

Chairperson and Committee Members
REGULATORY MANAGEMENT COMMITTEE

22 NOVEMBER 2012

Meeting Status: **Public**

Purpose of Report: For Decision

PROPOSED DISTRICT PLAN FOR NOTIFICATION

PURPOSE OF REPORT

- 1 This report seeks the Committee's approval to notify the proposed Kāpiti Coast District Plan and the associated Section 32 summary reports for submissions, in accordance with Part 1 of Schedule 1 of the Resource Management Act 1991 (RMA).

SIGNIFICANCE OF DECISION

- 2 The subject matter of this report is significant but does not trigger the Council's Significance Policy as the District Plan Review has its own consultation process under the RMA.

BACKGROUND

- 3 Territorial authorities are required by the Resource Management Act 1991 (RMA), as amended in 2009, to review provisions of District Plans that have not been reviewed in the past 10 years. The Council's District Plan was made operative in August 1999; therefore a review of any provisions that have not been reviewed since then was required to have commenced by August 2009.
- 4 The Council initiated its District Plan Review in September 2008 following agreement by the Environment and Community Development Committee at its 3 September 2008 meeting that the review would begin early to allow for an extensive community consultation process and multi-staged series of discussion papers (SP-08-290 refers).
- 5 Between September 2008 and December 2009, initial work on the District Plan Review took place, including updating of monitoring data. Some aspects of the Review were delayed, however, by the need to wait for the outcome of the 2009 RMA amendment process, which was considering changes to the requirements for District Plan Reviews.
- 6 On 3 December 2009, the Regulatory Management Committee received a report that provided an update on the District Plan Review (SP-09-746 refers), including timing and scoping amendments resulting in part from recent amendments to the RMA. These recent RMA amendments allowed partial rather than full reviews of District Plans, as long as all provisions were reviewed and open for submissions every 10 years.

- 7 Attached to SP-09-746 was a discussion document on the scope of the District Plan Review, designed to elicit public feedback on which topics should be included and emphasised in the Review. This document was recommended by the RMC to full Council, which approved it for February 2010 release at its 17 December 2009 meeting (CCI-09-756 refers) for a one-month feedback period from 26 February until 31 March 2010.
- 8 The release of the scoping discussion document was accompanied by significant publicity, and 88 submissions were received. Based on this feedback, the Environment and Community Development Committee at its 29 April 2010 meeting approved a set of 24 focus areas for the District Plan Review and instructed staff to develop discussion papers relating to these topics (SP-10-875 refers).
- 9 In May – August 2010, five workshops were held with Elected Members to discuss topics to be covered in the discussion papers. For the purpose of discussion papers, the 24 focus areas were grouped into 7 overarching topics as follows:
 - Global Change: Issues and Pressures
 - Urban Form and Transport
 - Food and Rural Productivity
 - Natural Hazards and Managed Retreat
 - Biodiversity
 - Landscape, Character and Heritage
 - Infrastructure and Essential Systems
- 10 The resulting seven discussion documents were approved by the ECD Committee in September 2010 (SP-10-987 refers) and released in October 2010 for a six-week feedback period. Comments were received from 101 submitters (summarised in Appendix One to SP-11-122) with the majority of submissions largely supporting the direction proposed in the discussion documents, and many making detailed suggestions that informed subsequent analysis for the District Plan Review.
- 11 Following local government elections, the new Council requested a series of workshops on the District Plan Review. A total of 16 workshops were held with Elected Members from March through August 2011 on the issues being considered in the review, including land supply analysis, urban tree protection, natural hazards, housing choice and affordability, biodiversity, landscape, heritage, food and rural productivity, archaeology, open space, urban form and transport, rural issues, residential issues, employment areas and retail leakage, infrastructure and essential systems, and contaminated land and hazardous facilities. Two further briefings were held in November 2011 to discuss draft versions of consultant reports prior to their public release.

- 12 In addition, a set of population and employment growth projections for the District were approved by RMC in March 2011 as assumptions for the review (SP-11-118 refers), consistent with Statistics NZ's 'medium' forecast.
- 13 Workshops and briefings have continued in 2012, with 25 Elected Member sessions from February through October on draft District Plan provisions including objectives, policies, rules and standards. Feedback received at these sessions has influenced the proposed District Plan.
- 14 Throughout the District Plan Review, dozens of one-on-one meetings have been held with interested parties on an as-needed or as-requested basis, and considerable input from tangata whenua has been provided via a working party of Te Whakaminenga o Kāpiti. More detail on these one-on-one meetings and the tangata whenua working party is provided in "Consultation and Communication to Date" below.
- 15 The District Plan Review has now advanced to the point where the proposed new District Plan is ready for notification for submissions. All twelve chapters and associated Section 32 reports, plus maps and appendices, are attached to this report for approval to notify. The chapters are as follows:
 - Chapter One: Introduction and Interpretation
 - Chapter Two: Objectives
 - Chapter Three: Natural Environment
 - Chapter Four: Coastal Environment
 - Chapter Five: Living Environment
 - Chapter Six: Working Environment
 - Chapter Seven: Rural Environment
 - Chapter Eight: Open Space
 - Chapter Nine: Hazards
 - Chapter Ten: Historic Heritage
 - Chapter Eleven: Infrastructure, Services and Associated Resource Use
 - Chapter Twelve: General Provisions (Financial Contributions, Temporary Activities, Signage, and Noise)
- 16 Notification is planned for 29 November, with a 13-week submission period closing 1 March 2013. Even taking into account the 3-week public holiday period from 20 December to 10 January (considered non-working days by the RMA), this submission period is 2 weeks longer than the 40-working-day submission period mandated by the RMA.

CONSIDERATIONS

Issues

17 The issues covered in this section include:

- the scope of the District Plan Review and proposed District Plan
- the policy context from central government, regional government, Council's own documents, neighbouring territorial authorities, and iwi authorities
- technical input, peer review and legal review
- process issues around notification and next steps
- the content of the proposed District Plan, including structure and format, general goals, chapter-specific content, and Section 32 reports.

Scope

18 When the Council began the District Plan Review in late 2008, the only clear option in the RMA was a full review of the District Plan every ten years. The 2009 RMA amendments added the option of partial reviews rather than full reviews of District Plans, as long as all provisions were reviewed and open for submissions at least every 10 years. This explicitly allowed the 'staged review' or 'rolling review' processes that some Councils such as Wellington City had been following.

