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# Councils' use of the RMA and LGA in Coastal Development Decisions: Towards Sustainability

A thesis presented in fulfilment of the requirements for the degree of

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## Abstract

The Resource Management Act 1991 (RMA) gave councils a mandate and an obligation to promote sustainability. Along with this it also introduced an expectation that the environment will be better managed than previously. Evidence shows that the environment is continuing to be degraded. This is especially evident in the coastal environment where in the early 2000s there has been unprecedented development pressure. The addition of the Local Government Act in 2002 (LGA) has strengthened councils' sustainability mandate by stipulating a sustainable development approach and supporting processes and principles. Because the RMA and LGA have a similar sustainability directive there has been a push to utilise the compatible strengths that the LGA offers to enhance the outcomes achieved through RMA decisions, therefore, integrating and aligning the LGA and RMA.

This research used case studies, including interviews, to examine how councils use their RMA and LGA mandates in coastal development decisions. The research found that currently there is little integration of the LGA's requirements and sustainability direction in RMA coastal subdivision decisions. The case study analysis showed that using the principles and processes in the LGA and also a council's policies, strategies, and plans other than RMA documents would provide up to date policy direction and contextual information that would be useful for RMA decisions and could provide a more sustainable outcome if used.

The case studies identified a significant number of barriers to achieving sustainability through the RMA, including that much of the policy direction in RMA planning documents is not considered in deliberations. A number of these barriers are also likely to reduce attempts to integrate and align the LGA and RMA, unless they are addressed.

## **Acknowledgments**

Investigation into a council's decisions can be uncomfortable even though it adds to a body of research and understanding about particular situations. I am therefore very appreciative of the council officers and elected members interviewed at Horowhenua District Council and Gisborne District Council for their co-operation and honesty.

Special thanks to my supervisor Christine Cheyne for her time, guidance, knowledge, and support throughout this research. It has been a long road to completion and the encouragement given by Christine is truly valued. My previous supervisors Meredith Gibbs and Ryan Walker, thank you for guiding my original ideas and thoughts into something tangible.

My family and friends, thank you for supporting me throughout this very long process and understanding why I couldn't enjoy spending long summer days with you. Special thanks to Hamish and Maureen.

## List of Acronyms and Abbreviations

<b>AEE</b>	Assessment of Environmental Effects
<b>ASCH</b>	Area Sensitive to Coastal Hazards
<b>CDEM</b>	Civil Defence and Emergency Management
<b>GDC</b>	Gisborne District Council
<b>GUCS</b>	Gisborne Urban Coastal Strategy
<b>HYS</b>	Horowhenua Youth Strategy
<b>LGA</b>	Local Government Act 2002
<b>LGNZ</b>	Local Government New Zealand
<b>LIUDD</b>	Low Impact Urban Design and Development
<b>LTCCP</b>	Long Term Council Community Plan
<b>MAF</b>	Ministry of Agriculture and Forestry
<b>MfE</b>	Ministry for the Environment
<b>MHWS</b>	Mean High Water Springs
<b>NIWA</b>	National Institute of Water and Atmospheric Research
<b>NZBCSD</b>	New Zealand Business Council for Sustainable Development
<b>NZCPS</b>	New Zealand Coastal Policy Statement
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>PAS</b>	Positive Aging Strategy
<b>PCE</b>	Parliamentary Commission for the Environment
<b>PUCM</b>	Planning Under a Cooperative Mandate
<b>PMA</b>	Protection Management Area
<b>SH</b>	State Highway
<b>RPDLW</b>	Proposed Regional Plan for Discharges to Land and Water, Waste Management and Hazardous Substances

<b>RMA</b>	Resource Management Act 1991
<b>RPS</b>	Regional Policy Statement
<b>UNCED</b>	United Nations Conference for Environment and Development
<b>WCED</b>	World Commission on Environment and Development

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# Chapter 1

## Introduction

### 1.1 Introduction

Local government in New Zealand is required to make decisions about the sustainable use of resources to ensure the present and future well-being of communities. The two key statutes that give local government this mandate are the Resource Management Act 1991 (RMA) and the Local Government Act 2002 (LGA). Given the evidence of ongoing environmental degradation, the effectiveness of both these Acts needs to be addressed. The aim of this thesis is to explore the alignment between the RMA and LGA by examining how their mandates are reflected in resource management decisions.

As a practising planner, working with both the LGA and RMA, I became increasingly aware of the similarities between the two statutes and the potential for them to be aligned to strengthen local government's ability to achieve a more sustainable outcome than both Acts working independently. A call for better integration and alignment of the RMA and LGA has been advocated for sometime (Dixon, 2005; LTNZ, 2007; Heslop, 2007; LGNZ, 2008). The challenge, as the review of District Plans developed under the RMA looms, is how resource management decision-making under the LGA and RMA can be integrated and better utilised in the quest for sustainability.

This research focuses on current local government decision-making and how councils use the direction and authority given by the RMA and LGA when making decisions on coastal subdivision. As well as looking at the value that councils' strategic LGA documents, such as the Long Term Council Community Plan (LTCCP), could provide to guiding RMA decisions, this research includes an investigation into the current barriers to implementing an integrated sustainable development approach in local government planning. The overall objective is to provide insight for second generation district plan development and implementation.

This chapter outlines the research question and notes some limitations of the research. A number of key concepts underpinning the research are covered in the remainder of the chapter, including a brief overview of the purposes of the RMA and LGA.

## **1.2 Research Question**

To gain a better understanding of how the RMA and LGA can work together this research will focus on understanding what influences current decisions on coastal development during an RMA resource consent process. Particular attention is paid to how local authorities are using the sustainability direction and decision-making authority given to them by the RMA and LGA as their mandate to act on behalf of their community.

The primary question for this research is:

*How are the different mandates of the Resource Management Act 1991 and the Local Government Act 2002 reflected in council decisions on coastal development?*

Two secondary questions are also addressed:

*Do councils' strategies, plans, and policies, other than RMA documents, add value to RMA resource management decision-making?*

*What are the possible barriers to integration and alignment of the LGA and RMA in resource management decision making?*

This research is timely for the following reasons. A number of councils are beginning to review and develop second-generation RMA plans. The review will provide an opportunity to address any shortcomings in current plans, if found. The regular three yearly reviews of the community outcomes and Long Term Council Community Plans (LTCCPs) provide an opportunity for councils to think about how they can further align their responsibilities under both the RMA and LGA, including the timing of District Plan reviews. Finally, the Department of Internal Affairs (DIA) is undertaking policy development on Building Sustainable Urban Communities (DIA, 2008). From the feedback given during submissions on the consultation document released by the DIA, it is likely that part of the review will look at opportunities for the LGA and RMA to work together.

### **1.2.1 Limitations**

A case study methodology, including interviews and document analysis, were deployed to address the research questions. This is outlined in Chapter 3. The case study approach included two individual case studies focused on local government coastal subdivision decisions.

Although case studies may not be generalised because of their unique context, they allow an in-depth investigation into a common situation. Here, the situation being investigated is local government decision-making. By undertaking more than one case study the result is more robust, allowing a comparison of information in similar situations and responses.

The case studies focused on resource consent applications for coastal subdivision. They involved document analyses which assessed a council officer's recommendation report and the council's final decision report against relevant RMA and LGA documents. The analyses did not include the consent applications themselves, mainly because an officer's recommendation report often summarises the context well and is the main document that elected members consider when making decisions.

Semi-structured interviews were also conducted as part of my methodology to support the case study research and investigate the wider understanding of councils' RMA and LGA sustainability mandates and obligations. The interviews added depth and a reflection of individual real life circumstances. However, because of their unique context, similar to the document analyses, it can be difficult to make generalised conclusions.

## **1.3 Key Concepts**

### **1.3.1 Sustainable Development**

International recognition of the global issue of environmental degradation and the flow-on effects that it has for humans was at the core of the Brundtland report in 1987 (WCED, 1987). This report's concept of sustainable development was reflected in the 27 principles that make up Agenda 21. Agenda 21, a non binding plan for action to achieve sustainable development, resulted from the 1992 United Nations conference on Environment and

Development (PCE, 2009). With Agenda 21 sustainable development gained prominence in the public and political arenas. A key feature of Agenda 21's sustainable development approach is the requirement for full integration of social, economic, and environmental well-being in decisions (UNCED, 1992). New Zealand committed itself to promoting sustainability when it became a signatory to Agenda 21 in 1993. This commitment is now enshrined in legislation, particularly through the Resource Management Act 1991 (RMA) and the Local Government Act 2002 (LGA).

### **1.3.2 Degradation of the Coastal Environment**

The complexities of environmental management are particularly apparent where there is pressure to develop. The coastal environment is an example of one such area, where New Zealanders' love of coastal amenity has created unprecedented pressure for residential development. Pressure for coastal development in New Zealand and the associated effects have been documented since the early 1970s (Ministry of Works, 1972; Brookes, 2000). The proponents of the RMA recognised this development pressure and the sensitive and complex nature of the coastal environment. The RMA has guidance directly relating to managing coastal development (for example sections 6(a), 28, 30, and 56-58) including the requirement for the Department of Conservation to develop and administer the New Zealand Coastal Policy Statement (NZCPS).

Although the RMA was introduced nearly two decades ago, New Zealand's environmental quality continues to be in a state of decline. The coast has continued to feel the full effects of environmental degradation resulting, for example, in a decline in water quality, increased sedimentation, loss of landscape and amenity value, and reduced biodiversity (Salmon, 2007a; MfE, 2007; Peart, 2004; Peart, 2005). Along with the physical environmental effects, a number of social impacts have been identified including loss of income because of pollution and sedimentation, decrease in housing affordability, a change in community profile, loss of long-term permanent residents as second-home (often called baches or cribs) owners move in (Cheyne & Freeman, 2006; Freeman et al., 2005). The challenge for councils involved is to balance the demand for coastal development with the impacts on the environment and community. Frequently the councils are small, under-resourced, financially stretched, and without skilled staff to assess complicated development applications. To add to this mix there is often a political

enthusiasm at the district level for development in coastal areas (Cheyne & Freeman, 2006; Freeman et al., 2005).

Two main possibilities have been explored in previous literature as to why the RMA has not achieved the outcomes expected to for the environment. The first reason is that the RMA is not being applied properly (Ericksen et al., 2001; Bachurst et al., 2002). The second reason is that there are social and economic effects, and institutional and political dynamics outside of the RMA's purpose of sustainable management that are inadvertently affecting decisions (Day et al., 2003; Laurian et al., 2004). These factors include a council's capacity and political commitment to sustainable management.

### **1.3.3 RMA and LGA Working Together**

The LGA's purpose is sustainable development (promotion of social, economic, environmental and cultural well-being of communities, in the present and for the future (section 3, 10)). This is a closer fit to the broader definition used in Agenda 21 than that of the sustainable management purpose in the RMA (the use, development, and protection of natural and physical resources which enables people and communities to provide for their social, economic, and cultural well-being (section 5 (2))). The relationship between the LGA and RMA is now beginning to be tested in the RMA decision-making processes (see for example, Omokora Ratepayers Association and the Bay of Plenty Regional Council (A102/2004), and Intercontinental Hotel and Wellington City Council (W015/2008)). For example, documents developed under the LGA to manage growth (Growth Management Plans and Strategies) are being used more frequently by councils to guide decisions on subdivision consents. These types of documents are also increasingly being referenced or incorporated into District Plans or Regional Plans. For example, Taupo District 2050 is incorporated into the Taupo District Council and SmartGrowth is integrated into the Bay of Plenty Regional Policy Statement. This may be a sign that local government is becoming aware of their new sustainable development mandate under the LGA and what it means. In particular, the LGA prescribes, just as the RMA has for sustainable management, use of sustainable development in its decision-making principles. This means that councils have a sustainable development directive in every decision they make, including decisions under the RMA (Curran, 2004).



## 1.4 Thesis Outline

The next chapter provides background information to this research. Chapter 2 discusses how environmental degradation, particularly in coastal areas is continuing despite the sustainability directive for local government. The concept of sustainability and how it is interpreted and implemented through the RMA and LGA, and also how the RMA and LGA could be integrated are also discussed in Chapter 2.

Chapter 3 explains the case study methodology used to answer the research questions. Chapter 3 also describes the criteria used to select the case studies and the limitations of the methodology.

Chapters 4 and 5 present the two case studies on coastal subdivision. Even though it is not conventional to combine the research results with the analysis discussion, it is possible (Emerson, 2005). The approach taken to this research is to combine the data presentation and analysis of each case study together in these chapters because there is a dynamic interaction between them in the discussion. Although interviews were undertaken as part of the data collection for the case studies they are discussed separately in Chapter 6. The methodology (Chapter 3) explains the reasons for this separation.

Chapter 6 discusses the interviews undertaken. The officer and an elected member involved in the decisions in each case study were interviewed. The findings from the interviews are presented and discussed collectively in themes in this chapter.

Chapter 7 discusses the findings from the case studies analyses and interviews, drawing on the similarities of how councils are integrating and implementing the direction and decision-making authority given to them by both the LGA and RMA. From the analyses, the chapter also discusses the possible barriers to future efforts to align and integrate the LGA and RMA.

Finally, Chapter 8 presents the conclusion by identifying a number of areas where the RMA's implementation can be enhanced through addressing the barriers identified in this research and more proactive integration with the LGA.

