

Minor amendments to the Whakatāne District Plan



To: **David Bewley**

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Reference: **A2835371**

1 Reason for the report - *Te Take mō tēnei rīpoata*

Several minor errors have been identified in the Whakatāne District Plan, as well as some updates to the non-statutory, information-only sections.

2 Recommendations - *Tohutohu akiaki*

1. THAT this report be **received**; and
2. THAT the recommended changes to the Whakatāne District Plan are **approved**.

3 Background - *He tirohanga whakamuri*

Minor errors have been identified during the Plan Change 8 process and by Council staff. These relate to mainly cross-referencing and numbering issues and are transcription/conversion errors from the implementation of the National Planning Standards, which required reformatting the entire plan. As none of the proposed amendments alters the intent of a rule or a plan user's rights, they are able to amended using clause 20A of Schedule 1 of the Resource Management Act 1991:

"A local authority may amend, without using the process in this schedule, an operative policy statement or plan to correct any minor errors".

As well as minor error corrections, several Te Tiriti o Waitangi settlements have been completed and the District Plan should be updated to reflect this as it lists the District's iwi and Treaty settlements. Those parts of the District Plan are information-only and are not subject to Resource Management Act processes, only internal Council approval. The updates proposed are minor in addition, adding iwi names and Treaty settlements to pre-existing lists, not adding any descriptive material.

The Chief Executive and General Manager Development and Environment Services have delegated authority to approve clause 20A changes. Non-statutory changes are not included in the delegations register, however either the Chief Executive and General Manager Development and Environment Services would be appropriate, as they are responsible for most other Resource Management Act matters, including those considered of minor effect.

4 Discussion – Kōrerorero

4.1 Minor error corrections

Change 1: TRAN-R8.4

An activity status error has been identified, from the National Planning Standards implementation. Rule TRAN-R8.4 is listed as permitted activity status, however it should be controlled. The non-compliance activity status should also be amended to NA, and the assessment criteria reference shifted into the rule box.

From:	Town Centre, Commercial, Light Industrial and General Industrial Zones	Activity status: PER 4. On-site vehicle parking and parking buildings associated with a Permitted or Controlled activity may be located in an adjoining site and off-street vehicle parking associated with any other activity.	Activity status where compliance not achieved: CON <i>see CON assessment criteria TRAN-AC1</i>
To:	Town Centre, Commercial, Light Industrial and General Industrial Zones	Activity status: CON 4. On-site vehicle parking and parking buildings associated with a Permitted or Controlled activity may be located in an adjoining site and off-street vehicle parking associated with any other activity. <i>see CON assessment criteria TRAN-AC1</i>	Activity status where compliance not achieved: NA

Change 2: SD-AC4(j)

A referencing error has been identified, from the National Planning Standards implementation. The assessment criteria SD-AC4(j) references TRAN-AC6 (from old rule 3.7.12) instead of TRAN-AC7. This is a conversion error from the National Planning Standards implementation that required the reformatting of the District Plan. The original assessment criteria (37.28) references 3.7.17 (TRAN-AC7) not rule 3.7.12 (TRAN-AC6).

Change 3: ECO rules

Numbering errors in some ECO rules have been identified, from the National Planning Standards implementation. This is a formatting issue relating to a numbered list being separated into multiple parts and the numbering defaulting to 1.

Current	For area	Change to
ECO-R14.1	ECO-SCHED1	ECO-R14.2
ECO-R16.1	ECO-SCHED1	ECO-R16.2
ECO-R21.1	ECO-SCHED1	ECO-R21.2
	ECO-SCHED2	ECO-R21.3
ECO-R22.1	ECO-SCHED1	ECO-R22.2

Change 4: Commercial zone rule number

Rule GRZ-R17 in the Commercial Zone chapter should be CZ-R17. This is a transcription error from the National Planning Standards implementation.

Change 5: SASM-6

The NZ Archaeological Association ID for SASM-6 should be W15/286. This is a transcription error from the National Planning Standards implementation.

Change 6: GRUZ-R8

The advice note is only applicable to the Rural Ōhiwa and Rural Coastal Zones, not the General Rural Zone, and should be removed. This is a conversion error from the National Planning Standards implementation.

Change 7: CPZ-R30

An activity status error in Rule CPZ-R30 has been identified, from the National Planning Standards implementation, which requires the non-compliance activity status to be updated and an assessment criteria added.

The non-compliance activity status is listed as NA, with a reference to DIS assessment criteria CPZ-AC7. This is incorrect and should be Restricted Discretionary (RD). CPZ-R30 was Rule 11.2.2.2 in the original District Plan and original Rule 11.2.3.2 (Permitted standards for earthworks) states that non-compliance with the Rules in 11.2.2 shall be an RD activity.

The relevant assessment criteria in the original District Plan is 11.4.1.1, which is for RD activities and states “Earthworks (see Rules in 11.2.1 and 11.2.2)...” in its title. The assessment criteria has not been included in the CPZ chapter during the NPZ implementation as there were no activities that used it, due to the activity status error.