19 Through the scoping discussion document released in February 2010, the Council invited feedback on which topics should be included and emphasised in the Review. The document explained that, while the Council was not yet required to review District Plan provisions less than 10 years old, the Council could choose to review those provisions if it felt there was a reason to do so. It also explained that a 'review' of any set of provisions (e.g. a chapter or set of rules) could range from notifying it for submissions without change to completely rewriting and/or restructuring it.

20 Based on the results of feedback on this scoping discussion document, the Environment and Community Development Committee (ECD) at its 29 April 2010 meeting approved a set of 24 focus areas for the District Plan Review and instructed staff to develop discussion papers relating to these topics (SP-10-875 refers).

21 The focus areas were identified as follows:

- economic health and vitality
- housing choice and affordability
- renewable energy
- climate change
- rural land use and productivity
- contaminated sites
- coastal hazards

- flooding
 - biodiversity
 - open space
 - growth management
 - Paraparaumu Town Centre
 - integrated transport
 - urban design
 - landscape
 - built, natural and cultural heritage including waahi tapu (focus on preservation and protection of sites)
 - residential amenity / character
 - earthworks
 - cell phone towers and other sources of radio frequency emissions
 - establishment, upgrading, maintenance, operation and repair of network utilities
 - review of Subdivision and Development Principles and Requirements
 - noise
 - streamlining the resource consent process
 - user-friendliness of the final Review document, including structure and formatting
- 22 The identified focus areas were wide-ranging and resulted in a scope for the District Plan Review that could be characterised as a ‘full review with exceptions’ (i.e. without reviewing some recent public and private plan changes). The ECD Committee resolved that it would proceed with the option of a partial review, including the legal minimum of all provisions that would be 10 years old or older by 2011, but reserving the option of adding more recent topics to the review or reviewing the Plan in its entirety. Within the review, the above focus areas would be emphasised.
- 23 In response to the seven discussion documents in late 2010, multiple submitters suggested that the following topics were worthy of more emphasis than evidenced in the discussion documents, and staff indicated that future work on the District Plan Review would attempt to address these issues more explicitly:
- Economics and economic impacts of District Plan options
 - Tangata whenua issues
 - Impacts of the Expressway
- 24 Notwithstanding the focussed approach of the District Plan Review, the initial approach of keeping some recent plan changes out of the scope of the Review has changed. The entire District Plan is now proposed for notification and submissions. This has resulted partially from the focus area above of improving the District Plan’s user-friendliness through restructuring and reformatting. The new structure and format of the District Plan has in itself triggered the legal definition of a ‘change’ to all affected provisions, requiring notification for public submissions. In addition, the introduction of a new set of 20 overall objectives

for the District Plan has affected all the Plan's policies, rules and standards by linking them to new objectives. Changes to definitions in the Plan also have over-arching impacts. Given the integrated nature and new structure of the proposed District Plan, it would be logistically difficult and legally risky to 'ring-fence' any provisions as exempt from notification and submissions.

- 25 The move to a full District Plan review under Section 79(4) of the RMA, as opposed to a partial District Plan review under Section 79(1) of the RMA, does not mean that all content has been changed to the same degree. The agreed focus areas have resulted in significant changes to the Plan, while other parts of the Plan have not changed at all aside from the formatting and structure issues described above. The Content section below summarises some of the major changes to the Plan.
- 26 Due to the extent and complexity of the changes made to the operative District Plan in the proposed District Plan, the usual convention of underlining or striking out provisions ('tracked changes') is not practical or useful. Instead, a colour-coding system will be used at notification to indicate which provisions of the proposed District Plan are substantially unchanged from the operative District Plan (green), which are partially changed (yellow), and which are completely changed (red).

Policy Context: Central Government, Regional Government, Territorial Authorities and Iwi Authorities

- 27 The proposed District Plan has been prepared to be consistent with the statutory requirements of central and regional government policy. This includes National Policy Statements, National Environment Standards, Regional Policy Statements, and Regional Plans.
- 28 The RMA requires a District Plan to give effect to the objectives and policies of any operative New Zealand Coastal Policy Statements and National Policy Statements (NPSs). These currently include the New Zealand Coastal Policy Statement (2010), the NPS on Electricity Transmission (2008), the NPS for Freshwater Management and the NPS for Renewable Electricity Generation (2011). Several other NPSs have been considered or proposed by central government but are not yet operative. The proposed District Plan gives effect to the operative NZCPS and NPSs above.
- 29 A District Plan must also be consistent with operative National Environmental Standards (NESs) by removing any duplication or conflict with them. There are currently three operative NESs, dealing with Telecommunications Facilities, Electricity Transmission, and Assessing and Managing Contaminants in Soil to Protect Human Health. Several other NESs have been considered or proposed by central government but are not yet operative. The proposed District Plan is consistent with the operative NESs above.
- 30 In terms of regional government policy, the RMA states that a District Plan must give effect to any regional policy statement (RPS) and must not be inconsistent with a regional plan dealing with matters in Section 30(1) of the RMA. A Council preparing a District Plan must also have regard to any proposed RPS or proposed regional plans. The proposed District Plan gives effect to both the operative RPS and the proposed RPS, which is in the final stages of appeal

resolution. The proposed District Plan is not inconsistent with any regional plans. Greater Wellington is currently reviewing its set of regional plans and, while initial consultation has been undertaken, the new regional plan(s) have not yet been formally notified.