## **1.5 Conclusion**

There is widespread public, academic, and practitioner concern that the RMA is not achieving the goal of sustainable management. The LGA's wider sustainable development direction and responsibilities could be used to strengthen outcomes in RMA consent decisions. This research investigates how local government is currently applying both its mandates under the RMA and LGA to coastal development and if consideration of the LGA, especially whether the sustainability guidance in a council's policies, strategies, and plans, other than RMA documents, could provide a more sustainable outcome. Possible barriers which may be limiting the integration and alignment of the LGA and RMA are also identified through the research.

## **1.6 Postscript**

This research concluded shortly after the General Election in November 2008. The newly elected National led government pledged changes to the RMA within 100 days of their appointment (National Party, 2008) and introduced the Resource Management (Simplifying and Streamlining) Amendment Bill in late February 2009. Likewise, the Minister of Local Government has mooted potential changes to the planning provisions of the LGA (ACT Party, 2008). The possible changes arising from these actions are outside the scope of this research. In addition, the outcome of the review of the NZCPS was not known although it is expected to be soon after the completion of this research.

## **Chapter 2 Background**

### **2.1 Introduction**

Chapter 2 provides the context for this research. It begins by discussing New Zealand's ongoing environmental degradation, particularly in coastal locations. Chapter 2 continues by describing and discussing 'sustainability' as the key concept embraced to overcome environmental degradation and how it has been interpreted and implemented in local government New Zealand through the Resource Management Act 1991 (RMA) and the Local Government Act 2002 (LGA). How the two statutes could be aligned and integrated to achieve a more sustainable outcome is then discussed. Some of the barriers which have been previously identified to achieving implementation of the RMA are also described as they may also be influencing how the two Acts are integrated and aligned.

### **2.2 The State of New Zealand's Environment**

Humans arrived in New Zealand between A.D 1150 and A.D 1350 from Polynesia (MfE, 1997). With the arrival of humans New Zealand's environment began to be altered. Early Maori cleared significant tracks of forest by hunting and making space for community activities (such as settlements and gardening) (Peart, 2005). When Europeans arrived, nearly 240 years ago, the degradation of New Zealand's environment dramatically increased with the demand for its natural resources, such as gold and timber and for farming and settlements (Memon, 1993).

Today New Zealand's population is 4.3 million and is expected to increase to 5 million by 2050 (OCED, 2007). Most of the population is located in urban settlements on the coast, including its largest cities. New Zealand's natural assets remain the base of its modern economy with agriculture, horticulture, and forestry, including associated processing and services, contributing a total of 18% to Gross Domestic Product (GDP) and making up over 60% of exports (MAF, 2006). Tourism contributes 9.4% of GDP with two-thirds of visitors indicating that nature-based activities are a primary factor in choosing New Zealand as a destination (OECD, 2007).

There is increasing concern that New Zealand's 'clean and green' image, often used as a unique selling point for exports and tourism, is waning (OECD, 2007) . A number of publications have documented or provided a snap-shot of the declining state of New Zealand's environment.

The Ministry of the Environment has published the State of New Zealand's Environment in 1997 and 2007 as a stock take of the country's environment (MfE, 1997, 2007). As a requirement of the Resource Management Act 1991, most regional and district councils have produced state of the environment reports. Publications and technical reports for various government ministries and research organisations have also tracked the state of New Zealand's environment. More recently the OECD<sup>1</sup> produced its 2007 environmental performance review of New Zealand (OECD, 2007).

New Zealand's current land cover can generally be divided into 35% forest and other wooded land, 52% permanent grassland, 11% other areas, and 2% arable and permanent crop land (OECD, 2007). Originally 85% of the land area was covered in indigenous forests. This has now been reduced to 23% and located mainly in mountainous areas and some low lying areas of the West Coast (MfE, 1997). A net loss of nearly 175 km<sup>2</sup> of indigenous habitat was recorded between 1996 and 2000 (OECD, 2007). Grasslands originally covered just 5% of New Zealand's land area prior to human arrival, they now cover over 50% or 14 million hectares (MfE, 1997), much of it for agricultural pasture farming. Urban, industrial and transport covered almost 220,500 hectares in 2002 (MfE, 2007). Some of the effects of the change in land cover which have been documented are:

- Increased soil erosion with 68% of land susceptible to erosion (PCE, 2002).
- Loss of carbon and organic matter (PCE, 2002).
- Compaction and loss of soil structure (PCE, 2002).
- Nitrification of water-ways. Scientists estimate that the waste generated by 3,000 dairy herds in the Waikato River alone is equal to about 5 million people (PCE, 2002).
- Soil contamination from landfills, industrial, and domestic sources.

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<sup>1</sup> OECD is the Organisation for Economic Co-operation and Development. 30 democracies are part of the OECD and they work together to address the economic, social, and environmental challenges of globalisation.

- Reduced biodiversity from removal of indigenous vegetation, including the draining of wetlands, pollution of water bodies, such as coastal estuaries, and pests and weeds (MfE, 1997). New Zealand has about 668 species listed as threatened (OECD, 2007).

### **2.2.1 Coastal Degradation**

The effect of New Zealand's environmental degradation is most apparent in the coastal environment because this is the end point of rivers and where most of New Zealand's population chooses to live. For example, in 1998 the Coromandel Peninsula in the Waikato Region, had development over 70% of its beaches and dunes, this includes houses and marinas, and only 0.5% of the original 70% of coastal margin forest remained (Environment Waikato, 1998). As the Ministry for the Environment (2007, p 318) points out "previously undeveloped coastal areas have experienced significant development in the last decade".

This growth in coastal development has resulted in continuance of environmental degradation. Many of New Zealand's estuaries are filling up with sediment from land use up-stream. An estimated 6 tonnes of sediment per hectare is lost from land farmed annually (OECD, 2007). New Zealand's estuaries and coastal waters receive contaminants from farming, including nitrogen which has doubled in use since 1994 (OECD, 2007), and urban development (MfE, 2007). A significant contribution to coastal pollution from urban development is from sewage and stormwater (MfE, 2007). For instance the main source of metals in the Waitemata Harbour is from roads (car tyres and brake linings) and zinc coating from roofs (MfE, 2006). As a result of poor water quality numerous councils in coastal areas around urban settlements regularly warn people not to swim or eat shellfish after heavy rain for several days (see for example, Gisborne District Council, 2006; West Coast Regional Council, 2009; Greater Wellington Regional Council, 2008).

Coastal Development can also have a number of socio-economic impacts on communities as outlined in Chapter 1 and also Section 2.5.5 of this Chapter.

### 2.3 Towards Sustainability in New Zealand

Throughout the 1960s and 1970s environmental concern was continuing to build both within New Zealand and internationally, driven by debates about the impact that increasing resource demands were having on environmental limits. The first Earth Summit – the United Nations Conference on the Human Environment – was held in Stockholm in 1972 (MfE, 1997). A shift in the way people were thinking about the environment was gaining momentum. During the 1970s the international community started to establish the concept that the earth's resources were not finite and that the viability of our species future is intrinsically linked and dependant to the health of the environment (Hills, 1998). The Brundtland Commission produced a report in 1987 that introduced to the international political community the term 'sustainable development' (WCED, 1987) as a key concept to strive for to achieve better environmental outcomes. Sustainable development was defined in the Brundtland Report as:

Development which meets present needs without compromising the ability of future generations to meet their own needs (Brundtland Commission, 1987, Chapter, p 1).

Pressure from the international community through reports, such as the OECD's review, the Brundtland Report, and a growing understanding of the effect of environmental issues on the economy, led to a number of changes to New Zealand's environmental management in the late 1980s and early 1990s, including:

- A shift in environmental responsibility to local government, apart from areas with a clear national interest, through the local government reforms from 1987-1989 (MfE, 1997; McKinlay, 2006).
- Three new government agencies were established 1987– the Department of Conservation, the Ministry for the Environment and the Office of the Parliamentary Commissioner for the Environment (MfE, 1997).
- Review of environmental legislation which resulted in the replacement of 50 environmental statutes with the Resource Management Act 1991 (RMA) (OECD, 2007). The RMA also introduced a number of key concepts for managing the environment, including sustainable management.

The Second International Earth Summit in Rio de Janeiro in 1992 was guided by the principle of sustainable development and produced five key documents including the Rio

Declaration and Agenda 21, which encapsulated in its principles sustainable development. At the time, the introduction of the RMA and its purpose of sustainable management put New Zealand ahead of other OECD countries in environmental management (Salmon, 2007b; Peart, 2007).

Since 1992 New Zealand has introduced several other statutes that include sustainability in their purpose. Of particular significance is the Local Government Act 2002 (LGA), the Energy Efficiency and Conservation Act 2000, and the Land Transport Management Act 2003. In 2002 besides the LGA, no other statutes on economic or social matters incorporated the concept of sustainable development (PCE, 2002), although a number of policies and strategies did.

## **2.4 Interpreting Sustainable Development**

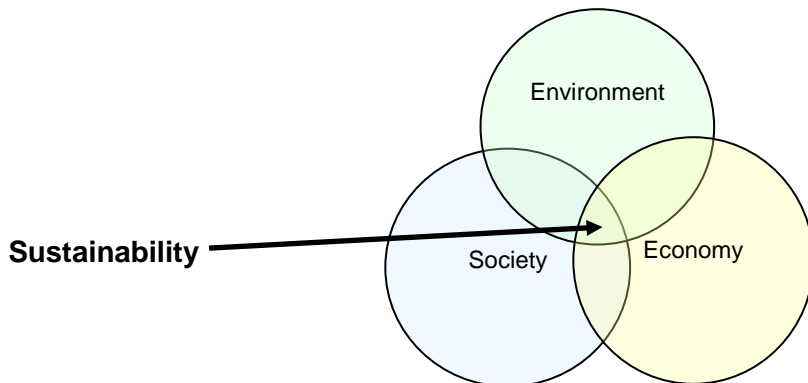
Although sustainable development is a goal for public policy, it is a concept that people often find difficult to define and implement. Sustainable development has been interpreted in a number of ways and depending on the interpretation, the outcome could be very different.

The New Zealand Parliamentary Commissioner for the Environment describes sustainable development as recognising:

- The finite reserves of non-renewable resources and the importance of using them wisely and where possible, substituting them with renewable resources,
- The limits of natural life-supporting systems (ecosystems) to absorb the effects of human activities that produce pollution and waste,
- The linkages and interactions between environmental, social, and economic factors when making decisions, emphasising that all three factors must be taken into consideration if we are to achieve sustainable outcomes
- The well-being of current and future generations as a key consideration. (PCE, 2002, p 6)

There are two distinct models commonly used to interpret of sustainable development. The first model is often referred to as weak sustainability (Figure 2.1).

Figure 2.1: Weak Sustainable Development

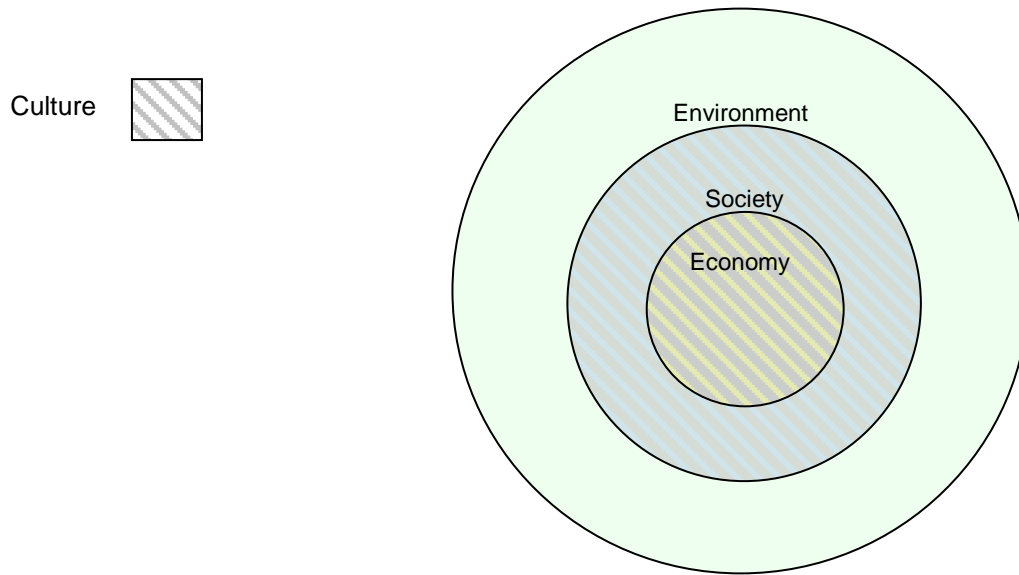


Weak sustainability is often described as balancing the competing interests of social, environmental, and economic well-being. Depending on the decision-maker's interest, this model is frequently interpreted as a hierarchy with economic considerations as the top priority (PCE, 2002; Curran, 2004). This approach assumes that if a country is economically sustainable it follows that it can then afford to invest in society and the environment. In other words a country needs to “economically rich to be green”. The weak sustainability model is starting to be used less as it becomes clear that wealthier countries are using far more natural resources than poorer countries. However, it is still used by some prominent agencies that advocate for sustainability such as the New Zealand Business Council for Sustainable Development (NZBCSD) (NZBCSD, 2009; PCE, 2002). A fundamental flaw with the weak sustainability model is that ecological constraints within which we must operate to survive are not recognised (PCE, 2002).

A second model identified by the New Zealand Parliamentary Commissioner for the Environment is that of strong sustainability (Curran, 2004) (Figure 2.2).



