

Report No:	REP12-06-06
File No:	L218; L225
Date:	11 September 2012
<b>Decision Required</b>	

## REPORT SUMMARY

**Report to:** Environment & Planning Committee  
**Meeting Date:** Thursday, 20 September 2012  
**Report Author:** Rose Biss, Policy Planner  
**Subject:** **Technical Amendments to the Tasman Resource Management Plan**

### EXECUTIVE SUMMARY

The report considers several relatively minor amendments to the Tasman Resource Management Plan including clarifying the meaning of commercial activities, adding a glare rule in Rural Residential Zones, clarifying the height rule for chimneys and the storage area for home occupations.

### RECOMMENDATION/S

It is recommended that a plan change for technical amendments to the Tasman Resource Management Plan relating to glare, commercial activities definition, chimney stacks and outdoor storage for home occupations in rural zones is approved for notification.

### DRAFT RESOLUTION

**THAT the Environment & Planning Committee:**

- 1. Receives the Technical Amendments to the Tasman Resource Management Plan Report EP12-09-06, and;**
- 2. Adopts the Plan Change on Technical Amendments as a proposed plan change to be publicly notified with the next Plan update (expected to be November 2012).**

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## 1. Purpose

- 1.1 The purpose of the report is to recommend some possible amendments to the Tasman Resource Management Plan (TRMP) and seek approval to make amendments to the relevant rural and rural residential rules and definitions for commercial and recreational activities in the Plan.

## 2. Background

- 2.1 From time to time consents and compliance staff request that alterations be made to the Plan to address ambiguity or inconsistencies in the rules and definitions that have come to light during resource consent and/or compliance processes.
- 2.2 The requests are outlined and discussed below.

## 3. Amendments and Options to be Considered

### 3.1 Rural Residential Zone Glare

There is no glare rule for the Rural Residential Zones. This contrasts with the Residential and the Mixed Business Zones which both have glare rules.

The Rural Residential Zones have a range of section sizes varying between 2000m<sup>2</sup> and 4 hectares (with most being between 2000m<sup>2</sup> and 5000m<sup>2</sup>). Many of the dwellings erected on these sections are larger than average and have a large roof area. The zones are mainly in elevated areas e.g. Richmond foothills, Wakefield, Mapua, Kina and Pohara where sections overlook one another. Compliance staff have requested that a glare rule is added to the rural residential zone rules. Because the Rural Residential setback rules enable dwellings to be located relatively close together (minimum of 5 metres from internal boundaries) glare can become an issue - especially when dwellings overlook each other.

The relevant TRMP policy relating to glare is given in Chapter 5 - Policy 5.1.3.9 is:

*To avoid, remedy, or mitigate the effects of.....  
(e) glare  
beyond the boundaries of the site generating the effect.*

There are several options for addressing glare which have been used elsewhere in the TRMP.

### **Option 1**

Option 1 is to use the Residential Zone glare rule in the Rural Residential Zone. The relevant rule is:

*“Reflective glare from cladding, roofing or fences is prevented by painting, coating, or screening within 12 months”.*

This rule allows up to 12 months for mitigation to occur so there can be some delay in mitigating glare problems. However the inclusion of screening provides a relatively low cost option compared to painting.

### **Option 2**

Option 2 is to use the Mixed Business Zone glare rule. The relevant rule is:

*“Metal cladding, roofing or fences are painted or otherwise finished with a non reflective finish”.*

This rule does not allow for screening which may be the most practical option once construction of a new roof has occurred.

### **Option 3**

This option is to retain the status quo (ie no glare rule) and keep monitoring the number of glare complaints in the Rural Residential Zone.

While there may not be many complaints about glare (compared to smoke or discharges) when a case arises it is extremely unpleasant for the neighbours affected. There is little a compliance officer can do currently if the complaint arises in the Rural Residential Zone when there is no relevant rule to implement the TRMP policy.

## **3.2 Chimney Stack Height**

In the three industrial zones there is an exemption to the height rule for those chimneys that are the best practical option for managing air emissions. In the rural zones where the maximum height limit is quite low (7.5m) there is no similar exemption for these chimney stacks.