- 31 The RMA also requires a Council preparing a District Plan to take into account its own management plans and strategies prepared under other Acts. The proposed District Plan takes into account and indeed attempts to advance implementation of several Council strategies prepared in the past 8 years under the Local Government Act 2002, including the Development Management Strategy, the Sustainable Transport Strategy, the Open Space Strategy, and the Coastal Strategy.
- 32 A Council is also required by the RMA to consider the extent to which its District Plan needs to be consistent with the operative or proposed District Plans of neighbouring territorial authorities. Horowhenua District Council has just released its proposed District Plan, with submissions closing 12 November, while other Councils in the Wellington Region are conducting 'rolling' reviews of their operative District Plans. This consistency issue has been considered and discussed with neighbouring territorial authorities, and the proposed District Plan is considered to be sufficiently consistent with the operative and/or proposed District Plans of neighbouring territorial authorities. Differences in approach or content do not reflect a conflict with neighbouring authorities but provide a locally-informed, context-sensitive, Kāpiti-based regulatory framework.
- 33 The RMA requires that any relevant planning document recognised by an iwi authority and lodged with a Council must be taken into account to the extent that its content has a bearing on resource management issues of the district. To date there are two documents that have been prepared and lodged with the Council – the Proposed Ngāti Raukawa Ōtaki River and Catchment Iwi Management Plan (2000), and Nga Korero Kaupapa mo Te Taiao Policy Statements Manual for Kapakapanui Te Rūnanga o Āti Awa (1999-2000). These documents have been considered in the preparation of the proposed District Plan. The Te Haerenga Whakamua document approved in March 2012 by Te Whakaminenga o Kāpiti has also been considered even though this may not be mandatory since Te Haerenga Whakamua was developed as a pan-iwi consideration of District Plan issues rather than specifically as an iwi plan.

Consultation and Communication to Date

- 34 While there is no requirement in the RMA to consult with anyone other than certain statutory parties listed below prior to notification of the proposed District Plan, Part 1 of Schedule 1 to the RMA says that a local authority 'may consult anyone else during the preparation of a proposed policy statement or plan.' The Council has done this, as summarised in this section.
- 35 The Council has undertaken considerable consultation over the past three years on the District Plan Review, and the proposed District Plan incorporates much of the resulting input. Supplementing this two-way consultation, significant external communication has been undertaken during this time to raise awareness of the District Plan Review, opportunities for input, and possible outcomes.

- 36 It is worth noting that the proposed District Plan has been guided by several strategies prepared by the Council under the Local Government Act (e.g. the Development Management Strategy, the Coastal Strategy, the Open Space Strategy, and the Sustainable Transport Strategy), as well as by Community Outcomes and Local Outcome Statements prepared under the LGA. While consultation on these documents did not explicitly link them to the District Plan, the Council is obliged to have regard to them, and should be aware of the community input that shaped them.
- 37 The scoping discussion document released in early 2010 served as a public ‘launch’ to the District Plan Review and was accompanied by significant publicity including newspaper advertisements, a presence on the Council website, and public drop-in sessions. The document was also sent directly to dozens of key stakeholders including government agencies, iwi authorities, and local environmental groups. As a result, 88 submissions were received and most of the submitters were added to the database of parties interested in the District Plan Review, for future communication and consultation. As described above, the submissions influenced the scope of the District Plan Review and helped identify 24 focus areas for the Review.
- 38 The seven topic-based discussion documents released in late 2010 were also accompanied by significant publicity. Large advertisements were placed in the Kāpiti Observer, Paekākāriki Xpressed and the Ōtaki Mail, and posters were placed in shop windows in town and village centres. Static displays were set up in libraries and service centres, information was provided on the Council website, and a staffed information display was held in Coastlands for one day. A reminder notice was sent out with the October 2010 rates demand to ensure that all ratepayers were aware of the opportunity to submit on these discussion documents. In addition, emails and letters were sent out to statutory parties (including iwi) and people who had indicated that they wanted to be involved in the District Plan review in earlier consultation. As mentioned above, 101 submissions were received (a summary of submissions was attached to SP-11-122) and these submissions collectively influenced the content of the proposed District Plan.
- 39 Outside of these formal consultation periods, Elected Members have been kept up to date through a total of 48 workshops and briefings in the 30-month period from May 2010 through October 2012, an average of one every two or three weeks. The majority of these sessions (36 of 48) have been open to the public, with notices placed in local newspapers. While the sessions were designed for Elected Members and were held during the day, they were attended occasionally by members of the Older Persons’ Council, Kāpiti Grey Power Association (Inc), and local planning consultants such as Cuttriss.
- 40 Periodic updates have also been provided to the Ōtaki Community Board, Waikanae Community Board, Paraparaumu-Raumati Community Board, and Paekākāriki Community Board, with the most recent round of updates provided in August 2012.
- 41 Throughout the District Plan Review one-on-one meetings have been held with interested parties on an as-needed or as-requested basis. A total of 34 meetings took place from May 2010 through mid-October 2012 between Council staff and

a number of individuals, businesses, organisations and government agencies. Further meetings have taken place in late October and early November with some of the 'statutory parties' (e.g. government agencies) and other key stakeholders who received CD-Rs of the working draft of the proposed District Plan in early October as part of the mandatory pre-notification consultation process.

- 42 Input from tangata whenua has also been considerable, with 23 meetings held from December 2010 through October 2012 between Council staff and a Tangata Whenua working party nominated by Te Whakaminenga o Kāpiti to represent the District's three iwi. This process has resulted in the document Te Haerenga Whakamua being approved by Te Whakaminenga o Kāpiti in March 2012 and by Council on 11 October 2012 (SP-12-670 refers).
- 43 Part 1 of Schedule 1 to the RMA states that a local authority must consult with various statutory parties in the preparation of a proposed District Plan, including the Minister for the Environment, other Ministers of the Crown who may be affected, local authorities who may be affected, and tangata whenua of the area who may be affected. While Council staff had already written to and/or met with many of these 'statutory parties' at earlier stages in the District Plan Review, and some of those parties provided feedback on one or more discussion documents, a further opportunity for comment has recently been provided. For a three-week period from 1 October to 23 October 2012, these parties (plus other key national stakeholders such as Federated Farmers, Forest and Bird, and network utility companies) were given an opportunity to provide comments on the working draft of the District Plan as of 28 September (provided via CD-R). A total of 59 organisations were informed of this opportunity. Feedback was received from 5 organisations and has been incorporated into the proposed District Plan to the extent practicable.
- 44 There has been extensive communication on the District Plan Review outside of the formal consultation processes. In mid-October, nearly 200 letters were sent to individuals or organisations who had expressed an interest in the District Plan Review, providing an update on the process and the existence of the 28 September working version of the draft District Plan provisions on the Council's website. Over 400 additional letters were also sent in October to owners and ratepayers of properties expected to be affected by a change in zoning (e.g. from rural to residential, or rural plains to rural hills), or by site-specific provisions such as waahi tapu or ecological sites that take immediate legal effect at notification. Previous applicants for recent private plan changes that are now part of the operative District Plan were also contacted to inform them that the provisions of the District Plan applying to their land would not be 'ring-fenced' from the review and would be open to submissions.
- 45 In addition, a series of seven full-page articles in the Kāpiti Observer and two Kāpiti Update special editions in the Kāpiti News were published in September, October and November 2012. These articles provided information on the District Plan Review including upcoming notification, timing for submissions and key aspects of the proposed content. An article was also included in the latest Kāpiti Update (published 31 October) to inform interested parties, as it has been about a year since the release of the seven discussion documents. A longer article in

November's Kāpiti Update is planned to give people more details about notification and the submissions/hearing process.