Figure 2.2: Strong Sustainable Development



The strong sustainable development model in Figure 2.2 recognises that society is a subset of the environment and the economy is a subset of society. It shows that the economy can only exist within a society and there are areas of society where the economy is not a prerequisite. Similarly, society and its economy are reliant on the restraints of the environment. However, the environment can exist without human society and its economy. Society and its values will change over time, along with its economy; nevertheless, to continue to survive humans must not exceed the environment's ability to provide for and absorb the effects of human society, including its economy (PCE, 2002).

Culture is added as a layer on top of society, recognising that each community has a unique culture and set of values which determine the way it interacts with the environment and conducts its economy. For example, many New Zealanders' strong belief in private property rights means that solutions often favour volunteerism over regulation. In practice this perspective can be seen in management of issues like public access where in New Zealand the private property culture blocked changes in legislation to accommodate a network of public walkways (OECD, 2007). In other countries such as England there is, historically, a very strong culture around the right of walking access across private land. Another example of New Zealand's unique culture is the relationship that Maori have with land, water, and the plants and animals that live within it.

Unlike weak sustainability described Figure 2.1, strong sustainability is reliant on decision-making that considers society, economy, and the environment in an integrated manner whilst focusing on achieving the overall strategic vision of sustainability (PCE, 2002). This requires a good understanding of the relationships and interaction between each component. Taranaki Regional Council (1994) describes integrated management as:

- Integration across resource systems (e.g. Interconnected biophysical ecosystems)
- Integration with social and economic objectives
- Integration of actions across a range of time scales
- Integration of responses across management agencies
- Integration of actions within management agencies
- Integration of methods to be used to implement policies
- Integration with the cultural and spiritual values and resource management approaches of tangata whenua

While trade-offs are inevitable between the parts of the strong sustainability model, it highlights that the environmental life-supporting systems are not negotiable. This means that precedence is given to the environment.

The two main statutes that influence advancement towards sustainability on a large scale in New Zealand are the LGA and RMA. The LGA identifies that the purpose of local government is to take a sustainable development approach which is described in detail by eight principles (Section 14) and that a local authority must act in accordance with and apply them to all decisions that it makes (Section 76). The RMA's purpose is to promote sustainable management (Section 5). Sustainable management is considered a subset of sustainable development (Curran, 2004). I will discuss this point further in the next section. The RMA is similar to the LGA, because it also requires the all decisions must meet a sustainability test described in Part 2. The next section briefly describes both the RMA and LGA in more detail, focusing on their implementation of sustainability.

## **2.5 Resource Management Act 1991**

### **2.5.1 The Sustainable Management Purpose**

In New Zealand the concept of sustainable management is applied through the RMA to situations that use, develop, and protect natural and physical resources. The RMA's purpose is sustainable management which is described in Section 5 of the Act (refer to Appendix 1). Decisions made about the use, development and protection of natural and physical resources are subject to Part 2 of the RMA, which includes the purpose of the RMA (Section 5) and Sections 6, 7, 8 which contain matters that decision makers should provide for or have regard to (refer to Appendix 1).

The term 'sustainable management' as used in the RMA is considered as a subset of sustainable development and is a deliberately narrower than the definition of sustainable development (Curran, 2005; Mallet, 2007; PCE, 1998). It was felt that the pursuit of economic and social goals should be left to other mechanisms such as taxation and welfare systems while the RMA's role is to ensure that the environment's sustainability is not compromised by the pursuit of those concerns (MfE, 1997; Mallet, 2007).

The Ministry of the Environment explains that sustainable management in the RMA was not meant to encompass sustainable development:

The Act (RMA) was never meant as a blue print for living. The purpose of the Act is first and foremost about minimising environmental impacts. And while it does recognise social and economic needs, it does not actively promote social and economic aspirations (MfE, 2007, p 6).

This narrower interpretation of sustainability could be construed as supporting weak sustainability because in practice it often excludes the wider socio-economic impacts of use and development of the environment.

The Environment Court has interpreted sustainable management in two ways. The first is that there is an environmental bottom line that should not be compromised—a strong sustainability approach. However, the second interpretation which seems to have been

more readily applied is balancing and applying equal weighting to human values and ecological values (Cocklin, 1996). This second approach supports weak sustainability.

As discussed, integration of social, economic, and environmental factors are a key component of decision-making which promotes a sustainable outcome, recognising that decisions that relate to development and society are inseparable from the surrounding environment. To this end the WCED through Agenda 21 advocated that governments should improve processes so that consideration of socio-economic and environmental issues are fully integrated (Grundy, 1994). Although the RMA's purpose of sustainable management and processes promote integration, the Ministry for the Environment's view is that sustainable development is "viewed as resting on the three pillars of economy, society and environment...The RMA is part of the environment pillar" (MfE, 2007, p 6). This statement combined with the previous quote above from the Ministry clearly separates out the three components of sustainability and appears to focus on environment in isolation of the others reducing integration. Therefore the RMA's sustainable management approach is generally applied as a narrower and weak interpretation of sustainability. However, from the wording of the RMA and the court's interpretation, the RMA's purpose of sustainable management could be considered as strong sustainability (Curran, 2004).

There has been some criticism that the narrower application of the RMA's sustainable management purpose has slowed New Zealand's progress towards a sustainable development approach, see for example PCE (2002) and Curran (2004). There has also been criticism that the weak sustainability approach to balancing social, economic, and environmental values is more likely to support arguments that have economic benefits (Cocklin, 1996) and as a result the RMA is sometimes referred to as a developer friendly Act (Carmona and Seih, 2004).

### **2.5.2 Principles Underlying the RMA**

The RMA is based on a number of principles:

- A sustainable management approach (Birdsong, 1998).
- An effects based approach where the degree of environmental effects from an activity determine whether it is permitted (MfE, 1997).

- Community responsibility. Environmental decisions are best made by those persons most closely affected by an activity (MfE, 1997; MfE, 2004).
- Integrated management (MfE, 1997).
- Assessments of alternatives (MfE, 1997). This refers not only to assessment of alternative options for activities and their locations but also options for dealing with an issue.
- Monitoring, including monitoring of the environment, the way that an issue is addressed, and the activity (MfE, 1997).
- User pays. Costs fall with a person that wants to use a resource, carry out an activity, and the polluter (Local Government New Zealand, 1999).
- Public participation (Birdsong, 1998).
- A precautionary approach and proof of environmental effects (Birdsong, 1998).

These principles are threaded throughout the RMA and most of them have roots in the concepts outlined the Brundtland Report, such as inter-generational equality, integration, and public participation. There are two main processes within the RMA where these principles, including the purpose of sustainable management, are implemented through decisions. These processes are, firstly, the development of RMA planning documents, such as policy statements and plans, and secondly, the assessment of applications to use, develop and protect natural and physical resources (the resource consent process).

The RMA stipulates the development of a number of documents within a hierarchy which are used to assist and integrate decisions on use, development, and protection of natural and physical resources.

### **2.5.3 RMA Documents**

The RMA prescribes that certain government organisations, at a national and local level, develop and implement documents in the form of National Environmental Standards, National Policy Statements, Regional Policy Statements and Plans, and District Plans. These documents identify significant resource management issues, provide guidance about how they should be addressed, and the environmental outcomes are anticipated.

However, the main purpose of these documents is to assist the organisations developing them to promote sustainable management (the purpose of the RMA (Section 5))<sup>2</sup>.

Prior the RMA amendments in 2005, all RMA planning documents were required 'not to be inconsistent' with documents further up the planning hierarchy. Now they are required to 'give effect to' them, in other words, to actively implement them (Quality Planning, 2009). Development of the RMA policy statements and plans is through an extensive public consultation process which requires compliance with the First Schedule of the RMA. In addition, prior to notification an assessment is required which evaluates whether the documents achieve the purpose of the RMA (Section 32). The document development process can take up to 20 years to complete from initial drafting through to implementation, then review, and adoption of the second generation document. Because of the length of time it takes to change RMA planning documents they are often criticised as being out of date and no longer relevant to addressing current issues (Tonkin & Taylor, 2008).

#### **2.5.4 The Resource Consent Process**

The RMA is considered an enabling piece of legislation (Guernsey et al., 2005). This means the Act is generally interpreted as allowing an activity unless an RMA planning document expressively prohibits it. The resource consent process is where a person seeks permission from a consent authority (the Department of Conservation, regional or district council) to use, develop, or protect a natural and physical resource if they think that their activity contravenes an RMA planning document or the document requires them to apply for a resource consent. If people do not apply for a resource consent when they should have, they can be prosecuted.

The consent authority assesses all activities by considering consent applications against Part 2 and Section 104 of the RMA. Section 104 requires the consent authority to have regard to:

- Any actual and potential effects on the environment of allowing the activity
- National policy statements, including the New Zealand coastal statement
- Regional policy statements and plans

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<sup>2</sup> More information about RMA planning documents can be found on the Ministry for the Environment and Quality Planning websites.

- The District Plan
- Any other matters the consent authority considers relevant

Section 104 1 (c) is particularly important to this research because it allows decision-makers to assess resource consent applications against any other relevant matter, including those not covered in RMA planning documents. For example, a council may have documents developed under other legislation that raise issues and provide policy guidance on how to address them, such as the LTCCP and Land Transport Management Plans.

Consultation on a notified resource consent application is similar to the adoption of planning documents. However, there are several differences such as those persons considered directly affected by the consent must be notified, and the consent authority has discretion over whether to hold a public hearing.

The consent process is fundamental to achieving the purpose of the RMA (sustainable management) and the principles described above, which initially informed the development of the RMA. As stated before it is where the concept of sustainable management is applied to decisions that affect everyday real world situations. Both the resource consent process and the RMA documents, which are used to assist assessment of consent applications, should promote sustainable management as they are subject to the purpose of the RMA (Section 5) and matters outlined in Sections 6, 7, and 8 (Part 2 of the RMA).

This being the case, there is an expectation that all activities that may cause negative environmental effects are assessed through the consent process and as a result should promote sustainable management. Therefore, there should be a net gain in environmental quality. The introduction of the RMA brought with it an optimism that was soon abandoned because, as previously discussed, New Zealand's environment is still in a state of decline almost 20 years after its introduction.

A body of literature has emerged that explains why the RMA has not been effective in achieving environmental sustainability. According to Borrie et al. (2004) some of the barriers that affect RMA implementation may also inhibit the implementation of the LGA. Arguably, these same limitations are likely to hinder the integration and alignment of the

RMA and LGA as well. Therefore identification of possible barriers to integration and alignment also forms part of this research. The next section provides guidance to this research by briefly outlining some of the barriers/limitations that have been identified through previous studies as to why the RMA and similar spatial planning methods are not achieving advancement towards the vision of a sustainable environment.

### **2.5.5 Barriers to Implementation of the RMA's Purpose**

Previous research, including the Planning Under a Cooperative Mandate (PUCM) project (PUCM, 2009) and Landcare Research's LIUDD Programme (Landcare Research, 2004), have identified numerous factors that influence RMA outcomes. In addition, various researchers both within New Zealand and internationally have identified spatial planning limitations and as Talen (1997) discussed, both internal and external factors influence plan implementation. The internal factors which Talen suggests contribute to failure of implementation were a flawed plan and flawed planning behaviour. The external factors Talen (1997) identified were political complexities, lack of societal consensus, uncertainty and lack of community support. Factors which other researchers have identified as barriers include:

- Capacity of local authorities (Laurian et al., 2004; Bachurst et al., 2002);
- Commitment of local authorities including political support (Laurian et al., 2004; (Bachurst et al., 2002);
- Characteristics of the activity and the applicant (Laurian et al., 2004);
- The relationship between the developers and the consent authority (Laurian et al., 2004);
- Socio-economic factors of the community (Bachurst et al., 2002);
- Capacity of the applicants (Day et al., 2003)
- Plan quality (Day et al., 2003)

In addition to those listed above Carmona and Sieh, (2004) consider the following more ingrained factors as barriers to delivery of sustainable development:

- Establishment of living patterns – often these are entrenched and difficult to overcome such as our reliance on personal cars and in the case of New Zealand our deep seated belief in private property rights.



- Public aspirations – these are often high consumption lifestyles such as owning a large section and house with a number of private vehicles.
- Economic systems – they do not often reflect the true cost of use and development (both environmental and social costs) and they often focus on short term gain rather than long term investment.
- Lack of political will – there is often an overriding pressure to deliver economic goals first, social goals second, and lastly environmental goals.
- Lack of vision – often the ability to think beyond tried and tested ways which are frequently unsustainable, is not encouraged.
- Selfishness – people commonly see the environment as someone else’s problem and dismiss their role in it. In addition, the environment is viewed by many as something to take advantage of.
- Lack of choice – there is generally little choice in the way that people live their lives because of economic, cultural, educational and physical constraints.
- The scale of the problem – changing unsustainable patterns is a long-term process which is dependant on shifting attitudes and values and also cooperation between many different groups. It is easy to think that an individual would not have much impact.

As briefly discussed in Section 2.5.1 of this chapter, the other possible limitations of the RMA is its narrow interpretation and application of weak sustainability in assessing resource consent applications. An example of this is where Peart (2005) concludes that the RMA can be used to directly address the effects of coastal subdivision on the relationship of Maori with coastal resources, natural character, coastal landscapes and amenity values, indigenous flora and fauna and habitats, maintaining and enhancing public access to the coast, coastal historic heritage, water quality, and natural hazards. However, there are a number of potential effects of coastal development which are generally not included when making a decision on a resource consent application for coastal subdivision. This is because they are often considered as outside the RMA’s breadth. For example, Cheyne and Freeman (2006) have identified the additional effects of coastal development as social effects on current communities (for example loss or pressure on community resources likes schools, stores, community halls), changes in the social character and make up of the community (for example, type of households, income, ethnicity, age), changes in the ratio of permanent and temporary residents, conflicting expectations

between new and long-term residents (particularly around amenity and infrastructure and burden of costs), and affordability of houses and infrastructure.

