighbourhood. It is recommended that the reference to "walls" is deleted.

## **4. EARTHWORKS/ RECONTOURING/ DIVERTING WATER / CLEAN LANDFILL**

### **4.1 Recontouring**

There have been ongoing staff requests to change the recontouring rule 18.6.2(l) which is:

*"Any batter, excavation, or infilling associated with recontouring of land is no more than one metre in height or depth and is no more than one hectare, within any 12 month period."*

The wording is considered to be ambiguous and too generous especially for land close to the coastline, rivers and other landowner's boundaries. The present scale of earthworks allowed as a permitted activity is large. Large scale earthworks can divert stormwater and change the landscape.

The definition of recontouring is considered to have become too broad and removed from its original intended meaning to shift dirt within a paddock or orchard in order to even out the ground for trellis work or to produce hillslopes that are less steep and therefore safer to work on. A new definition is proposed for recontouring so that the introduction (or removal) of material is definitely not included. This is:

*'Earthworks which smooth the contours of an area of land by transferring material sourced within the subject area.'*

There is also a concern that the permitted activity conditions relating to not diverting or damming any river or stream in rule 18.6.2 (b)(i) should be changed to:

*“The diversion or damming of any continually or intermittently flowing water. “*

If the change was agreed there would need to be a consequential change to matter 18.6.3 (b)(6) so that it reads

*“Effects of the activity on any continually or intermittently flowing water”*

## **4.2 Clean Landfill**

Staff have asked for provision for clean landfill as a permitted activity with parameters for size location and type of clean fill to be added to the TRMP. It is clear that the disposal of refuse (clean or otherwise) is a non complying activity in the Coastal Environment Area but the situation is less clear in the other zones in the TRMP. The reasons for the CEA rule relate to unsightliness and possible contamination of coastal waters. While “industrial activities” require a resource consent in the rural zones it is not clear that clean landfill would fall into this category.

## **5. COASTAL STRUCTURES – MOORINGS**

The Harbourmaster and coastal planner have requested some changes to the conditions for the permitted activity rule for moorings – rule 25.1.2(b) so that ownership of moorings is registered with the Council. It is also sought that the structural integrity of the mooring is certified by an appropriately qualified person at the date of registration and at two yearly intervals from that date. The amendment is necessary to ensure the safety of moorings. Marlborough District Council has a similar requirement for moorings.

A fall back position is to include the provisions in a bylaw rather than amend the rule. However given that the mooring areas are already in the TRMP it seems sensible to make the amendments to the rule as sought.

## **6. COASTAL PROTECTION WORKS / STRUCTURES / TIDE WALLS**

There are several staff requests for works, structures and land disturbance on the landward side of mean high water spring to be controlled in respect to public access, coastal processes and natural character. In the advent of expected further sea level rise this issue is likely to become increasingly important as landowners seek to act to protect their properties from inundation and coastal erosion.

While protection works undertaken in the Coastal Marine Area have needed a coastal permit (e.g. the Council’s Ruby Bay protection wall permit March 2007) some coastal structures (e.g. retaining walls) undertaken just above MHWS have proceeded without a resource consent to the concern of coastal planners. The effects of protection structures in the vicinity of MHWS, on access and coastal processes require careful consideration.

Since the first staff request on earthworks was lodged in early 2003 the Council has notified Variation 33 (December 2003). This variation made some changes to the earthworks rules and applies to publicly visible and estuarine locations within 200 metres of the coastal marine area. The submissions on the Variation have not been heard yet but could result in further changes to the coastal earthworks rules.

## **7. DISCHARGE RULES**

### **7.1 Maximum Permitted Volumes**

In the stormwater discharge permitted activity rule 36.4.2 there is no maximum permitted volume. Also the permitted activity rule does not refer to the Rural 3 zone suggesting that discharges in this zone only, need consent. The draft stormwater variation will address this latter matter but not the former. A maximum volume was considered, but rejected as too difficult to determine.

### **7.2 Discharges from Subdivisions**

There is a further staff suggestion that discharge of sediment and debris from land disturbance, particularly subdivision should require resource consent. The draft stormwater variation will address this matter.

### **7.3 Discharge of Dairy and Piggery Effluent**

In rule 36.1.3 a permitted activity standard for the discharge of dairy and piggery effluent is sought.

### **7.4 Discharge of Mining Washwater**

The mixing zone for mining washwater in rule 36.2.3 is considered to be too short at 50 metres, compared to the distance allowed in the Buller Conservation Order (200 metre mixing zone) and rule 36.2.4.

## **8. RURAL GENERAL**

### **8.1 Rural 1 Subdivision and Dwellings**

There are several suggested amendments to tighten up provisions for Rural 1 subdivision below the threshold lot size of 12 hectares. Some more policy guidance on intensive tourist accommodation vs second dwellings is sought. It is also suggested that extensions to existing dwellings comply with the water supply and pesticide discharge setback rule.

### **8.2 Amenity Planting**

It has been pointed out that amenity planting sometimes has the same effects as shelter planting yet it is not controlled as to height and setback.

### **8.3 Rural Industrial Activity**

An issue arising from the Mytton enforcement order proceedings is the need to define the term "rural industrial activity" rather than "rural industry."