- 46 For the past two years, the Council's website has had a District Plan Review page (www.kapiticoast.govt.nz/districtplanreview), linked from a feature box on the front page, and this page has been kept up-to-date with latest copies of Council and Committee reports, consultant reports, projected timelines, and draft District Plan content.
- 47 As stated above, there is no requirement in the RMA to consult with anyone other than certain statutory parties prior to notification of the proposed District Plan. The consultation described above is considered to be significantly greater than the statutory minimum required prior to notification.
- 48 The recent communication about the upcoming notification of the proposed District Plan will have provided advance notice of the formal consultation period coming up through the submissions process, and the notification process itself will ensure that all affected and interested parties have an opportunity for providing comment on the proposed District Plan before it is fully operative.

Technical Input, Peer Review and Legal Review

- 49 Several technical reports were commissioned over the past three years to inform the District Plan Review. These were focused on topics where Council staff required additional data or technical expertise to understand particular resource management issues in Kāpiti and to analyse potential District Plan options. Consultants have assembled data and/or prepared reports on the following subjects:
- Population and employment forecasts (MERA: James Newell)
 - Landscape (Isthmus: Brad Coombes and Lisa Rimmer)
 - Housing choice and affordability (Hill Young Cooper: David Mead and Elizabeth Moncrieff, and University of Auckland: Tricia Austin)
 - Open space framework, including ecological corridors (PLaCE consultants: consortium of Corydon, Clive Anstey, Isobel Gabites and Linda Kirkmeester)
 - Ecological sites (Wildland Consultants)
 - Urban native tree identification and protection (Megan McDonald, Barrett Pistoll, and P A Handford & Associates: Peter Handford and Angus Hulme)
 - Waahi tapu (Whaiiao: Pātaka Moore)
 - Archaeological alert layer (Subsurface: Andy Dodd, Wild North: Chris Wild, and Envision: Elise Smith)
 - Barriers to sustainability (Aurecon: Louise Strogen)
 - Rural productive potential (Landcare Research)
 - District carrying capacity (AECOM: Matthew Paetz, and Landcare Research: Robbie Andrew and Daniel Rutledge)

- Coastal hazards (Coastal Systems Ltd: Roger Shand, and Focus Resource Management Group: Jim Dahm, Bronwen Gibberd, and Robin Britton)
 - Stormwater / flood hazards (SKM: Ben Fountain, and River Edge Consulting Ltd: Philip Wallace)
 - Transport (Abley Consultants: Ann-Marie Head, and Transport Futures: Don Wignall)
 - Employment areas and retail leakage (Property Economics: Tim Heath, and Planit Associates: Matt Bonis)
 - Contaminated land (Trevor Sutton)
 - Growth management, future growth areas, and growth-related issues related to the proposed Expressway (MWH: Andrew Guerin, Kirsty van Reenen and Simon Stewart)
 - Paraparaumu Town Centre (Urbanism Plus: Kobus Mentz and Wayne Bredemeijer, Brewer Davidson: Kevin Brewer, and Sinclair Knight Merz: Ben Fountain)
- 50 Many of the reports produced by the consultants are available on the Council website, with others available by request.
- 51 In September 2012, all working draft chapters of the District Plan except for Chapter 1 (Introduction and Interpretation) were sent to external peer reviewers. These peer reviewers were Richard Peterson (Harrison Grierson), Mark St Clair (Hill Young Cooper), Sonia Dolan (NZ Historic Places Trust), Tim Heath (Property Economics), Gina Sweetman (Sweetman Planning Services), Norbert Schaffoener, and Graham Taylor (Resource Management Group). Comments from the reviewers were received as annotations to the draft chapters through ‘tracked-changes’ and margin comments. Most of these suggestions have been incorporated into the proposed District Plan, and clarity provided where original text was seen as potentially confusing.
- 52 The proposed District Plan has also been reviewed internally by Council staff. In August and September 2012, the Resource Consents team provided comments on all draft chapters. Several chapters generated feedback from more than one member of that team. Workshops were held with the Resource Consents team to discuss their comments and perform tests on hypothetical resource consent applications. Feedback has also been received from asset managers on infrastructure issues, from environmental health officers on noise issues, and from compliance officers on issues such as signage. All internal comment has been considered and the proposed District Plan has been amended where appropriate.
- 53 A thorough legal review of all chapters and associated Section 32 reports has been conducted by Simpson Grierson’s RMA team, in most cases subsequent to amendment resulting from external and internal peer review. The legal review was the final stage of review prior to internal review and sign-off by senior Council managers. Again the proposed District Plan has been amended as required.