Although the issues identified directly above at first glance do not appear to impact on the environment they do form part of the socio-economic effect of development which is within the scope of the RMA (Section 5, Schedule 4 (Section 2)) (refer to Appendix 1). They also emphasise the socio-economic barriers identified by Carmona and Seih (2004) and other researchers. These include the narrow focus of RMA practitioners when considering effects of developments which may not only be influencing environmental outcomes, but also causing adverse social and economic effects. This demonstrates the interconnectedness of decisions and the need for taking an integrated and a strong sustainability approach to decision-making.

The addition of the LGA to local government's decision-making tools may prove useful to help overcome some of the barriers discussed above. The LGA's wider sustainable development purpose, responsibilities, and processes, could provide a forum and council mandate to discuss and address some of the barriers described above, supporting more robust RMA decisions. To better understand the potential of the LGA, the following section provides background on the LGA and how it works to promote sustainable development.

## **2.6 Local Government Act 2002**

### **2.6.1 The Sustainable Development Purpose**

The LGA identifies the purpose of local government and provides it with the mandate and powers to achieve that purpose. The purpose of the LGA is described in Section 3 which includes local authorities taking a sustainable development approach. A sustainable development approach is reiterated in Section 10, the purpose of local government. Section 13 states that this purpose applies to a local authority performing functions under all other enactments unless it is inconsistent.

An elaboration of the purpose of local government is enshrined in Section 14 of the LGA, which sets out eight principles relating to local authorities (refer to Appendix 1). The principles apply to every decision that a council makes, even under another statute, unless

they are inconsistent with specific requirements of that statute (Section 76 (5)) (refer to Appendix 1).

In Section 14 (h) the sustainable development approach is explicit. Prescribing that local government should take into account whilst taking a sustainable development approach social, economic, and cultural well-being of people and communities. In addition to these well-beings Section 14 (h) (ii) and (iii) isolates out from the other three well-beings the need to maintain and enhance the quality of the environment and that future generations should be taken into account.

Unlike the RMA, there is limited opportunity for the courts to provide an interpretation of sustainable development promoted in the LGA because of the restricted right of appeal. Curran, (2004) concluded that although the LGA does not specifically state environmental well-being as a bottom line, supporting strong sustainability, the LGA would support that approach by its wording and processes.

The LGA, arguably, meets the prerequisites of strong sustainable development. Firstly and most importantly, it considers all the aspects of sustainable development (social, cultural, economic, and environmental well-being) in an integrated way when making decisions. Secondly, by separating out 'environment' (Section 14 (h) (ii) ) from the other well-beings and linking it to the previous subsection (Section 14 (h) (i)) it creates an expectation that social, cultural, and economic well-being of communities should be taken into account within the context of the need to maintain and enhance the environment—setting an environmental bottom line. This interpretation fits with a strong sustainability approach rather than the balancing of the four well-beings promoted under a weak sustainability approach. Lastly, the LGA promotes a long term view of social, economic, cultural, and environmental well-being. This long term view is emphasised in Section 10 (b) and Section 14 (1) (c) (ii) and (h) (iii).

The LGA's mandate of sustainable development is consistent with the RMA's narrower sustainable management focus in that they are both seeking to achieve the same overall goal of sustainability (Curran, 2004). The difference is that the LGA explicitly allows the consideration of all aspects of a community, including the socio-economic impacts that are not directly related to natural and physical resource use.

### **2.6.2 Principles Underlying the LGA**

Many of the same principles and philosophies on which the RMA's mandate was founded also underlay the LGA and in several instances are more strongly incorporated. The following discussion outlines the key principles on which the LGA's mandate is based and where LGA differs from the RMA.

The LGA has a sustainable development approach (Sections, 3, 10 and 14) involving integrated decision-making (Section 76) (Thomas et al, 2005). As previously discussed, this approach is broader than the sustainable management approach under the RMA.

The meaning of what sustainable development is in practice is decided by the community affected by local government decisions, through the community outcomes and the direction adopted in the LTCCP. This is similar to the RMA where sustainable management is defined by RMA planning documents which go through an extensive public consultation process.

The LGA requires local governments to enable democratic local decision-making (Section 10) emphasising community involvement throughout the decision-making process (LGNZ, 2003) (Thomas et al, 2005). Within the LGA there is requirement that local government give consideration to those likely to be affected by a decision (Section 78) and that it should have regard to and make itself aware of the views of all its communities (Section 14 (1) (b)). The LGA prescribes consultation principles (Section 82) and consultation procedures (Section 83). According to Borrie et al (2004) the LGA is more prescriptive and participatory than the RMA in how the community should be consulted by a council. However, both statutes promote involvement of those people likely to be affected at a local level and have processes to ensure that there is an opportunity for them to do so.

When making decisions (Sections 78, 79) the LGA requires that an assessment of alternatives is undertaken on the social, economic, cultural and environmental well-being of communities, the district, or the region (Section 14 (c) (iii)). A similar requirement is in the RMA for developing planning documents (Section 32) and for applicants (Schedule 4, (1) (b)).

To measure progress towards achieving sustainability, the LGA requires the monitoring of community outcomes (Section 92) (Thomas et al, 2005). The RMA in comparison also requires that the state of the environment, policies, rules, and methods in planning documents, delegation or transfer of powers, and resource consents are monitored (Section 35). The requirement for monitoring under both Acts is to ensure that the right issues or goals are being addressed by the actions being undertaken.

Under the LGA councils are mandated to provide community leadership through strategic policy development and coordination through the LTCCP. The RMA planning documents also give a council this mandate through the development of planning documents, especially those further up the hierarchy and resource consent decision-making. In both cases there is an expectation that the LTCCP and RMA planning documents should influence the strategic direction of other policies and decisions towards promoting a form of sustainability (Borrie et al, 2004).

Regular review and updating of strategic direction based on monitoring is a requirement by both Acts. Section 93 of the LGA sets out the requirements for the LTCCP, including that it must cover a period of 10 years and be reviewed every 3 years. This long term directive, but regular review, helps the LTCCP to remain relevant but also strategic. There is also requirement to carry out the process to identify community outcomes every 6 years (Section 91). This makes sure that the direction set by the community remains applicable and that the council and community organisations are undertaking activities that are appropriate to the communities needs. The LTCCP and community outcomes process must be undertaken within the time periods set. As previously discussed in Section 2.5.3 of this chapter, RMA plans and statements in comparison can take up to 20 years to be reviewed and implemented. Although RMA documents must be reviewed after 10 years from adoption, the review does not need to be completed within this time period.

The LGA, like the RMA, requires councils to produce certain plans and policies but they can also develop them to address individual or related issues that the community is facing. Under the LGA these have typically included issues such as growth management, aging populations, and cycling and walking promotion. The difference between the RMA and LGA is that the LGA consultation process is quicker and can address not only environmental issues but issues of socio-economic importance.

### **2.6.3 The LGA in Practice**

Councils are still grappling with their new roles under the LGA. They now have a stronger ability to undertake any activity they choose as long as it promotes a sustainable development approach and the community gives them a mandate through community outcomes and consultation. For most councils this has meant a change in expectations from their communities from one which provides services like roads, sewage, and water to providing a much wider range of activities such as community development, event management, and even community safety.

The Controller and Auditor General has written a number of reports commenting on aspects of LTCCPs. In a report on the 2006 LTCCPs it was noted that there was little evidence in the current LTCCPs of sustainable development infusing the thinking of local authorities and there was “an uneven understanding of the scope of sustainable development” (Controller and Auditor-General, 2007, p 20). A number of other areas associated with sustainable development were identified as needing improvement, such as expressing how sustainable development is localised, owned, and defined at a local level, reflecting the needs of future generations in decision-making, integrated thinking to express how activities satisfy sustainable development, using sustainable development and the community outcomes for performance planning and management, and walking the talk including how sustainable development relates to a council’s internal functioning (Controller and Auditor-General, 2007).

Application of the decision-making principles in the LGA was tested in the High Court in 2008 which ruled that the Christchurch City Council failed to assess the significance of a decision and did not adequately consider the views of those affected by its decision to increase rents for social housing (The Press, 2008).

Although councils seem to be still coming to terms with the true extent and capability of their mandate, as well as their obligations, under the LGA there appears to be opportunities where councils can use it to influence and provide better outcomes for decisions through the RMA. The next section briefly discusses some of these possibilities.

## **2.7 Integration of the RMA and LGA**

Given that the RMA and LGA are very dependant on each other to accomplish their goals it is relevant to consider how they might and should work together. The areas of possible alignment and integration of the two Acts are outlined below. Areas with particular applicability to this research are strategic vision, consultation, and decision-making.

### **2.7.1 One Strategic Vision**

The RMA, as a spatial planning tool, has the most influence on how urban areas are developed (including their look, feel, connectivity, and efficiency) and therefore has a significant impact on how sustainable development is achieved. The RMA's narrower scope of sustainable management provides only part of a vision of sustainable development because the social, economic, and cultural aspects of community well-being are less integrated into RMA planning documents. One of the keys to successfully achieving sustainable urban development is having a single strategic vision to work towards (Department of Internal Affairs, 2008). This would require integration of the RMA and LGA to find a common strategic vision for a community.

There are several ways that the LGA could influence the strategic direction of local government RMA planning documents. Firstly, by using the community outcomes to guide the objectives and policies in the development of second generation RMA planning documents, especially District Plans. Secondly, the LGA could influence strategic direction through urban development plans/strategies (a master development plan) which integrates all aspects of sustainable development and uses the community outcomes to guide strategic direction. The development plan would then be incorporated into the regional and district plan documents through a plan change/s. The community outcomes could be added to the list of considerations when deliberating on a resource consent application. In addition to these three methods, a council could develop a number of strategies and plans that are integrated and each contribute to achieving the community outcomes. They could then be used to help develop plan changes and make decisions on resource consents.

These two last options may have some legal restrictions to consider under the RMA because the current RMA planning environment applies less weight to documents not developed under the RMA when considering policy guidance in deliberations on resource

consents. This is because the RMA's consent process can be judicially reviewed and policy documents which are not RMA planning documents are often viewed as being *ultra vires* (outside the mandate of the RMA) as they have not been through a RMA first schedule or section 32 process (Childs, 2008; Quality Planning, 2008). With the enactment of the LGA there have been increasing calls for non-RMA planning documents to be given more recognition during decisions under the RMA, in particular growth management strategies (Local Government New Zealand, 2008). LGA plans, policies and strategies are developed following principles and procedures outlined in the LGA, similar to the RMA. The main difference in the processes is that instead of decisions being able to be appealed to the Environment Court and the High Court, general decisions under the LGA can only be appealed to the High Court, with limited right of appeal. Both the RMA (section 104) and the LGA do not explicitly confine deliberations to the consideration of specific information, as long as the additional information is relevant to the circumstances.

This research investigates if the strategic direction and policy guidance in a council's plans, policies, and strategies, other than RMA documents, align and could be used to influence decisions on coastal development towards a more sustainable outcome.

### **2.7.2 Consultation**

The LGA has prescribed a process for consultation and principles for how a community should be consulted (Section 82-90), which forms part of the decision-making process (Section 76- 81). The consultation process in the LGA could be applied to a number of areas in the RMA to strengthen community input and decision-making. LGA consultation and decision-making criteria could be used in the development of RMA planning documents. Once the documents are drafted the first schedule process of the RMA would take over. The LGA consultation requirements could also be used in the development and adoption of any growth management strategy or plan.

Where a council's infrastructure is likely to be significantly affected by a development outside of what was planned in the LTCCP and asset management plans, the council should consider the decision-making requirements and significance of the decision under the LGA and whether public consultation is required.



As part of this research there is consideration of whether the consultation requirements of the LGA were considered in RMA decisions, in particular where a community will be significantly affected by a proposed development.

### **2.7.3 Decision-making**

The decision-making process in the LGA (Sections 76-81) can be adapted to suit the significance of a decision. What the process incorporates, however, are a number of factors that should be considered when any making decision, including taking a sustainable development approach and the effects on community well-being and community outcomes. Although the RMA has its own processes, and identifies in some areas criteria to be considered, there are several areas where the LGA decision-making principles are applicable. The decision to notify a consent application and whether the effects are no more than minor and who is affected is one area where the LGA decision-making criteria can be used. Another area is Section 32 of the RMA which requires an assessment of objectives, policies, and rules of before a plan or strategy is adopted, in particular, in providing more detail for an assessment under Section 32 (3) (most appropriate way of achieving the purpose of the RMA) and (4) (costs and benefits).

Section 104 of the RMA is used to inform what should be considered during deliberations on a resource consent. The LGA decision-making criteria could be used to help determine the effects of an application (Section 104 (1) (a)) and any other matter that the consent authority considers relevant to the determining the application (Section 104 (1) (c)).

The LGA decision-making process and criteria do not replace the RMA requirements rather they can be used to strengthen the quality of decisions made by councils under the RMA by essentially providing a prescriptive best practice model of how to determine what the effects of an activity are and who should be consulted. According to Curran, (2004, p 287) “the requirements of the LGA will overlay those of the RMA, as long as they remain consistent”.