## **8.4 Wildling Trees**

There is an inconsistency in the manner the discretionary activity for plantation forests and shelter belts is dealt with in the Rural 2 Zone compared with Rural 1 and Rural 3 Zones. The matter of potential wilding spread to significant indigenous vegetation areas is relevant in all three zones and needs to be added to the Rural 2 zone. It would also be appropriate in the Landscape Priority Areas where plantation forestry is a discretionary activity.

## **8.5 Rural Dwellings**

The definition of “dwelling” in the rural zones conflicts with the conditions for a permitted dwelling in the rural zones.

## **9. BUILDINGS GENERAL**

### **9.1 Containers**

There have been two suggestions that shipping containers should be included in the definition of “building”. They are often used as storage “buildings” but are presently exempt from setbacks and coverage rules on the basis they do not fall within the definition of “building” in the TRMP because they are not fixed to the ground.

### **9.2 Signs**

The Compliance Officer has asked for some words to be removed from the definition of “sign.”

He also seeks consistency in respect to the wording of rules for temporary and permanent signs in different zones in relation to visibility at intersections.

## **10. NATURAL HAZARDS**

### **10.1 Earthquake Hazard Rules**

Internal alterations of dwellings are triggering the earthquake hazard rule 16.9.2(b). This is an unintended result that needs to be corrected.

### **10.2 Earthquake Faultline**

Further scientific information has become available to refine the position of the earthquake faultline in the St Arnaud Township and along the Richmond foothills. This information advises that a new approach to dealing with fault rupture risk is desirable, and that the Slope Instability Risk Area in Richmond east needs review.

### **10.3 Slope Instability Risk Area**

In addition to need for the item above, consent planners have sought the addition of the Slope Instability Risk Area as an overlay to the Rocklands Road Rural Residential Zone to provide a better framework of rules to manage instability documented in that area.

## **10.4 Flood Prone Land**

A lack of limitation of activities on floodprone land other than those occurring inside stopbanks is identified.

## **11. CONTAMINATED LAND**

### **11.1 Information requirements for subdivisions**

Information on historical pesticide contamination sought in 19.2.2 (dd) for subdivision proposals only refers to the Rural 3 zone. The Rural 3 zone provision should be extended to all zones for consistency as there has been historic pesticide use beyond the Rural 3 Zone.

### **11.2 Chemical Hazard Area**

There is a request to change “chemical hazard area” to “confirmed contaminated area” and make remediation a permitted activity through a regional rule regime. The request highlights a need for consistency in the TRMP rules for addressing historic pesticide contamination. It should be noted that the two Chemical Hazard Areas shown in the TRMP are now largely remediated.

## **12. TEMPORARY ACTIVITIES**

### **12.1 Noise from Temporary activities**

The Council has recently confirmed there will no change to the temporary activity rules to allow for recreational motorcycling subject to specific conditions. Instead a Code of Practice will be followed.

An emerging issue for staff is the need to control helicopter landing and takeoff areas in the Residential Zone because of the noise effects. The current rule 17.1.2(b)(v) in the Plan is too specific.

## **13. RADIO EMISSIONS**

There is a request to update the radio emission standards to comply with the latest NZ Standard for Radio Frequency Radiation dated 1999. The TRMP rule 16.6.2(f) refers to the 1990 Standard.

## **14. COMMERCIAL**

There is a request to align tavern, restaurant and café parking requirements in Figure 16.2D.

While Variation 43 has now addressed parking provisions for outdoor eating areas some further rationalisation may be possible to simplify the parking calculation for these three activities which create similar demand for parking.

The Council has already resolved to separate commercial recreation from other recreation as part of its consideration of an earlier report on temporary activities in the rural area. This matter now needs to be incorporated in a variation.

## **15. RURAL RESIDENTIAL ZONE**

### **15.1 Sleepouts**

A maximum floor area for sleepouts in the Rural Residential Zone needs to be added so there is consistency across all zones for the maximum area of sleepouts.

Clarification is sought on whether one or multiple sleepouts are permitted by the TRMP. The intention is that no more than one sleepout is permitted.

### **15.2 Cropp Place Rural Residential Zone**

The subdivision officer has sought the addition of the reason for the Cropp Place Rural Residential Zone being a Closed Zone.

## **16. SUBDIVISION CRITERIA**

The subdivision officer has noted that there is no reference to the protected tree schedule in the subdivision standard 16.3.3(l).

## **17. PRIORITIES**

The priorities from a staff viewpoint are

- Provision for works, structures on the land /coastal marine area interface
- Reviewing the recontouring rule and definition
- Clarification of the earthquake faultline provisions re building alterations
- Maximum area of sleepouts in Rural Residential Zone
- Clarification of "building" definition re containers
- Clarification of policy on rural dwellings and tourist accommodation (in the rural area)
- Clarification of the position of the Kaiteriteri ridgeline

## **18. RECOMMENDATION**

It is recommended that the Committee directs the preparation of draft variations to address the outstanding issues discussed in the report in a priority order to be confirmed by the Committee.

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1. Variation 13 Setbacks and Visitor/ Tourist Accommodation
2. Variation 35 Coastal Tasman Area Rural Residential Development Amendments
3. Variation 37 Coastal Tasman Area Rural Residential Development Amendments
4. Variation 40 Dwellings and related issues
5. Variation 42 Protected Trees
6. Variation 43 Car parking Mapua and other provisions
7. Variation 44 Transport Provisions