The industrial height limit exemption is:

*“Any chimney or other equipment that is the best practical option for the management of any emission to air, including dust, smoke and odour, may exceed this height, notwithstanding the meaning of “height” in the Plan”.*

The rural zone height limit for chimneys creates an anomaly with the TRMP discharge rule 36.3.2.5 for permitted activities for enclosed combustion processes that requires that chimney stack height is at least 12.5 metres above the ground and higher if there are tall trees or structures nearby. This causes a problem for certain rural buildings such as glasshouses that generally have a low height but require a tall chimney for the discharge from their boilers. Resource consent is required.

It may also be a minor issue for boiler stacks in other non industrial zones as well. The height limit in the Commercial zones for example is 10 metres.

The type of zones where boilers are most likely to be installed are in the industrial, rural, mixed business and commercial zones. School sites may also have boilers but these are usually designated sites within the TRMP that are not bound by the zone height limits.

The TRMP definition of “height “ allows for an exemption of up to 1.5 metres above the zone height limit for chimneys (i.e. total of 9 metres for a building chimney in the rural zones).

### **Option 1**

The definition of height in relation to buildings makes some allowance for chimneys to exceed the height limit - but only by 1.5 metres. Option 1 could be to increase the chimney stack exemption up to 5 metres if it is for air emissions from enclosed combustion processes.

### **Option 2**

Option 2 is to add an exemption for chimney stacks for the management of air emissions from enclosed combustion processes in the rural zones (using the wording from the industrial zones). The environmental effect of these chimney stacks, apart from managing air emissions (a beneficial effect) is primarily a visual effect which may be adverse in some visually sensitive situations - for example close to the coast or in outstanding landscapes. However the likelihood of high chimneys occurring in these areas is considered to be quite low. There is already provision for slimline masts up to 25 metres as a permitted activity in the Rural 1 and 2 zones. This could be considered as a type of permitted baseline.

### **Option 3**

Option 3 could be to add an exemption to all zones where there is no height exemption at present for chimney stacks that exceed the height limit but which are required for the control of air emissions. It could be added as a general exemption in the definition of “height”. This is the approach used in the Nelson Resource Management Plan.

#### **Option 4**

Option 4 could be to add an exemption for the height limit of all chimneys regardless of their function. This approach is used in the Kapiti Coast District Plan.

### **3.3 Commercial Recreation**

The definition of “commercial activity” in Chapter 2 of the TRMP excludes recreational activity. The Council has previously agreed that “commercial recreation” should be treated as a commercial activity (RMP05/09/07). This requires a slight alteration to the definition, to enable commercial recreation to be considered as a commercial activity. Clarifying the current definition should help ensure compliance action is simpler and less costly in the future.

Commercial recreation will then have the same status as other commercial activities in the rural zones. It will require resource consent. In the case *Waine Enterprises Ltd v Tasman District Council A196/2003* the Environment Court upheld the Council’s interpretation that a proposed maize maze was a commercial activity that required resource consent. In a recent case the Environment Court has not upheld the Council’s case that a dance party being held on two different sites, the first site zoned recreation and the second zoned Rural 2, is a commercial activity (*Warwick Harrington v Tasman District Council CRI 2011 042 002627*).

#### **Option 1**

The Council has received a legal opinion that the exclusion within the definition of “commercial activities” should refer only to community activities and home occupations and not recreational activities and that the definition of “recreational activities” should be deleted from the TRMP.

**Option 2** would be to retain the status quo.

### **3.4 Outdoor Storage and Home Occupations**

Home occupations in the Rural 1 and Rural 2 Zone have a condition limiting the building size to 75m<sup>2</sup> gross floor area. However it is unclear whether any outdoor storage is permitted or not in the rural zones. This contrasts with the residential zone where there is clear statement that there is no allowance for outdoor storage. The intent of the home occupations permitted activity rule is to allow small scale cottage industry activities based in a building and that have minimal environmental effects (for example minimal noise, smell, visual effects). It was never intended that home occupation storage areas should be able to sprawl out in an uncontained manner over rural land.

#### **Option 1**

Option 1 is to have no area allowance for outdoor storage or activities. All the home occupation would have to occur within a building. An explicit statement would be added to the home occupation rule that there is no outdoor storage. This is the approach taken in the residential zone in the TRMP and in

Queenstown Lakes District Plan rural zone where there is close attention to maintaining rural amenity.