The decision-making provisions of the LGA are investigated in this research to see whether they were utilised and also whether they add value to subdivision consent decisions.

#### **2.7.4 Monitoring**

Both the RMA and LGA are required to monitor specific factors. Much of the same monitoring information is required for both the LGA and RMA, particularly around the natural and built environment. To encourage resource efficiency, in addition to very specific indicators, a council should have a collective set of performance indicators that cover both the LGA and RMA requirements.

The results from collective monitoring could inform the community outcomes, LTCCP, RMA planning documents, and resource consents by providing an evidence base to work from. This will help align and integrate progress towards sustainable development.

### **2.8 Conclusion**

Environmental degradation, particularly in the coastal environment, is continuing despite the introduction of the RMA in 1991. The LGA, similar to the RMA, has a sustainability mandate, incorporating the environment. This chapter has explored the similarities and differences between the two statutes and the scope for their alignment and integration as a way of achieving a more sustainable outcome. The chapter also investigated the barriers to achieving the RMA's purpose identified by existing research, as they may also prove to be limitations to the integration and alignment of the LGA and RMA.

The following chapter describes the methods undertaken in this research to explore how the different mandates of the two Acts are reflected in council decisions and the possible barriers to achieving integrated sustainability, using coastal development as the focus.

# Chapter 3

## Methodology

### 3.1 Introduction

This research seeks to answer the question about how the different mandates of the RMA and LGA are reflected in council decisions on coastal development. In particular, the objective is to assess whether a more sustainable outcome is likely if a council's LGA responsibilities along with the strategic policy direction in a council's policies, plans, and strategies, other than RMA documents, are considered in deliberations on resource consents. This research also sought to identify the current barriers in achieving a more sustainable outcome in coastal development situations to help understand what might be limiting integration and alignment of the LGA and RMA.

Two case studies were undertaken, focusing on council decision-making processes in relation to coastal development. In recent years there has been significant pressure for subdivision development in the coastal environment. The impacts of subdivision on coastal communities can have a wide range of effects from social and economic impacts on existing residents in settlements to environmental effects on the existing landscape and natural values, as discussed in Chapter 2. Therefore councils' mandates of sustainable management as provided by RMA and sustainable development as provided by the LGA are relevant to decision-making on coastal development.

Each case study involved analysis of an officer's recommendation report and a council's final decision report on a particular coastal subdivision consent application. These were assessed against a set of criteria drawn from relevant council's plans, strategies, and policies. The reports were also assessed against criteria from both the RMA and LGA, including their purpose and principles. The criteria encompassed social, economic, cultural, and environmental well-being of communities, taking a strong sustainability approach, as defined by the Parliamentary Commissioner for the Environment (see Chapter 2). Each case study involved a subdivision proposal, one at Waitarere Beach in Horowhenua District, the other at Tatapouri in Gisborne District.

Interviews were carried out to further investigate the rational behind decisions made within the case studies and the participants' understanding of sustainability under the LGA and RMA and their requirements and also as identification of barriers to the Acts implementation, alignment, and integration.

The overall aim of the cases studies, including the interviews, is to identify how two different local authorities carry out their decision-making responsibilities under the LGA and RMA. In particular, the research examines how policy guidance is applied to decisions on coastal subdivision under the RMA's resource consent process.

This chapter explains the methodological approach that I have used to analyse the case studies and undertake the interviews. The chapter describes the parameters used to identify which case studies were chosen. It then explains the data collection techniques used and the ethical considerations associated with both the case studies and interviews. The chapter also describes the analysis framework applied in the case study document analysis.

### **3.2 Methodological Approach: Performance Based Assessment**

Two main schools of thought on plan evaluation have been developed: the conformance and the performance based approach. The performance based approach emerged in the late 1970s and 1980s where the effectiveness of plans used for town planning and how their success is measured was popular in academic discussions (Mastop et al., 1997). The performance based approach considers that success of a plan is indicated by whether:

A plan plays a tangible role in the choices of the of the actors to whom it is addressed ...irrespective of whether or not the outcomes correspond with the plan (Mastop et al., 1997, p 822).

The conformance based approach often favoured by practitioners' defines plan implementation as:

The degree to which plan policies are implemented through the application of specified development techniques in planning practice (Laurian et al., 2004, p 472).

Under the conformance based approach a plan is therefore successful if the outcome conforms to it. The approach that is chosen influences the methodology and analysis techniques used to address the research question. This is because it also questions the researcher's perspective of what type of document a planning document is and how it should be used.

A performance research design focuses on the decisions made by those the statements in a plan address. This approach also recognises that decision-makers should incorporate all available relevant information to make their decision and that landuse plans are not the only source of information that decision-makers draw on when making a decision about development (Mastop et al., 1997).

A performance based approach to this research supports viewing non-RMA council plans and strategies as potentially providing policy guidance that may influence decisions on RMA resource consents. This perspective is important because the research starts from the premise that the mandate of sustainable development from the LGA and sustainable management from the RMA are compatible and that strategic documents under both Acts could be used together through an RMA process to help determine decisions on coastal development decisions.

A conformance based approach, such as that found in the PUCM research project, is restrictive in that the focus is on how well a decision conforms to a specific rule or policy direction in a plan. It would be difficult to use a conformance based approach to this research for a number of reasons. Firstly, the decisions under both the RMA and LGA would be seen as discrete decision-making processes with sometimes opposing outcomes rather than the possibility of an integrated process as suggested by the LGA. A performance based approach in contrast, focuses on what policy guidance was used from both LGA and RMA strategic documents to reach the best outcome. Secondly, the conformance based approach would not provide scope for developing understanding about why decisions that didn't comply with the rules and policies of a plan were made or what other information influenced decisions because instead the key focus is whether or not the outcome conformed to the plan.

In answering the research question the conformance based approach does not allow a case by case analysis which is advocated in the decision-making processes in both the RMA and LGA. The PUCM research, as an example, applied the same criteria to 60 consents across six councils (Bachurst et al., 2002). The performance approach in comparison recognises that the context for each decision, although it may have some similarities, is different because of its local situation and pressures.

### **3.3 Case Study Research**

An appropriate method for this research is to undertake a collective case study to investigate a real-life situation holistically (Yin, 2003) of how councils implement their LGA and RMA mandates. A case study methodology allows an in-depth investigation into council decision-making. Although using case studies does not provide standardised research (Sarantakos, 2005), they do allow, collectively, a comparison of situations that are similar.

A collective case study includes a number of single studies investigated jointly for the purpose of examining an issue (Sarantakos, 2005). Each case study is a unit within itself as opposed to a sample. Because an individual case study will have different criteria and situations the goal is not replication of the type found in quantitative research designs. The goal is instead to better understand and describe a process or situation and the influences on that process. Studying a number of cases is considered more compelling with the overall result seen as being extra robust than the study of a single case (Yin, 2003). For this research, the use of two cases provided a means of comparing information about similar situations and how councils have responded.

The case studies focus on resource consents because they are the main means of implementing Part 2 of the RMA (sustainable management). This is because the consent process requires: 1) that consideration be given to RMA planning documents which should promote Part 2 of the RMA (Section 104 (1) (b), 2) the consent outcome is required to achieve Part 2 of the RMA directly (Section 104 (1), and 3) all councils use the resource consent process to achieve Part 2 of the RMA.

Subdivision occurs in numerous landscapes across New Zealand with different environmental, social, and economic issues occurring in each. Coastal subdivision consents were selected to allow a comparative assessment of similar landscapes and issues, because although no two coastal subdivisions are the same, there are common environmental, social, and economic effects (Freeman et al., 2005) . As highlighted by Freeman et al., (2005) and Peart (2008) it is also timely to focus on coastal subdivision because of the recent unprecedented pressure for coastal development and growing wider public concern about its sustainability.

As with subdivisions in other landscapes, coastal subdivisions challenge a wide variety of sustainable management issues, from the loss of biodiversity, the effects of stormwater on the receiving environment, and service delivery problems often caused by fragmentation of urban areas. Subdivisions can also reflect tension between a community's quest for economic and social prosperity on the one hand, and, on the other, their desire for quality amenity values and the natural environment. This last challenge is particularly relevant to the coastal environment because it is often the natural environment that people are drawn to when deciding to purchase land in this type of landscape. Concern about the effects of coastal development are echoed by the review of the NZCPS which identified that at a national level, there is a concern about the cumulative effects of coastal development (Rosier, 2004). It was also raised a key concern for submitters during the New Zealand Coastal Policy Statement Review (Department of Conservation, 2008). Coastal development research is also relevant as councils begin to think about reviewing their Policy Statements and Plans. Providing research into the possible links and uses between councils' mandates under RMA and LGA, and barriers to sustainability may influence the next generation of plans.

### **3.3.1 The Number of Case Studies**

The case studies were selected by their compliance with a number of criteria. Hence, they were not randomly chosen and are not statistically representative. Two case studies were chosen to be undertaken because each case study requires a substantial amount of background research and data analysis which is restricted by the time needed to complete this research. More than one case study was undertaken to provide some comparison,

even though it is acknowledged that the situation of each case study is slightly different, including the council, its planning documents, and elected members' opinions.

### **3.3.2 Criteria Used to Select the Case Studies**

The criteria used to select the case studies were defined by the research question. They are as follows:

- The case study required a RMA resource consent application for subdivision
- The case study was located in the rural coastal environment
- The application for subdivision was in a location where development pressure is relatively new
- The application for subdivision was lodged after July 2004 and the decision made prior to October 2007
- The application was publicly notified
- The application was a discretionary activity under the RMA
- The decision on the application was made by a Council Hearings Committee
- The council officer who wrote the recommendation report and an elected member involved in deliberations on the application were available for interview

The first criterion for selecting the case studies was to choose subdivision consents processed and analysed under the RMA. This is because the RMA process is the main route in determining what development takes place, where, and in what form.

The second criterion required that case studies were located in the coastal environment in areas zoned rural in the District Plans. A case study's relevance to the coastal environment was identified by the inclusion of the New Zealand Coastal Policy Statement in the council officer's report. The underlying rural zoning was also a requirement because it meant that residential subdivision was not planned or anticipated by the community in that area. This is a common characteristic of areas where there is growing pressure for coastal development.

The third criterion required that proposed subdivisions were in locations which were not traditionally coastal holiday areas but rather areas where there was new pressure for subdivision development. This criterion was used because locations that are historically



holiday areas are likely to have been already impacted by new high amenity subdivision and new residents and second home owners are less likely to have seen a change in their community. In contrast, permanent residents in non-traditional holiday locations are more likely to be positively or negatively affected by further subdivision. In other words, the impact of subdivision is likely to have already occurred in holiday areas.

The fourth criterion was the time period in which the consent was assessed. The LGA was enacted on 24 December 2002. The first Long Term Council Community Plan (LTCCP), the main framework for decisions under LGA, was required to be in place by 1 July 2004. The LTCCP contains the community's outcomes or goals that they have chosen to focus on to promote their well-being towards sustainable development (LGNZ, 2003). Councils are required to consider how the community's outcomes are promoted or achieved by a decision (section 77 LGA). In order to develop the first LTCCP councils needed to become familiar with the LGA and its processes, including the decision-making process outlined in section 76, and the Acts purpose of sustainable development. For this reason applications for subdivision consent that were lodged with councils after 1 July 2004 were chosen. Consent applications assessed prior to the October 2007 local authority elections were selected to ensure that any changes in political direction or make-up of the council did not impact on the outcome of the decisions. If there is a turnover it would also take time for newly elected members to understand their roles and responsibilities under the LGA and RMA. The period between the end of 2004 and prior to October 2007 provides a stable legislative and political environment in which to undertake this research.

Public notification of the application (RMA, section 93) was the fifth criterion. Notification allows the community to have input directly into the decision-making process. The community have the opportunity to express their concerns and support for the application. This is important given the possible wide range of effects that subdivision development can have on a community and the local environment.

The sixth criterion is that the application's activity status is discretionary. If an application is judged as discretionary the full proposal is open to assessment against the objectives and policies of RMA planning documents and any other information considered relevant under section 104 of the RMA.

The seventh criterion was that the council's decision was made by an elected members' hearings panel as opposed to a commissioner or delegated officer. The decision-makers would therefore have been aware of issues facing the district, activities undertaken by the council, and their mandates under the RMA and LGA.

The eighth and final criterion was that both the officer who wrote the recommendation report and at least one of the elected members who was involved in deliberations on the application and made the final council decision was available to be interviewed.

A number of coastal subdivisions met several of the criteria. However, many were not notified and/or were decided under delegated authority by a council officer, limiting public participation. These two criteria were considered non-negotiable for this research because public participation and public hearings are considered important in determining what the community's concerns were and how the councils addressed them.

### **3.3.3 Interviews**

Interviews were undertaken with the council officers who wrote the recommendation report on the consent application and an elected representative on the council hearings committee that deliberated on the final council decision. The council officers who wrote the recommendation report which advises decision-makers were interviewed because a previous study (MfE, 2005) showed that decision-makers are very reliant on the reports to inform their decisions and in most circumstances implement officer's recommendations. The council officers are therefore assumed to have a significant influence on the final decision.

An interview allows the investigation of another person's feelings, thoughts, perspectives and intentions on a particular topic (Sarantakos, 2005). As a consequence, they afford an opportunity to understand key aspects behind a decision or circumstances around a situation that may not be documented in the reports. Therefore, interviews were used to provide more depth and richness to investigations into aspects influencing coastal development and also participants understanding of their sustainability mandates and obligations under the LGA and RMA.