Process Issues: Notification and Next Steps

- 54 Notification of the proposed District Plan is a key milestone in the District Plan Review. Clause 5 of Part 1 of Schedule 1 to the RMA states that a Council must publicly notify a proposed District Plan.
- 55 Notification under the RMA involves publishing a public notice with an official notification date, and sending a copy of the public notice and any other information the Council thinks fit to every person the Council considers to be directly affected, within 10 working days of public notification. A copy of the proposed District Plan is to be provided free of charge to the Minister for the Environment, the Regional Council, adjacent local authorities, and the tangata whenua of the area through iwi authorities. Copies are also to be made available in every public library in the District.
- 56 The public notice must state where the proposed District Plan can be inspected, the process for public participation in the consideration of the proposed Plan (e.g. submissions and hearings), that any person can make a submission, the closing date for submissions (the RMA mandates a minimum period of 40 working days), and the Council's address for service.
- 57 Assuming the proposed Kāpiti Coast District Plan is approved for notification by the RMC, notification is planned for 29 November, with a 13-week submission period closing 1 March 2013. Even taking into account the 3-week public holiday period from 20 December to 10 January (considered non-working days by the RMA), this submission period is 2 weeks longer than the minimum submission period mandated by the RMA.
- 58 The intention is to distribute the public notice and summary materials to all ratepayers and residents in the District. Letters will not be tailored to mention the specific provisions that will affect the recipient, as there are practical difficulties in tailoring letters for more than 25,000 households and businesses, as well as a risk that something could be inadvertently missed by highlighting one or two specific issues. Instead, a standard letter will be sent that will draw the reader's attention to the entire District Plan, with some examples of provisions that may or may not affect them. Notification letters will be carefully constructed with the assistance of Council's legal team so that the statutory requirements are met while useful information is provided in 'plain English.' The planned publicity and information sessions referred to later in this report will assist with increasing public understanding of this phase of the District Plan Review.
- 59 The next steps after notification and the submissions period are as follows:
- Summary of submissions (expected to be published in April 2013)
 - Further submissions (supporting or opposing any of the initial submissions) by anyone representing a relevant aspect of the public interest, or any person with an interest greater than the general public (within 10 working days of notice of summary of submissions, e.g. in April or May 2013)
 - Preparation of reports by Council officers (April – June 2013)

- Hearing of submissions and further submissions from anyone who wishes to be heard, along with evidence from Council reporting officer (expected to begin in July 2013 after the required 10 working days notice; tentative hearings timetable expected to be released in April 2013 once the number of submissions and the topics they relate to are known)
 - Written decision(s) approved by RMC and publicly notified, following recommendations from hearing panel(s) (expected in second half of 2013)
 - Appeals to Environment Court (if any, within 30 days of notice of decision(s))
 - Operative status (once the appeals period closes if no appeals; otherwise after withdrawal or resolution of appeals, or Environment Court decision(s))
- 60 The 2009 RMA amendments prevent rules in the proposed District Plan from having any legal weight until the Council has made a decision on them following any submissions and hearings. The exception is for rules protecting historic heritage, protecting areas of significant indigenous vegetation or areas of significant habitats of indigenous fauna, or protecting or relating to water, air, or soil conservation. These rules will have legal effect from the time of notification, meaning they will need to be considered together with the rules of the operative District Plan until they go beyond the point of further challenge and will be deemed to be operative. Examples of the rules that will have immediate legal effect are those relating to waahi tapu sites and ecological sites.
- 61 While most rules will not have any legal weight from notification, the proposed District Plan's objectives and policies will still have some legal weight from the time of notification, alongside the objectives and policies of the operative District Plan. In practice this means a resource consent application that fails to meet the permitted or controlled activity standards referred to by the rules will be assessed against the objectives and policies of both the operative and the proposed District Plans. As each stage of the District Plan is completed (submissions, hearings, decisions, etc.), the proposed District Plan objectives and policies will generally acquire greater weight as they advance to the next stage, relative to the operative District Plan objectives and policies. This is particularly the case for objectives and policies with no submissions, and those confirmed by Council after hearings. Any objectives or policies that are not appealed after Council decisions are effectively operative even if other parts of the District Plan are under appeal. The same is true of any rules that have been confirmed by Council after hearings and are not appealed.

Content summary

- 62 The proposed District Plan is over 1000 pages long, including the main chapters, maps and appendices. The brief summary here covers the structure and format of the proposed Plan, general Plan-wide content considerations, some highlights of chapter-by-chapter-content, and an overview of the purpose and format of Section 32 reports. Elected Member briefings in the two weeks before the 22 November RMC meeting allow for more detailed presentation and discussion of content issues.

Structure and Format

- 63 A number of improvements have been made to the structure and format of the District Plan, in keeping with the focus area of improving the user-friendliness of the Plan. Potential plan users are varied, including Council resource consent officers, planning consultants, advocacy groups, and the general public, but there are some improvements that should assist all users.
- 64 The key goals for these improvements have been to:
- clearly link rules and standards to the policy framework they implement;
 - reduce unnecessary repetition in the Plan; and
 - help the user find necessary information by providing an introductory chapter and navigational tools throughout the Plan.
- 65 The first of these goals is partially achieved by putting the policies in the same chapters as the rules and standards, and having a separate chapter of objectives, whereas the operative District Plan combines objectives and policies in one chapter and keeps rules and standards separate from these. This structural improvement will help plan users see clearly how each policy is implemented through rules and standards, and will help resource consent officers refer to policies for discretionary or non-complying activities.
- 66 While objectives will be in a separate chapter, the fact that they have been reduced in number to 20 (from 42 in the operative Plan) and the use of clear cross-references from policies to the objectives they give effect to will allow the necessary linkages to be made while increasing the prominence of the objectives and ‘telling a story’ of what the Plan is trying to achieve.
- 67 The reduction in the number of objectives assists with the second goal of reducing repetition. The current District Plan has many objectives that are similar, with essentially the same content repeated in different ways across the different zones. This is particularly evident in the case of some private plan changes, where separate objectives were developed to justify the site-specific policies and rules being sought. The new Objectives chapter explains the Council’s goals more clearly, with fewer words.
- 68 Repetition is also reduced by making better use of chapters that cover Districtwide topics (e.g. General Provisions: Financial Contributions, Temporary Activities, Noise and Signage, Financial Contributions; Open Space; Natural Hazards; and Infrastructure) – listing the relevant policies, rules and standards once under those topic headings rather than repeating these provisions in every Zone or Environment.
- 69 Another key way of reducing repetition has been to place Zones within Environment Chapters (e.g. Residential and Ngarara within Living Environments, and Town Centre and Industrial Zones within Working Environments). This means that provisions applying to all Zones within an Environment can be listed once rather than repeated in each Zone.
- 70 The Environment chapters also allow some provisions to apply Districtwide rather than just in the Zones listed in that Environment Chapter. For example,

policies about housing amenity will apply not just in the Zones listed in the Living Environment chapter, but in the rural and town centre zones covered in the Rural Environment and Working Environment chapters respectively. Again, this means that the same provisions do not need to be listed in each Environment chapter. In this sense, the Environment chapters are a hybrid of area-based and topic-based provisions.