There would be clarity that storage related to home occupations is kept within a building. Storage within a building may be preferable to maintain amenity rather than stacks/ piles of materials lying about a site.

### **Option 2**

Option 2 would be to allow a specified maximum amount of outdoor storage as well as the up to 75m<sup>2</sup> gross floor area. This is the approach taken in Marlborough District Plan which allows up to 200m<sup>2</sup> of outdoor storage. Waipa District Plan allows up to 50m<sup>2</sup> of outdoor storage. The Hastings District Plan allows a maximum of 100m<sup>2</sup> outdoor storage (Appendix 1 shows provisions for storage for home occupations in some other rural districts).

### **Option 3**

Option 3 would be to have a maximum outdoor storage area limit and require it to be visually screened from public roads and adjacent sites. All processing of goods and materials is required to be carried out in a building. The latter provision is the approach used in the rural residential zone of TRMP.

## **4. Financial/Budgetary Considerations**

4.1 Addressing plan log amendments is a budgeted item provided for in the Policy work programme for 2012.

## **5. Summary of Options**

### **5.1 Rural Residential Zone Glare**

- Use Residential Zone glare rule, or
- Use Mixed Business Zone glare rule, or
- Retain status quo.

### **5.2 Chimney Stack Height in Rural Zone**

- Add exemption to Rural Zones height rule (as per industrial zone exemption), or
- Add exemption to height rule to all zones (as per industrial zone exemption), or
- Amend the exemption in the definition of “height”, or
- Retain the status quo.

### **5.3 Definition of Commercial and Recreational Activities**

- Delete definition of “recreational activities” and the reference to them in commercial activities definition, or
- Retain the status quo.

#### 5.4 Outdoor storage and Home Occupations in Rural Zones

- No goods, materials or equipment to be stored outside a building, or
- Limited amount of outdoor storage - e.g. maximum 50m<sup>2</sup>, or
- Limited amount of outdoor storage - e.g. maximum 50m<sup>2</sup> which is screened from public roads and adjacent sites.

### **6. Costs and Benefits of Options**

#### 6.1 Rural Residential Glare

There is the process cost to the Council of adding a glare rule to the Rural Residential Zone in the TRMP. There may be costs to a few individual rural residential landowners who have to mitigate glare. The main benefit would be the ability to implement the policy of mitigating glare beyond the site generating the effect in the Rural Residential Zone. A rule would also provide consistency with the Residential Zone rule.

#### 6.2 Chimney Height Exemption

There is the process cost to the Council of adding a height exemption for chimney stacks to the Rural Zones rules. However there will be a benefit for landowners constructing buildings that require tall chimney stacks to mitigate the effects of air emissions. They will no longer have to get resource consent on the grounds of the chimney breaching the height limit.

#### 6.3 Commercial Activities

There is a process cost in altering the definitions so as to delete reference to recreational activities as a separate defined category as well as the exclusion in the commercial activities definition. The benefit will be that commercial activities will have a broader focus.

#### 6.4 Home Occupations

There is the process cost to the Council of adding a condition about storage to the home occupation rule in the Rural zones. The benefit of adding a clear condition about outdoor storage is that it reduces uncertainty and will be easier to manage this aspect of home occupations and for staff to give advice on when resource consent is required for a commercial or industrial activity.

### **7. Significance**

- 7.1 This is not considered to be a significant decision according to the Council's Significance Policy as the plan change is not expected to affect many residents and ratepayers to other than a moderate extent.

## **8. Recommendations**

- 8.1 To resolve the glare issue in the Rural Residential Zone Option 1 is recommended as the most effective and least cost.
- 8.2 For chimney stacks in the Rural 1 and 2 Zones Option 2 is recommended.
- 8.3 For clarification of the commercial activities definition Option 1 is recommended.
- 8.4 To clarify the issue of outdoor storage and home occupations in the Rural 1 and 2 Zones Option 3 is recommended.

## **9. Timeline/Next Steps**

- 9.1 A plan change is prepared for notification in the next TRMP update.