Interviews were semi-structured to support the qualitative approach to this research by allowing flexibility and fluidity in questioning of participants to fit the individual circumstances of the situation (Davidson et al., 2003). Analysis of the case study documents was undertaken prior to the interviews. Some questions were common to both case studies but rephrased to fit the interview flow and context.

Key ethical considerations were informed consent and freedom from harm. The purpose of the research is not to criticise any individual council but to gain insight into how decision-making uses the mandates of the RMA and LGA in a particular situation. The case studies were not expected to be extreme or unusual in any significant aspect and as such may be seen as exhibiting features generic to resource consent decision-making generally. Although the interviews included questions that specifically related to the case studies, many of the questions were targeted at the investigation of participants understanding and use of the LGA and RMA in resource consent decisions and also identification of barriers to the Acts implementation, alignment, and integration. Because of the broader intent of the interviews and to ensure anonymity of participants, the interviews were analysed and discussed in themes collectively in a separate chapter from the case studies.

When first approaching respondents it was explained that the research looks at local authority decision-making processes under both the LGA and RMA, using coastal development as a case study. Participants were sent an information sheet about the research and a consent form. The research was assessed as low risk by Massey University. The information sheet, consent form, and letter approving the interviews are in Appendix 2.

### **3.4 Data Collection**

For the case studies the two methods of data collection were document analysis and interviews. A range of documents providing relevant policy direction to deliberations on the coastal subdivision consent applications were used in the document analysis for each case study. Thorough efforts were made to identify council documents that were relevant to the case studies. However, there may be other relevant documents that could have added value to the analysis.

As well as the RMA, the data analysis included RMA plans, policies and strategies. RMA documents common to both case studies included:

- District and Regional Plans
- Regional Policy Statement
- New Zealand Coastal Policy Statement

In addition to the LGA itself, the analysis of both case studies also referred to the Long Term Council Community Plan (LTCCP) and community outcomes. Other relevant council policies, strategies, and plans, other than RMA documents, were also used in the analysis.

The officers' recommendation reports and councils' final decision reports from each case study were then compared against the criteria taken from the policy documents.

### **3.5 Data Assessment**

This section discusses why a qualitative data assessment approach was undertaken. It also describes in more detail the framework and processes used to analyse the data.

#### **3.5.1 Qualitative Assessment and a Performance Approach**

The assessment of the documents involved a qualitative process based on an overall performance approach as discussed above. A qualitative approach is ideal for this research as it allows the recognition of the role that the council officers and the decision-makers have in the outcome. The outcome of a decision on a coastal subdivision under the RMA is dependant on the decision-maker's interpretation of the direction provided in local planning documents (as well as national) and other local factors that influence decisions, such as the social and economic, and institutional and political dynamics which were explored in more detail in the interviews. This means that every subdivision consent decision is not certain to have an outcome that is the same as another subdivision application because they are assessed by the circumstances and characteristics of each case. A qualitative approach to data collection and assessment is holistic (Sarantakos, 2005). This means that a broad investigation can be undertaken to look at what influences a decision instead of focusing on a specific factor, such as the District Plan.

### 3.5.2 Analytical Framework

The criteria used in the analysis of the case studies were identified from documents developed under both the LGA and RMA and the relevant sections of the Acts themselves. As outlined earlier in this chapter the framework used to assess the data is based around a performance approach. This approach asks three questions (Mastop et al., 1997):

- i. Is the policy direction in the document relevant to the situation and have a bearing on the decision?
- ii. Is that statement in broad agreement with other relevant policy directions from other documents?
- iii. What arguments are for and against compliance with the direction in the document?

This approach involves making qualitative judgements (Mastop et al., 1997)). Successful implementation of the sustainability purposes of the RMA and LGA occurred when officer's recommendation report and the council final decision report has considered or incorporated the criteria. This means that a decision may not necessarily comply with the criteria but should mention it and give a reason for complying or not. This approach is different from a conformance approach which considers that the criteria are only effective if they are implemented (Laurian et al., 2004). Under a performance based assessment departures from the planning documents are permissible if the decision is supported by a reason. In reality, resource consents are generally only applied for when the activity proposed departs to some degree from the planning documents or is required to be assessed against the objectives and policies in plans and strategies because it is considered a discretionary activity.

The criterion for each of the case studies was selected by assessing whether the policy direction in a document would provide guidance to decisions on the application and therefore promote a sustainable outcome. The criteria extracted for the document analysis were objectives, policies, aims, methods, or phrases. The officer's recommendation report and council's final decision report were analysed against the criteria to determine:

- Whether the criteria were considered,
- What the outcome of that consideration was and how closely it aligned to the direction given,

- In the absence of consideration of specific criteria how closely the recommendations and decisions aligned to them,
- If the criteria were not considered, how they may have influenced the direction of the outcome,
- What reasons, if any, were given for the departure or compliance with criteria.

### **3.6 Limitations**

Some limitations occur when using case studies, the main one being the lack of ability to generalise. A further limitation of this research is that the full subdivision consent application was not included in the document analysis. Instead, a general understanding of the application was gleaned from the officer's recommendation report and the council's final decision report. There were several reasons for this approach. Firstly, although elected members should read the full application, the officer's recommendation report is often the main document considered by elected members describing the application, issues, and consultation. Secondly, the reports are public knowledge and are easily obtained. Thirdly, there were significant time constraints on the project and applications for these types of activities generally contain a large amount of information which is often summarised well in the reports.

The use of semi-structured interviews also has some limitations. Patton (2002) observes that the flexibility of words and sequencing of questions can reduce the ability to compare responses. Although the depth and reflection of real-life situations provided by semi-structured interviews is useful in contributing to answering the research questions these same factors can also mean that they are difficult to analyse and generalise conclusions.

Another limitation is that because the only other context to compare the interviewee's answers to was the document analysis for each case study, the answers may not have been truthful or could present a bias to a particular political viewpoint (Davidson et al., 2003). However, the use of semi-structure interviews complements the general qualitative performance approach undertaken in the document analysis by providing more real-life detail behind the decisions.

### **3.7 Conclusion**

Two case studies focusing on resource consents for coastal subdivision were used to address the research question. The case studies involved a document analysis which selected relevant criteria that an officer's recommendation report and a council's final decision report were assessed against. The case studies also included semi-structured interviews which provided the opportunity to investigate the understanding that RMA practitioners and decision-makers have of the LGA and RMA, in particular their sustainability mandates and some of the barriers to implementation and possibly alignment and integration of the Acts.

Although there are limitations in taking a case study approach to answering the research question, this method including the interviews, allowed in-depth investigation into complex issues which are apparent in similar situations. The situation common to both case studies is the investigation of how council's use of the RMA and LGA in coastal development decisions.

# **Chapter 4**

## **Coastal Subdivision Case Study at Waitarere –Data Presentation and Analysis**

### **4.1 Introduction**

Chapter 4 presents the findings and analysis of the case study involving a resource consent application for a coastal subdivision at Waitarere in the Horowhenua District. The first section of this chapter discusses why the Waitarere application was chosen for the analysis. This is followed by background information on the subdivision, which includes the natural, physical, and socio-economic context. This information is useful in identifying the issues and challenges that Waitarere and any new development may need to address. The details of the resource consent application are then outlined followed by the combined data presentation and discussion of the findings from the analysis of the Officer's Report against RMA planning documents and the Council's other plans, strategies, and policies. A similar discussion of the Decision Report follows this. The data presentation and analysis of the Waitarere case study are presented together in this chapter. This is because the explanation of the criteria's (data) relevance to the situation strongly interacts with the analysis.

### **4.2 Justification for Selection of Waitarere**

The application was chosen as a case study because it met the selection criteria outlined in the methodology (Chapter 3) as follows.

The proposed subdivision is in a coastal location and is within the planning overlay for Coastal Environment Outstanding Landscape. The site is also zoned Rural. This zoning is typical of much of New Zealand's undeveloped coastline and, as a consequence, coastal subdivision situations in New Zealand.

The proposed site is directly adjacent to the existing settlement of Waitarere. Waitarere has a number of second home owners, as well as permanent residents who may be affected in various ways by the development.



The application was lodged in November 2006. The Long Term Council Community Plan 2006-16 (LTCCP) was adopted in June 2006 and the contents could have therefore been used to help assess the application.

The decision on the application was made two thirds of the way through the 2004-07 electoral term. The decision-makers therefore could have been expected to have had a reasonable understanding about the direction and their responsibilities under both the LGA and RMA.

The final council decision was made by an elected members' hearings panel as opposed to a commissioner or delegated officer. The decision makers would therefore have been aware of issues facing the district and activities being undertaken by the council.

The activity status of the application was discretionary which allowed for the full subdivision application to be considered as opposed to particular areas where the council has reserved discretion. It also meant that the application was publicly notified and the wider community and interested organisations had the opportunity to express their views.

Both the officer who wrote the recommendation report and one of the elected members who deliberated on the final council decision was interviewed as part of this research. The data and analysis from the interviews are outlined and discussed in Chapter 6 collectively with the results from the Tatapouri case study interviews (see Chapter 3 for further explanation).

## **4.3 Case Study Context**

### **4.3.1 Overview**

Waitarere is located on the western coastline of the lower North Island of New Zealand, about 12km north of Levin. The coastal settlement of Waitarere had a population of 588<sup>3</sup> in 2006.

In 2001 there were 153 households in Waitarere. Nearly 60% were couples without children, giving an average family size of 2 persons per household. Waitarere has a

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<sup>3</sup> Usually resident population 2006 Census. Statistics New Zealand

permanent population with increasing summer visitors and is currently one of Horowhenua's main residential growth areas (Horowhenua District Council, 2007a).

Waitarere is a typical older New Zealand coastal settlement where the traditional kiwi bach or holiday home is the main dwelling. Holiday homes larger than the traditional bach are being built on existing sections and in newly developed areas. The settlement layout is a linear grid with a few recent cul-de-sac developments. Where developments have followed the natural contour of the dunes, the urban design works best with the coastal landscape as opposed to newer subdivisions that have altered the dunes to create a flatter more suburban landscape (Horowhenua District Council, 2007a).

Although there are a few shops there is no community focal point. With an increase in summer visitors there is more pressure for seasonal commercial activities (Horowhenua District Council, 2007a). Open space at Waitarere consists of Waitarere Domain and the foreshore. The foreshore area includes the dunes behind the foreshore which provide a buffer between the sea and the urban settlement. The dunes have ecological significance and are an important part of the local character (Horowhenua District Council, 2007a).

The Waitarere wastewater scheme was installed in 1985 because wastewater from the septic tanks was infiltrating the groundwater drinking supply. At present the capacity of the scheme is limited with increasing seasonal variations in population likely to cause problems in the future. The wastewater scheme discharges treated effluent into the adjacent pine forests (Horowhenua District Council, 2008a). Currently Waitarere does not have a reticulated potable water scheme and is mainly reliant on household roof water for drinking.

Between 1999 and 2004 house prices in Waitarere rose from an average of \$57,750 to \$182,500 a change over 5 years of 216% (Freeman, Cheyne et al., 2005) The General Rates charged by the District Council have also steadily increased as property values rise. For example, over one year at Waitarere the General Rate charge increased from \$621 in 2005/06 to \$645 in 2006/07 on a property worth \$105,000 (Horowhenua District Council, 2006). In 2008/09 this rose to \$730 (Horowhenua District Council, 2008b), an increase of approximately 17% over 4 years. This does not include targeted rates for solid waste, water supply, and wastewater.

#### **4.3.2 Consent Application Details**

An application by Waitarere Rise Limited was lodged in November 2006 to subdivide 186.747 hectares of rural zoned land into 164 lots. A total of 151 lots ranging in size from 3400m<sup>2</sup> to 1.52 hectares were proposed.

The site is located on the northern side of Waitarere. The topography consists of gently undulating sand dunes running east to west. The dunes were previously planted in pine and the inter-dunes were mainly in pasture. There was little indigenous vegetation. However, there were naturally regenerating natives along the edges of the pine plantations (Horowhenua District Council, 2007b). At the southern edge of the property the Wairarawa Stream flows east to west. On the site about midway along the east boundary is Otaneko Lagoon. To the north and east of the site is pasture. A Crown owned pine plantation abuts the site on the north-west. The urban area of Waitarere is adjacent to the site in the south-west (Horowhenua District Council, 2007b). Oporau, Kai Kai, and Wairarawa lagoon wetlands are east of the site and identified as significant (Horowhenua District Council, 2007b).

Proposed earthworks involved extensive cut and fill of about 152, 150 m<sup>3</sup>. Earthworks include lake excavations, substantial dune recontouring to create building platforms, and road construction. A new roundabout at Waitarere Beach Road was proposed to provide access to the site. Internal roads are to be vested in council. No footpaths, curbs or channels are proposed; instead the berm will be grassed. The wastewater from each residential lot will be disposed of firstly to on-site anaerobic multi-stage treatment systems and then to one of a number of pumping chambers within the road reserve. From the chamber the wastewater will either go into the Waitarere settlement sewer scheme or effluent disposal beds within the buffer strip. Both options were intended by the applicant to be vested in council (Horowhenua District Council, 2007b). There are two areas where stormwater will need to be addressed: (1) stormwater arising from impermeable areas associated with residential dwellings and (2) runoff from roads. It is intended that all residential lots would dispose of stormwater to soakage pits and the road runoff will be managed by the grassed swales on the roadside berms. Each residential property will be reliant on rain water collection and storage for potable water supply.