From:	<p>Activity status: PER</p> <p>1. Earthworks is a permitted activity provided that earthworks undertaken within any twelve month period:</p> <ul style="list-style-type: none"> a. do not exceed 200m² in area; and b. do not exceed 100m³ in volume. 	<p>Activity status where compliance not achieved: NA</p> <p><i>see DIS assessment criteria CPZ-AC7</i></p>
To:	<p>Activity status: PER</p> <p>1. Earthworks is a permitted activity provided that earthworks undertaken within any twelve month period:</p> <ul style="list-style-type: none"> a. do not exceed 200m² in area; and b. do not exceed 100m³ in volume. 	<p>Activity status where compliance not achieved: <u>RDIS</u></p> <p><i>see <u>RDIS</u> assessment criteria <u>CPZ-AC9</u></i></p>

Assessment criteria addition:

CPZ-AC9	Earthworks and mining and quarrying
Rule(s): CPZ-R30	<p>Activity assessment criteria: RDIS</p> <p>Council shall restrict its discretion to:</p> <ul style="list-style-type: none"> a. any temporary adverse effects of earthworks, mining or quarrying on land uses in the vicinity of the site, including noise, dust, vibration, traffic movement or cultural impact;

	<ul style="list-style-type: none"> b. any adverse effects on the natural character of the coastal environment, wetlands, lakes, rivers and their margins; c. any adverse effects on indigenous biodiversity; d. any adverse visual or landscape effect on an Outstanding Natural Feature Landscape listed in {Link,10325,NFL-SCHED1}, or dominant landscape feature listed in {Link,39294,NFL-P4}; e. any increased risk associated with a natural hazard event that may arise from undertaking earthworks, mining or quarrying. For example, the undermining of the integrity of a stopbank or lowering frontal dunes; f. how the site will be restored and the timing of the restoration, or where the site or part of the site is not intended to be restored, the effects of this on the environment; and g. the control of erosion, sediment and stormwater including riparian planting.
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4.2 Non-statutory section updates

Whakatōhea (2024) and Ngāti Rangitihī (2022) have recently completed Treaty settlements with the Crown.

Change 8: Iwi group list

The section “Description of the District – Population” includes a list of iwi. It should be amended to recognise Whakatōhea as an iwi of the District. Ūpokorehe are already recognised and while the Treaty settlement considers them to be a hapū of Whakatōhea, Ūpokorehe recognise themselves an iwi not a hapu. Recognising the part of the Whakatōhea rohe in Whakatāne District is entirely Ūpokorehe and that the other recognised hapū of Whakatōhea are in Ōpōtiki District, a sensitive accommodation would be to retain the reference to Ūpokorehe while adding Whakatōhea: *“Whakatōhea (Ūpokorehe)”*.

Change 9: Change 8: Treaty Settlement list

The section “TW1-Treaty of Waitangi Settlement Acts and Statutory Acknowledgement Areas” includes a list of Te Tiriti o Waitangi Settlement Acts. The Ngāti Rangitihī Claims Settlement Act (2022) and the Whakatōhea Claims Settlement Act (2024) need to be added to it.

Change 10: River management groups

The section “TW1-Treaty of Waitangi Settlement Acts and Statutory Acknowledgement Areas” includes discussion of the river management groups that were established through settlement. It currently includes the Rangitāiki River Forum that was established through the Ngāti Manawa and Ngāti Whare settlements. The Tarawera Awa Restoration Strategy Group established through the Ngāti Rangitihī settlement needs to be added

“As a result of settlements, a co-governance forums (the Rangitāiki River Forum and the Tarawera Awa Restoration Strategy Group) has been established for the protection and enhancement of the Rangitāiki River and the Tarawera River. Integrated planning protocols and memorandums of understanding also contribute to collaborative planning between local government and iwi and hapū.”

5 Options Analysis - *Ngā Kōwhiringa*

5.1 Option 1 – Recommended option

Making the changes as recommended

Advantages	Disadvantages
<ul style="list-style-type: none">• Corrects errors• Respects iwi partners	<ul style="list-style-type: none">• Nil. The cost of public notice will be shared with the notification for of decisions on Plan Change 8.

5.2 Option 2

Not making the changes as recommended.

Advantages	Disadvantages
<ul style="list-style-type: none">• Avoid the cost of public notification and updating the District Plan.	<ul style="list-style-type: none">• Continues errors.• Does not acknowledge some iwi partners and the recent legislative changes related to them, where all other iwi partners and their Treaty settlements have been recognised.

6 Significance and Engagement Assessment - Aromatawai Pāhekoheko

6.1 Assessment of Significance

The decisions and matters of this report are assessed to be of low significance, in accordance with the Council's Significance and Engagement Policy.

6.2 Engagement and Community Views

Engagement on this matter is not being undertaken in accordance with Section 6.0 of the Council's Significance and Engagement Policy. This states that the Council will not consult when the matter is not of a nature or significance that requires public engagement (low significance).

7 Considerations - *Whai Whakaaro*

7.1 Strategic Alignment

No inconsistencies with any of the Council's policies or plans have been identified in relation to this report.

7.2 Legal

The Resource Management Act 1991 requires a District Plan. It provides for minor errors to be corrected without requiring public consultation. It also allows for non-statutory parts of a District Plan to be updated at the Council's discretion.

7.3 Financial/Budget Considerations

There is no budget considerations associated with the recommendations of this report.

7.4 Climate Change Assessment

There are no significant or notable impacts associated with the matters of this report.

7.5 Risks

There are no significant or notable risks associated with the matters of this report.

8 Next Steps – E whai ake nei

The changes can be notified alongside the decisions for Plan Change 8 Huna Road on the 19th February 2025, and the changes published into the District Plan the same day.

Attached to this Report:

- There are no appendices attached to this report.