## **10. Draft Resolution**

**THAT the Environment & Planning Committee:**

- 1. Receives the Technical Amendments to the Tasman Resource Management Plan Report EP12-09-06, and;**
- 2. Adopts the Plan Change on Technical Amendments as a proposed plan change 42 to be publicly notified with the next Plan update (expected to be November 2012).**



Rose Biss  
**Policy Planner**

### **Appendices:**

Appendix 1: Home Occupations and Outdoor Storage Areas - Comparison of other Council's Requirements

Appendix 2: Proposed Plan Change Technical Amendments



**Home Occupations and Outdoor Storage Areas - Comparison of other Council's requirements**

<b>Local Authority</b>	<b>Zone</b>	<b>Home Occupation</b>	<b>Outdoor Storage Area</b>
Ashburton	Rural	Permitted activity with <ul style="list-style-type: none"> <li>• maximum floor area 40m<sup>2</sup></li> <li>• maximum one non-resident person employed</li> </ul>	No goods, materials, equipment stored outside a building
Kapiti	Rural	Controlled activity with conditions: <ul style="list-style-type: none"> <li>• maximum floor area 40m<sup>2</sup></li> <li>• no goods displayed</li> <li>• maximum one non-resident person employed</li> </ul>	
Hastings	Rural Plains	Maximum gross floor area 125m <sup>2</sup> per site	Maximum 100m <sup>2</sup> outdoor storage
Waipa	Rural		Maximum 50m <sup>2</sup> outdoor storage screened from public spaces
Marlborough	Rural		Maximum 200m <sup>2</sup> outdoor storage
Queenstown Lakes	Rural		No goods, materials, equipment stored outside a building

**Tasman District Council**  
**Tasman Resource Management Plan**  
**Proposed Plan Change**  
**Technical Amendments**  
**Date of Notification**

**EXPLANATORY STATEMENT**

The plan change makes some technical amendments including clarification of the definition of “commercial activities”, deleting the definition for recreational activities, adding a glare rule to the Rural Residential Zone, adding a maximum storage area for rural home occupations and clarifying the height limit for chimney stacks required for the control of air emissions in rural zones.

Council policy report EP12/09/.. assesses the issues and options and is prepared in compliance with the duties under Section 32 of the Resource Management Act.

**AMENDMENTS**

The Tasman Resource Management Plan is amended in accordance with the following schedule:

**1. CHAPTER 2: MEANING OF WORDS**

1.1 Amend definition of Commercial activities by deleting the following words:

*“recreational activities”*

1.2 Delete definition of *“recreational activities”*

**2. CHAPTER 17: ZONE RULES****2.1 SECTION 17.5 RURAL 1 ZONE****17.5.2.2 - Permitted Activity (Home Occupations)**

2.1.1 Insert in 17.5.2.2 (c)(i) after “gross floor area” the following:  
*and no more than 50 square metres of outdoor storage area which is to be screened from public roads and adjacent sites.*

**17.5.3.1 - Permitted Activity (Building Construction)**

Insert in 17.5.3.1(g) new exception (iii)

*Any chimney or other equipment that is best practicable option for the management of any emission to air, including dust, smoke and odour, may exceed this height, notwithstanding the definition of “height” in the plan. Note - this exception does not apply to the Airport Height Control Areas at Motueka and Takaka.*

## **2.2 SECTION 17.6 RURAL 2 ZONE**

### **17.6.2.2 - Permitted Activity (Home Occupations)**

2.2.1 Insert in 17.6.2.2 (c)(i) after “gross floor area” the following:

*and no more than 50 square metres of outdoor storage area which is to be screened from public roads and adjacent sites.*

### **17.6.3.1 - Permitted Activity (Building Construction)**

Insert in 17.6.3.1(h) new exception (iii)

*Any chimney or other equipment that is best practicable option for the management of any emission to air, including dust, smoke and odour, may exceed this height, notwithstanding the definition of “height” in the plan. Note - this exception does not apply to the Airport Height Control Areas at Motueka and Takaka.*

## **2.3 SECTION 17.8 RURAL RESIDENTIAL ZONE**

### **17.8.2.1 - Permitted Activities (Land Use General)**

2.3.1 Insert new condition after 17.8.2.1(c):

*Glare*

*(ca) Reflective glare from cladding, roofing or fences is prevented by painting, coating or screening within 12 months.*