- 71 The new structure reduces repetition but represents a significant change for users of the operative District Plan, so an updated users' guide and clear navigational tools are essential. A new 'how-to' guide has been provided in Chapter One, along with a diagram explaining how to use the proposed District Plan.
- 72 Navigational tools in the other Environment chapters and topic-based chapters include cross-references from rules to policies and policies to objectives. Summary tables have been created in each chapter to show the status of a proposed activity (permitted, controlled, restricted discretionary, discretionary, non-complying or prohibited) depending on whether standards are met. New maps have also been produced to reduce visual clutter and more clearly show the various Districtwide features relating to the Natural Environment as opposed to other Districtwide features.
- 73 No one plan format will be perfect for all users, but the improvements summarised above should benefit most users. The eventual goal is an electronic District Plan or 'E-Plan' that would allow the user to extract information through a variety of avenues – e.g. seeing all provisions applying to their property, or finding which properties permit a specific activity, or seeing all the provisions relating to fencing or signage. Council staff are currently involved in discussions at the regional level towards this goal, with Wellington City developing an initial prototype that could potentially be adapted for Kāpiti.

Content: general goals

- 74 A number of overall goals have guided the proposed changes to the content of the District Plan (aside from the formatting and structure described above). They can be summarised as follows:
 - **Incorporate best practice for second-generation plans based on the Council's and other Councils' experiences with first-generation plans.** The currently operative District Plan was drafted in the mid-1990s when the RMA was only a few years old and there were no other operative District Plans and little if any relevant case law. The proposed District Plan, 17 years later, has benefited from lessons learned by our Council and other Councils with first-generation plans, as well as emerging best practice for second-generation plans. This focus on best practice has been assisted by the use of consultants for research, analysis and peer review, as described earlier in this report.
 - **Provide stronger, clearer, fewer objectives, and clearer, more directive policies.** The operative District Plan objectives are a mix of fairly general objectives written soon after the RMA was introduced, and specific objectives relating to particular areas introduced by private plan changes. The operative policies have been identified in some cases as been insufficiently clear or

directive to justify the rules and standards relating to them. The proposed objectives and policies have attempted to address these shortcomings. Rules and standards have generally only been changed where this has been necessary to better give effect to policies and objectives, or to give effect to additional issues covered by new policies and objectives.

- **Promote an integrated approach to sustainable management.** The intention has been to view the environment in a holistic fashion, recognising the complexity of natural systems and the ways in which human activity can affect these systems. This integrated approach is reflected in the avoidance of a ‘silo’ approach; rather than a series of stand-alone chapters on separate topics or zones, each chapter and its policies give effect to more than one objective, and most objectives relate to more than one chapter and set of policies. The component parts of the proposed District Plan are mutually reinforcing and promoted integrated consideration of the various dimensions and effects of subdivision, land use and development.
- **Incorporate relevant aspects of recent Council and community documents prepared under the Local Government Act.** These documents include the Development Management Strategy, Coastal Strategy, Sustainable Transport Strategy, Open Space Strategy, Community Outcomes, and Local Outcome Statements. It is considered that the proposed District Plan provides regulatory support for relevant aspects of these strategic documents.
- **Respond to regional and central government directives.** This national and regional policy framework is described earlier in this report.
- **Give attention to the focus areas agreed in early 2010 based on feedback on the Scoping Discussion Document.** This has occurred, though work outside these focus areas has also been undertaken where necessary to implement the Plan’s objectives.
- **Consider and incorporate where appropriate the feedback received during the District Plan Review.** This feedback includes comments on discussion documents, other correspondence via phone, e-mail or letter, and Elected Member input through workshops and briefings. All feedback has been considered, and while it is very difficult to guarantee complete incorporation of all feedback (especially given some conflicting views), it is possible to show the majority of parties who have provided feedback that the proposed District Plan has addressed most or all of their concerns.

75 The result is a proposed second-generation District Plan that combines many of the tried-and-true provisions of the current District Plan with leading-edge sustainable management practices developed in the 21 years since the introduction of the RMA, while strongly reflecting the Kāpiti Coast context.

Chapter-specific content

76 Due to the length of the proposed District Plan (and indeed the operative District Plan), it is difficult to summarise in this cover report the full extent of changes that have been made. As stated above, Elected Member briefings the Tuesdays before the 22 November RMC meeting allow for more detailed presentation and discussion of content issues.

77 As mentioned earlier, a colour-coding system will be used at notification to indicate which provisions of the proposed District Plan are substantially unchanged from the operative District Plan (green), which are partially changed (yellow), and which are completely changed (red).

78 In brief, the chapter content is as follows:

- **Chapter One: Introduction and Interpretation.** This chapter includes a users' guide to the District Plan and the resource consent process, definitions of terms used in the District Plan, and a description of the District Plan's structure and layout.
- **Chapter Two: Objectives.** This chapter presents the 20 objectives of the proposed District Plan, along with explanatory text describing the issues leading to these objectives and further clarifying the intent of the objectives.
- **Chapter Three: Natural Environment.** This chapter deals with the topics of biodiversity and landscape at a Districtwide and area-specific level. It contains policies, rules and standards relating to the identification, protection and enhancement of sensitive natural features including significant areas of indigenous vegetation, significant areas of habitat of indigenous fauna, outstanding natural landscapes and significant amenity landscapes. In addition to new and revised policies, some key features of the rules include the addition of 31 new ecological sites, the addition of buffer areas around ecological sites, and the addition of development controls within 11 new outstanding natural landscapes and 16 significant amenity landscapes.
- **Chapter Four: Coastal Environment.** This chapter deals with the requirements of the New Zealand Coastal Policy Statement by defining the coastal environment and including policies, rules and standards relating to it. It contains policies, rules and standards for the coastal hazards which are linked to Chapter Nine.
- **Chapter Five: Living Environment.** This chapter includes policies relating to residential activity throughout the District, regardless of zone, and also contains specific policies, rules and standards for various residential zones. In addition to new and revised policies, some key features of the rules include reduced permitted site coverage, a higher permitted minimum average lot size in most residential areas, and lower permitted front fence heights.
- **Chapter Six: Working Environment.** This chapter includes policies, rules and standards related to business and employment-related activity throughout the District, regardless of zone, and also contains specific policies, rules and standards for various employment zones (centres, outer business, and industrial). In addition to new and revised policies (including to strengthen the role of existing employment areas), some key features of the rules include new provisions for the former Tourist Activity Precinct, a Structure Plan for the Paraparaumu District Centre, and clearer provisions for home occupations and 'corner dairy' type retail in residential areas.
- **Chapter Seven: Rural Environment.** This chapter includes policies, rules and standards related to the Rural Environment throughout the District, as

defined by a set of 5 Zones (Rural Plains, Rural Dunes, Rural Hill Country, Rural Residential, and Rural Eco-Hamlet) and specific precincts. In addition to new and revised policies (including to recognise and protect rural character and productive potential), some key features of the rules include increased allowance for the clustering of rural lots, and for on-site processing of rural products.