The initial proposal by the applicant was that just over eighteen hectares was to be vested in council as reserves, including access ways. Just over twenty hectares was intended as private reserve which includes access ways. Thirteen hectares of was proposed as private open space (lot 159). The applicant requested that, because the reserve contribution exceeds what was required in the council's policy for development contributions, that the cost of the land of the reserves proposed should offset the total contributions required. If this agreement could not be reached with the council the applicant proposed that the majority of reserves be retained for private residential use.

The site is not considered to contain any high class soil and therefore the minimum lot size recommended in the District Plan's rules is 2000m<sup>2</sup>. The majority of lots will exceed the minimum size with the exception of four access-way lots.

The application also included a buffer strip around a large portion of the external boundary of the property and two or three reserve areas depending on which wastewater treatment option was chosen. It was suggested that Otaneko Lagoon could be contained within five private lots rather than a reserve vested in council.

#### **4.3.3 Planning Considerations**

In determining whether the application was permitted, controlled, or discretionary, etc, (the activity status), its effects were assessed against the District Plan. The planning considerations used to determine that the application was discretionary also provide an indication of what some of the issues are for the development.

The area of the proposal is zoned Rural and the subdivision and land use consents were required. The land use consent was for the associated earthworks and servicing. The application failed to meet District Plan requirements for allotment size and therefore storage of effluent. A number of sections also failed to meet the rules for vehicle access to the site. Earthworks and road construction under the District Plan are a Discretionary Activity in the Coastal Environment. Because the subdivision and landuse consents are interdependent the officer considered that they should not be separated from one another and therefore considered that the overall proposal was Discretionary (Horowhenua District Council, 2007b). This means that the objectives and policies of the District Plan are used to provide guidance in assessing the application.

#### **4.3.4 Public Notification**

The application was publicly notified on 28 March 2007 and fifteen submissions were received. Ten submissions supported the application, three opposed it and two were neutral. The summary of submissions in the Officer's Report provides an indication of concerns raised by the community.

The issues raised in submissions were as follows (Horowhenua District Council, 2007b):

- Support for the creation of an area for public enjoyment
- Support for the good use of marginal land
- Support for the layout and design
- Support for the development as an enhancement of the rural and coastal environment
- Support for the development to provide growth of the local economy, infrastructure and community
- Oppose rural land being used as residential
- Oppose the development because of loss of ecological values due to works, and domestic and aquatic pests
- Oppose because there was insufficient information on wetlands, soils, and the water table
- Oppose the creation of amenity lakes, dune contouring & stormwater management
- Oppose the application because of the restrictions on existing uses such as pest eradication and duck shooting

Other concerns raised by submitters were:

- Effluent disposal capacity
- Restoration and planting of wetland areas
- Provision of adequate water supplies for lots
- Access to individual lots

The Officer (Horowhenua District Council, 2007b) considered the submissions and with regard to policy direction in the District Plan concluded that the actual and potential effects of the application include:

- Landscape impacts
- Rural character and amenity values

- Ecological effects
- The provision of open space and reserves
- Reverse sensitivity
- Archaeological effects
- Traffic and road safety
- Construction and servicing

#### **4.4 Data Presentation and Analysis**

The remainder of this chapter is in two parts and presents the findings of the document analysis. The first part consists of the data presentation and discussion of the analysis of the officer's recommendation report (hereafter Officer's Report) which is developed by the council officer with a background in RMA planning. The purpose of the Officer's Report is to provide background information on factors raised by the application and make a recommendation to the Council Hearings Committee about whether it should approve the application and if so, what conditions should be placed on it. The second part comprises the data presentation and discussion of the analysis of the Council Hearings Committee's final decision report (hereafter Decision Report). The Decision Report contains the final decision on the application after the Hearings Committee has considered the Officer's Report, the applicant, and submitters at a public hearing. The Decision Report also contains the final conditions for the application, if approved.

The document analysis for the case study involved extracting relevant criteria from the documents objectives, policies, aims, methods, and phrases and assessing the Officer's Report and the Decision Report against them as described in Chapter 3. The criteria where considered relevant if they provided direction for whether the development should go ahead and if so what it should be like.

The criteria which were used in the document analysis were selected from the following documents. The RMA documents included:

- The Horowhenua District Plan which became operative on 13 September 1999.
- The Regional Policy Statement which became operative on 18 August 1998.
- The New Zealand Coastal Policy Statement which was published in 1994.
- The Resource Management Act 1991.

These documents were also used by the officer and Council Hearings Committee in their assessment of the application.

Although not considered in the assessment of the application undertaken by the Officer and the Hearings Committee, the document analysis for the case study, in addition to the RMA documents listed above, included:

- Horowhenua Long Term Council Community Plan 2006-16
- Horowhenua Youth Strategy adopted in June 2006
- Horowhenua Positive Aging Strategy adopted in June 2006
- The Local Government Act 2002

#### **4.4.1 The Officer's Report**

The following section uses document analysis to assess the Officer's Report against criteria from the documents listed directly above to address the research question. The first part of the section uses criteria selected from RMA documents and the RMA itself, and second part uses criteria from Horowhenua District Council's other policies, plans and strategies and the LGA.

##### **4.4.1.1 RMA Plans and Statutory Provisions**

###### **Horowhenua District Plan**

The criteria selected from the Horowhenua District Plan (District Plan) for the document analysis were the objectives and policies. Associated with each of the objectives are one or more policies which guide how the objective will be achieved. These guide decision-makers when deliberating on discretionary activities, especially where there is no clear direction given in the rules or the application is inconsistent with the rules.

Table 4.1 in Appendix 3 lists the objectives and policies referred to in the analysis. Twenty two objectives in the District Plan appeared applicable to determining the outcome of the application. Ten of these were considered by the officer. Sixty three policies were

considered relevant to the decision, twenty seven of which were used by the officer in assessing the application.

The analysis involved comparing the content in the Officer's Report to each of the criteria in Table 4.1. To briefly recap, the document analysis included not only using the criteria which the officer assessed the application against, it also considered if other relevant criteria in Table 4.1, not referred to in the Officer's Report, would have promoted a more sustainable outcome (refer to Chapter 3). The following is a summary of the key findings from the analysis of the Officer's Report against the District Plan.

#### *Important policy guidance not referred to in Officer's Report*

A significant number of relevant objectives and policies in the District Plan were not mentioned in the Officer's Report. The type of objectives and policies that were not used ranged from creation of ecological corridors, identification of natural hazards and contaminated sites, to the fundamental direction provided in Policy 6.1 which states: "to confine urban development in the coastal environment to existing settlements with no expansion along the coastal margin" (Horowhenua District Council, 1999, p 56). The design and undertaking of the development could be assessed against a considerable number of additional policies and objectives in addition to those referred to by the Officer. Reference to these additional objectives and policies may have provided a very different outcome which arguably would have been more sustainable. For example, in the District Plan, Section 10: Land Transport, policy 17.4 covers safety, personal security, and convenience. The Officer's Report did not discuss the relationship between motorised transport and the safety of alternative transport modes such as walking and cycling. With such a large development adjacent to an existing settlement there is likely to be an increase in cyclist and pedestrian numbers both within the development and wider Waitarere settlement. Arguably, consideration should have been given to assessing the development's design and management of the transport corridors to ensure that different modes of transport could be safely accommodated.

#### *The perceived value of coastal rural land*

The District Plan's landscape map 32 identifies that the site is within the Coastal Environment Outstanding Landscape and also within the Outstanding Landscapes list (p



313) as Waitarere farmland having identity and spatial value. The Officer's Report assumes that the development site's natural and landscape values are minimal because of its agricultural history. Therefore, the officer concluded that the level of development proposed could not adversely affect these almost non-existent values and will, in fact, enhance them through the mitigation proposed. This view is evident from discussions in the Officer's Report which identifies that attributes of the site are "muted as a result of the significant modification" associated with rural activities and that the proposed development is likely to be "more sympathetic to a coastal environment than the existing pastoral use" (Horowhenua District Council, 2007b, p 19).

This approach to coastal planning sets a precarious direction for valuing coastal landscape and natural features because much of the coastline in the Horowhenua, and around New Zealand, falls within a similar category to this application; that is, it is coastal land that is or has been farmed even though the land maybe marginal for production and there is little indigenous vegetation remaining. The perspective expressed in the Officer's Report would allow for the majority of the coast to be developed for residential purposes. This approach appears to be contrary to the policy guidance in the District Plan on this issue which notes that the "RMA places special importance on the sustainable management of the coast" (Horowhenua District Council, 1999, p 55) by requiring those that manage its use and development to recognise and provide for the preservation of the coastal environment, including "protecting it from inappropriate subdivision". In recognising the direction given in the RMA, Section 5 of the District Plan identifies that the coastal plains are unique for their ecological diversity, archaeological sites, and the vulnerability of sand dunes to wind and water erosion. The Regional Policy Statement (1998) recognises that although the coastal area has little indigenous vegetation, the original structure of the landscape and naturalness is retained in the dune lands which are associated with the wetlands, streams, and lakes, and identified as a priority for protection and enhancement. The intent of Objective 6, in Section 5 of the District Plan is to manage the environmental effects of development on the coast. In addition Policy 6.4 looks to protect the natural habitats within the coastal environment.

The focus of the District Plan in Section 2: Rural Environment is on retaining rural land use and character in the rural zone. Although the development site is not considered as having highly versatile soils the District Plan does identify the distinct 'coastal sand

country' on which the development is sited as having value. In addition to the policies considered in the Officer's Report, arguably policy 3.1 in Section 2 is also relevant. This policy seeks to enable the establishment and operation of activities which rely on a location in the rural environment provided they meet minimum environmental standards. The proposed development, conversely, is primarily residential in nature and does not require rural zoning to establish in the district. The value of the rural land is also expressed in Objective 2 and policies 2.1 and 2.2 from Section 2, which were not considered in the Officer's Report. Policies 2.1 and 2.2 direct land management practices that sustain the potential of soils and promote their life supporting capacity. According to the Officer's Report, the landscape of the site will be changed by "considerable intensification of land use" (Horowhenua District Council, 2007b, p 19) which includes the removal of stock, the addition of roads, and in some areas flattening the sand dunes by about 3-4 metres to create building platforms. The extent of impermeable surfaces associated with residential development (such as buildings, roads, access-ways, and servicing areas) will also reduce the amount of soil that has the capacity to support life and restrict the amount of land available for rural activities. In addition, the disturbance of the dunes from residential development can weaken the soil structure which can cause significant erosion. Residential development of land is very unlikely to be reversed once approved.

The officer proposed conditions that require a Harvesting and Revegetation Plan and a Landscape Management and Maintenance Plan to help mitigate the effects of the development on the remaining natural features and landscape attributes. Conditions in respect of colour and height of buildings above certain ridgelines are also proposed to mitigate the effects on the landscape (Horowhenua District Council, 2007). Overall, the Officer's Report concluded that the development along with the conditions will likely enhance the landscape by revegetation and removal of stock from much of the site.

Although the Officer's Report considered that the proposal is consistent with the policy guidance in the District Plan in terms of the remaining landscape, rural, and natural values. The development could be designed to further retain and enhance the landscape features of the site in line with policy direction. For example, designing the development to preserve the contour of the dunes and having larger lot sizes which would keep the feeling of openness and retain the ability to accommodate a variety of rural activities. The natural values of the site could be rehabilitated by enhancing historical ecological corridors rather

than developing a planting plan that primarily beautifies and mitigates the developments other effects.

The idea that residential land use provides an opportunity to enhance the environment from traditional pastoral farming has some credibility. However, more sustainable farming would also have the same or a better outcome. The negative cumulative effects associated with residential subdivisions are likely to outweigh the benefits in the long-term.

#### *Residential subdivision in the rural zone*

According to the officer, one of the submitters opposed the development saying that “rural land zoning shouldn’t allow residential development” (Horowhenua District Council, 2007, p 15). This statement raises a key point that was not addressed in the Officer’s Report about whether residential use of rural land in this location is a sustainable use of natural and physical resources. There are several sections in the District Plan which provide policy direction on the location of greenfield residential development, for example, Section 6: Urban Environment which explains in Objective 8 and the associated policies that:

The extent of zoning shown on the Plan’s maps reflects the current and anticipated foreseeable future size of the settlements. Any proposed extensions to those boundaries would require a careful consideration of the adequacy of provision for environmental and community standards and of the necessity for and appropriateness of extending public services and roads. Unconstrained expansion of the urban areas onto surrounding land would not necessarily be consistent with sustainable management of resources particularly where this would adversely affect highly versatile soils or introduce natural hazards or compromise natural features and where there remains excess capacity to absorb development within existing settlements. (Horowhenua District Council, 1999, p 71)

Objective 8 directs “sustainable management of the district’s natural and physical resources used and developed for urban purposes” (Horowhenua District Council, 1999, p 70). In addition, policy 8.5 (p 71) covers the redevelopment of existing urban land to absorb future urban “growth without the need to prematurely extend the defined urban areas”. Another example of policy guidance on this issue is policy 6.1 in section 5 (Coastal

Environment) which states: “To confine urban development in the coastal environment to existing settlements with no expansion along the coastal margin” (Horowhenua District Council, 1999, p 56). These policies were not mentioned in the Officer’s Report.

The location of future urban growth at Waitarere is identified in both the District Plan and the LTCCP 2006 – 2016 and consists of 96.9 hectares of undeveloped land (Horowhenua District Council, 2007a). The addition of the proposed development site will substantially increase the available land for residential development by 186 hectares. Current and future residents of Waitarere will carry the costs associated in servicing this land.