- **Chapter Eight: Open Space.** This chapter includes policies, rules and standards related to Open Space throughout the District, particularly for a set of public Open Space zones and a new Private Recreation and Leisure zone (e.g. for golf courses). In addition to new and revised policies to recognise the different roles of different Open Space areas, some key features of the rules include allowance for increased individual building footprints combined with limitations on the total area of all buildings for a given open space to ensure at least 95% of the area remains free from buildings, and for limited retail and caretaker accommodation in the Private Recreation and Leisure zone.
- **Chapter Nine: Hazards.** This chapter includes policies, rules and standards related to hazards throughout the District. Hazards include both natural hazards (coastal erosion, flooding, fire, earthquakes, and slope stability) and man-made hazards (contaminated land and hazardous facilities). In addition to new and revised policies, some key features of the rules include extended ‘no-build’ and ‘relocatable-build’ areas in coastal urban areas, increased controls on earthworks and development on steep slopes, and new contaminated land provisions consistent with the recent National Environmental Standard.
- **Chapter Ten: Historic Heritage.** This chapter includes policies, rules and standards related to historic heritage throughout the District. These provisions apply to buildings and trees listed on the Schedule of Historic Heritage, as well as new Waahi Tapu sites. In addition to new and revised policies dealing with the identification and protection of heritage sites, some key features of the rules include clearer management of activities undertaken in Waahi Tapu sites, and revisions to permitted activity standards for heritage buildings. An archaeological alert layer is also proposed.
- **Chapter Eleven: Infrastructure and Essential Systems.** This chapter includes policies, rules and standards related to infrastructure throughout the District. It covers transport infrastructure, network utilities such as electricity, gas and telecommunications, and community infrastructure such as community halls and schools. In addition to new and revised policies recognising the benefits and potential effects of infrastructure, some key features of the rules include a revised Transport Hierarchy, incorporation of the National Environment Standard on Electricity Transmission, and allowance for small-scale renewable energy generation consistent with the National Policy Statement on Renewable Electricity Generation.
- **Chapter Twelve: General Provisions.** This chapter includes policies, rules and standards related to Financial Contributions (currently used for Reserves Contributions), Temporary Activities, Noise, and Signage throughout the District. In addition to new and revised policies on these topics, some key features of the rules include replacing the land value-based fee for Reserves Contributions with a new fixed fee per household unit equivalent (HUE),

removing the requirement for resource consent for temporary activities shorter than 3 days that comply with certain standards, adjusting noise standards to better deal with cross-zone issues and reverse sensitivity, and generally increasing controls on the type, location and size of advertising signage throughout the District, while permitting certain types of community event and traffic safety / navigational signs.

- **Volume Two: Maps.** There are four sets of maps covering the entire District, which detail Zones, Districtwide Features, Natural Features, and Natural Hazards. These maps show a variety of proposed changes to the District Plan include rezonings, future urban areas, new ecological sites and heritage listings, landscape areas, coastal hazard management areas, beach character areas, and other area-based overlays or precincts.
- **Volume Three: Appendices.** There are several appendices comprising design guides and structure plans for private plan change areas such as Meadows Precinct and Ngarara Precinct, as well as Council-initiated design guides such as those for Medium Density Housing and Paekākāriki Village Centre. They are included in a separate volume not to downplay their importance, but to preserve the physical manageability of Volume 1 (Chapters 1 – 12).

Section 32 Reports

- 79 Section 32 of the RMA requires, prior to notification of a proposed District Plan, an evaluation by Council of the following:
- the extent to which each objective is the most appropriate way to achieve the purpose of the RMA; and
 - whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objectives.
- 80 Section 32 requires this evaluation to take into account:
- the benefits and costs of policies, rules, or other methods; and
 - 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.
- 81 Summary reports of the Section 32 evaluation that has been undertaken have been written and attached as Appendix Two. These reports are not required to include the complete detail of the Section 32 evaluation that has taken place during the District Plan Review, but summarise the key elements of the evaluation.
- 82 The RMA’s reference to “most appropriate” with respect to objectives, policies, rules or other methods suggests that alternatives to the proposed provisions should have been considered. While alternative options were considered for objectives, policies, rules and standards, the sheer volume of the proposed District Plan does not allow the full options analysis to be described for every provision in the Plan. In general, the operative District Plan’s provisions (i.e. the status quo) were considered, as were more permissive and more restrictive options than the ones proposed. A balance has been sought, taking into account the full range of benefits and costs arising from the proposed provisions. Not all

these benefits and costs can be measured in monetary terms, nor are they required to be.

- 83 One of the strengths of the Section 32 reports in Appendix Two is that they clearly show the linkage between the purpose of the RMA, the Plan objectives, and the policies, rules and standards designed to achieve those objectives. The issue of whether these are the “most appropriate” provisions to achieve the purpose of the RMA will undoubtedly be the subject of submissions, and the Section 32 summary reports along with any other documentation of the Section 32 analysis can be brought to the hearing panels to assist in decision-making.

Financial Considerations

- 84 The costs of notification and managing the submissions and further submissions processes can be met within the existing budgets provided by the Long Term Plan for 2012/13. The costs of running hearings from July 2013 and managing any appeals are expected to be met within the existing budgets provided by the Long Term Plan for 2013/14. If a need for any additional resources is identified (for example, if the number and/or complexity of submissions are extraordinary), this will be brought into the Annual Plan process for 2013/14.

Legal Considerations

- 85 The District Plan Review has been required by Section 79 of the RMA, which requires District Plan provisions to be reviewed and notified for submissions at least every 10 years. The proposed District Plan has undergone legal review to ensure compliance with the RMA and to highlight any significant legal risks. Notification of the proposed District Plan will take place in accordance with Clause 5 of Part 1 of Schedule 1 of the RMA.

Delegation

- 86 The Committee has the delegation to make this decision of approving the proposed District Plan for notification. The delegation below gives the Committee the power to conduct the District Plan Review:

“7.25 Authority to undertake the formal review of the District Plan as dictated by the statutory timeframes included in the Resource Management Act 1991, including considering submissions, holding hearings on submissions, making decisions pursuant to clause 10 and clause 29(4) of Schedule 1, and to make recommendations about the approval, under clause 17 of Schedule 1, of the District Plan and any change or variation to the District Plan.”

- 87 Following notification, hearing panels will be established consisting of Elected Member commissioners and any independent commissioners required, consistent with the delegations in the Governance Structure (as amended).
- 88 The Regulatory Management Committee can make decisions on the District Plan or parts thereof, upon recommendations from hearing panels following consideration of submissions and further submissions. Only the full Council can make the District Plan or parts thereof operative after any appeals are resolved, or the lapsing of the appeals period.

Consultation

- 89 The consultation and communication processes to date have been summarised earlier in this report. Thorough consultation beyond that required by the RMA has been undertaken with Community Boards, the public, iwi, and various government agencies and non-governmental organisations. Further consultation will occur through the submissions and further submissions periods after notification of the proposed District Plan.

Policy Implications

- 90 The District Plan has significant policy implications. It provides the framework for Council's exercise of its regulatory powers under the RMA, including the integrated management of the District's natural and physical resources and effects of land use.
- 91 The proposed District Plan, once operative, will replace the current District Plan. It does not directly influence any other Council policies but has been prepared with regard to other Council policies such as the Long Term Plan, Community Outcomes, Local Outcome Statements, Development Management Strategy, Coastal Strategy, Open Space Strategy, and Sustainable Transport Strategy.

Tāngata Whenua Considerations

- 92 As discussed earlier in this report, the District Plan is of high significance to iwi. A partnership approach to the District Plan Review has been taken through a working party nominated by iwi members of Te Whakaminenga o Kāpiti, and through the publication, dissemination and consideration of the Te Haerenga Whakamua document prepared as an input to the District Plan Review.

Publicity Considerations

- 93 The notification of the proposed District Plan is a major accomplishment. Accordingly, a major publicity campaign has been planned with the Council's Communications team to accompany the proposed District Plan through the notification and submissions phases. This campaign will include the following:
- Media release the day of notification
 - Public notices in local newspapers
 - Letters containing copies of the public notice and summary materials sent to all ratepayers and residents, to ensure all directly affected parties are aware of the notification and submission processes
 - Copies of the proposed District Plan placed in all District libraries and sent to all statutory parties including the Minister for the Environment, the regional council, neighbouring councils, and iwi authorities
 - Internet presence including a link from the front page of the Council website to the District Plan Review page with the proposed District Plan, submission forms, and relevant background

- Newspaper and radio advertisements programmed for December, January and February
- Public information sessions provided throughout the District (tentatively planned for the second week in December and again in February)
- One-on-one or group meetings provided as requested to answer questions about the proposed District Plan process or content

CONCLUSION

- 94 The Resource Management Act 1991 requires all provisions of the District Plan to be reviewed and notified for public submissions at least once every 10 years. Most of the current District Plan was made operative in 1999 or soon afterwards, and is therefore due for review. The integrated approach that has been taken to the District Plan Review in terms of structure, format, objectives, definitions and cross-references has technically changed all parts of the District Plan, thereby triggering a full District Plan Review and notification of the entire proposed District Plan for submissions. Within this comprehensive review, some parts of the current District Plan are proposed to change more than others, consistent with the focus areas identified by an earlier scoping exercise.
- 95 An extensive District Plan Review process has been undertaken including monitoring, research, analysis, consultation, drafting of provisions, Elected Member workshops and briefings, external and internal peer review, and legal review. The result is a proposed second-generation District Plan that combines many of the tried-and-true provisions of the current District Plan with leading-edge sustainable management practices developed in the 21 years since the introduction of the RMA, while strongly reflecting the Kāpiti Coast context. The next step is to notify the proposed District Plan for public submissions.

RECOMMENDATIONS

- 96 That the Committee resolves to notify the proposed District Plan as attached in Appendices 1, 2 and 3 to SP-12-711 and the corresponding Section 32 summary reports attached in Appendix 4 to SP-12-711, in accordance with Clause 5 of Part 1 of Schedule 1 of the Resource Management Act 1991;
- 97 That the Committee convenes a subcommittee, consisting of the Chair of the Regulatory Management Committee and two other Councillors accredited as RMA hearing commissioners, with the authority to approve any minor edits to the contents of the proposed District Plan and Section 32 summary reports (including formatting and cross-referencing) prior to notification of the proposed District Plan, and to approve any consequential edits to the Section 32 summary reports arising from any amendments to the proposed District Plan agreed to by the Committee;
- 98 That the Committee notes the intended notification date of 29 November 2012 and resolves to set the closing date for submissions as 1 March 2013 for that notification date, or 13 weeks after any other date of notification.

Report prepared by:**Approved for submission by:**

Jim Ebenhoh

Gael Ferguson

Sustainable Development Manager**Group Manager, Strategy and Partnerships**

ATTACHMENTS:

1. Appendix One: Proposed District Plan, Volume 1: Chapters

- Chapter One: Introduction and Interpretation
- Chapter Two: Objectives
- Chapter Three: Natural Environment
- Chapter Four: Coastal Environment
- Chapter Five: Living Environment
- Chapter Six: Working Environment
- Chapter Seven: Rural Environment
- Chapter Eight: Open Space
- Chapter Nine: Hazards
- Chapter Ten: Historic Heritage
- Chapter Eleven: Infrastructure, Services and Associated Resource Use
- Chapter Twelve: General Provisions

2. Appendix Two: Proposed District Plan, Volume Two: Appendices

3. Appendix Three: Proposed District Plan, Volume Three: Maps

4. Appendix Four: Section 32 summary reports for Proposed District Plan