Under the policies consideration could be given to whether the proposed development is surplus to demand because of the amount of undeveloped land already available for residential development closer to the core of the existing settlement and with planned servicing. Although the lots are large by urban standards they are not large when compared to traditional rural lots. As a consequence, it is likely that new sections will be primarily used for residential purposes despite the underlying rural zoning. The proposed development has the potential to increase the population of Waitarere by about 300 people (number of lots multiplied by the average family size for Waitarere). In addition, policy 9.5 in the District Plan directs new sections to have an area, shape, and access suitable for likely future uses within each zone. Arguably, the land is zoned rural although many of the rural activities as described in the District Plan will not be allowed or able to occur because of the increased density of the residential activity that is proposed. The zoning therefore will no longer be consistent with the land use.

By not referring to policies that provide guidance on the location of greenfield residential/urban development the Officer’s Report has excluded the discussion about whether the development is an appropriate use of land in this location even though the development will be an extension of Waitarere’s urban area along the coast.

#### *Lack of consideration of the wider environment*

In considering the effects of the development the approach in the Officer’s Report focused internally on the development site, with the exception of reverse sensitivity and vehicular effects on the roading hierarchy. The policy direction in the District Plan encourages an

assessment of a subdivision application within a much wider context as described in the following discussion.

Objective 4.2, in Section 3: Natural Features and Values of the District Plan, encourages the connection of natural habitats across the district. The concept of connecting habitats is fundamental to the future resilience and biodiversity of remaining significant habitats and species. Policy 4.7 identifies and encourages restoration of habitats adjacent to water bodies and other areas that will create ecological corridors. Although the revegetation proposed for the development is considered to enhance the natural values of the site, it appears to mitigate the development's design rather than the development being designed to integrate and strategically enhance the natural and landscape values. To reflect the policy direction in the District Plan, the development design could include strategic enhancement and creation of ecological corridors between Otaneko Lagoon, the adjacent lagoons, and also the stream and the adjacent pine plantation. To enhance the community's understanding and knowledge of the natural environment and the effects that human activities can have on ecological values, in line with District Plan policy direction, management of conservation areas could involve new residents, the wider community, iwi, and Department of Conservation.

Waitarere settlement is identified as having a distinct character which is described in the District Plan on pages 65 and 78. This includes, for example, wide grass berms, section sizes of around 800m<sup>2</sup>, low building heights, a sense of safety for pedestrians and cyclists, very little night lighting, and a distinct coastal flavour with the sand dunes and sand blow. Although the development will be immediately adjacent to the existing Waitarere settlement, the development was not discussed within the context of this unique character. There are a number of policies in Section 6: Urban Environment that seek to enhance the individual character and amenity of settlements, including Objective 9 and policies under the Urban Residential Zone which includes Waitarere. Although not considered in the Officer's Report, the policies of Section 6 are arguably relevant to assessing the application as it is a residential activity and directly adjacent to Waitarere. Some of these key policies will now be discussed in more detail.

Policy 8.7 in the District Plan covers the provision of public open space to meet the needs of the community. Once developed, the subdivision will substantially increase the

projected population of Waitarere. The recreational needs of the future population should be planned for under this policy. From the Officer's Report the only area of new public open space recommended is an esplanade reserve along Wairarawa Stream. Although the applicant suggested additional lots be vested in council for recreational purposes, the proposed reserves were discussed in terms of council liability in the Officer's Report as opposed to the context of future needs of the wider Waitarere community. Policy 9.2 promotes community health, safety, security, minimisation of accidents, injury, and crime when designing a development. The Officer's Report did not cover these factors. Inclusion of these factors in the consideration of the design of a development, in conjunction with the surrounding environment, can substantially enhance the long-term social well-being of a community, making it a more desirable and safe place to live. Policy U.5 covers the maintenance of residential character. The character of Waitarere, as described in the District Plan, could be used to make decisions about the development's design, for example, whether the applicant's boulevard concept for the main road of the subdivision is in keeping with Waitarere's character given that it is of a much larger scale and departs significantly from the design of existing streetscapes. These policies could be used to help design the look and amenity of the development to fit in with the surrounding Waitarere settlement.

There are also a number of district-wide issues that the policies of the District Plan seek to address which were not discussed in the Officer's Report. For example, policy 9.3 in section 6 discusses the delivery and collection of wastes and ensuring that it is easy and safe. There was no discussion in the Officer's Report of solid waste collection. The extension of solid waste collection to the new development will be an additional cost to ratepayers. Similarly, the Officer's Report did not discuss policy 17.2 directly, in particular the community's transport needs and alternative forms of transport. The discussion in the Officer's Report on this topic was mainly around the internal vehicle access requirements and loading on adjacent roads. The safety, access impacts, and transport links with the adjacent settlement of Waitarere, public land, and the coast, arguably should be considered.

### *District Plan Rules Reducing the Ability to Manage Coastal Development*

The approach to coastal rural subdivision in the District Plan makes it very difficult to decline an application or even influence the outcome. This is especially hard if the activity is not discretionary and the policy guidance in the District Plan, Regional Policy Statement, and NZCPS are not able to be considered. Arguably, the underlying zone and its permissive rules are one of the main reasons for this situation. In the District Plan Rural zone rules, the minimum permitted lot size is 2000m<sup>2</sup> where the soil is not classified as class I or II. There is also no maximum number of lots. This situation prevails along most of the coastline. In the event that no other rules are triggered, most subdivisions in the coastal rural environment would be permitted or controlled. Therefore the council could not refuse such an application. In the case where an application is discretionary, such as the Waitarere Rise development, because it triggered the discretionary rules for earthworks and minimum lot size for access-ways, it is still likely to be approved if the application meets the permitted minimum lot size requirements, even when the landscape is considered as having important coastal or other values.

### *District Plan Weaknesses*

There are a number of areas where the structure and content of the District Plan appears to be weak thus inhibiting implementation. For example, there is a lack of cross referencing of sections such as ensuring that issues which are nationally and regionally important, like biodiversity, natural hazards, solid waste management, efficient use of resources, including energy and transport, are addressed within all planning zones. Building stronger links between zones and activities would also increase the ability to implement policy direction. The subdivision section of the District Plan could be made more useful by providing policy direction on appropriate development which links to each land use zone. The ability to implement some of the residential policies in Section 6 would have also proved valuable for assessing whether the development was suitable for the location. For example, as discussed, policy 8.5 provides guidance on the appropriateness of extending urbanisation beyond the defined areas in the planning maps and also retention of the individual character of existing settlements. However, the policy was not used because there was no cross-reference to it in the Rural Environment Section of the District Plan which is the underlying zoning of the development site.

Another area of where the District Plan may impair implementation is in instances where the policies do not reflect the associated objective. An example is Objective 18 in Section 10: Land Transport. Although Objective 18 promotes managing the effects of land transport to maintain the health and safety of people and communities, the associated policies promote reducing effects on natural and physical resources, landscape, and amenity. There is little in the policies that could be referenced to maintaining people's safety from the effects of land transport activities.

### *Obligations to Tangata Whenua*

Section 1 of the District Plan recognises:

The special status of the tangata whenua as separate and distinct from interest groups and further recognises the need for active protection of tangata whenua interest in dealing with other parties and in administering this plan (Horowhenua District Council, 1999, p16).

It also states that:

The Council is committed to ensuring that tangata whenua's views concerning the management of natural and physical resources are taken into account and that one of the most fundamental ingredients for a successful relationship between tangata whenua and the Council is meaningful dialogue and consultation (Horowhenua District Council, 1999, p 17).

The objectives and policies in Section 1 of the District Plan seek a basis for giving effect to the principles of the Treaty of Waitangi. The following discussion looks at how the Officer's Report addressed the obligations to tangata whenua.

There are two policies under Objective 2 in Section 1 that were not considered in the Officer's Report which appear to be relevant. Objective 2 promotes the recognition and provision of tangata whenua with their culture and traditions. Policy 2.2 recognises tangata whenua's relationship with traditional practices and resources and the second policy recognises the desire of tangata whenua to further develop their relationship with the



natural environment (Policy 2.5). These policies link local tangata whenua to the cultural and traditional use of natural resources strengthening their spiritual relationship. This relationship is particularly important within coastal areas, including the wetlands and sand dunes (Horowhenua District Council, 1999). Objective 4 of the District Plan was also not considered in the Officer's Report. This objective recognises the Kaitiakitanga (guardianship) of tangata whenua over the natural environment. This concept is emphasised by further by policy 4.1 which requires that particular regard be given to the exercise of kaitiakitanga by tangata whenua in the management of resources, where appropriate. The personal relationship of tangata whenua with the land is also accentuated in the District Plan in policy 4.5 in Section 3: Natural Features and Values which encourages involvement of tangata whenua in sustainable management and halting the decline of natural habitats of indigenous species.

The Officer's Report noted that the objectives and policies of the District Plan were complied with because representatives of tangata whenua were sent the application and in doing so they were provided with an opportunity to respond with any concerns. In addition, the Officer's Report recommended as a condition of the consent that if any archaeological artefacts or cultural remains were discovered that works stop and the listed authorities be contacted.

Given the strong direction of the objectives and policies in the District Plan there was an opportunity through the application for tangata whenua to not only maintain but also enhance their connection with the land and be more involved in decision-making on natural resources within the context of kaitiakitanga. In addition to sending tangata whenua the application, it would have been useful to point out the natural features that may have been of interest to them such as the lagoons, stream, and the revegetation proposed. The officer could have also initiated discussion with tangata whenua about the importance of the natural values to them, and if and how they would like to be involved in their enhancement.

### **Other Relevant RMA Planning Documents**

The following analysis considers criteria (aims, objectives, policies, outcomes, and methods) relevant to assessing the application from RMA planning documents other than

the District Plan. Relevant criteria from the RMA itself were also included in the analysis. Table 4.2 in Appendix 3 lists the policy guidance from each of the documents below used in the analysis.

### **Regional Policy Statement**

The criteria selected from the Regional Policy Statement (RPS) were relevant objectives, policies, and also methods. The methods in the RPS specifically identify Regional and District Council responsibilities. The following discussion covers the main points identified in the analysis of the RPS.

A number of important objectives, policies, and methods were not considered in the assessment of the application against the RPS in the Officer's Report. Of significance is Objective 6, policy 6.1, in the RPS and in particular, the methods that councils should implement. Method 6.2 promotes giving priority to the consolidation of existing or partly developed areas before opening up new areas to urban development. In addition, method 6.4 requires that existing transport and utility facilities are used to capacity prior to promoting urban development which requires either new or extended facilities (related to policy 6.1(d)). The guidance in both these methods questions whether the type of development and location proposed is the best use of resources as it is unplanned and will require new public infrastructure, including a considerable upgrade to the Waitarere wastewater treatment scheme.

In addition, a number of objectives and policies in the RPS which were not mentioned in the Officer's Report, arguably, would have provided for a more sustainable outcome which is better integrated with the surrounding environment. Examples of policies not considered include: policy 6.1 (e) which promotes efficient use of energy and transport, and policy 9.1 (a) which promotes having regard to indigenous vegetation that buffers and connects with other natural areas. Another example is policy 19A.1 which promotes reduction in greenhouse gases and specifically includes method 19A.4 which requires District Councils to consider reduction on the reliance on private transport through urban development planning. Objective 28 and policies 28.2 and 28.3 are also important to assessing the application, because they promote sustainable management of energy resources by encouraging use of renewable energy and efficient energy use. Of particular relevance to

the application are the methods associated with objective 28 (including methods 28.5 and 28.6) which encourage reduction in energy use through subdivision patterns and the design and location of buildings, transport modes and patterns, and adopting energy saving technology in residential situations. Energy reduction is also highlighted in the RPS section on Air Quality where objective 30 and policies 30.1 and 30.2 seek to have a regional transport system with few environmental effects and that is safe and efficient. In particular, policy 30.1 promotes a land transport system that is the most efficient use of energy, reduces the reliance on non-renewable energy and minimises the effects on the environment, including landscape and amenity values, and discharges to air. Most of the policy guidance mentioned here requires that the development is viewed in the wider context of regional and national issues. As discussed previously, the assessment in the Officer's Report seems to focus narrowly on mitigating the on-site effects of the development rather than addressing these wider environmental issues.

The other key point identified in the analysis of the RPS that was similar to the District Plan, were the gaps between the context, objective, and policies, and methods in some areas. For example, Objective 30 in the RPS promotes public utility networks that avoid, remedy, or mitigate adverse environmental effects. However, there are no policies that support this guidance. Instead, the associated policy 30.3 provides for utility networks maintenance and future development.

### **New Zealand Coastal Policy Statement**

The assessment in the Officer's Report of the application against the New Zealand Coastal Policy Statement (NZCPS) was relatively brief. A few policies in the NZCPS were considered. The Officer was of the opinion that "the development will be generally consistent with the New Zealand Coastal Policy Statement" (Horowhenua District Council, 2007b, p 43). The Officer's Report referred to Policy 1.1.1 but quoted it selectively, leaving out a number of key phrases. The absent phrases are highlighted in bold.

It is a national priority to preserve the natural character of the coastal environment by:

- (a) encouraging appropriate subdivision, use or development in areas where the natural character has already been compromised and **avoiding sprawling or sporadic subdivision, use or development in the coastal environment;**

- (b)** taking into account the potential effects of subdivision, use, or development on the values relating to the natural character of the coastal environment, **both within and outside the immediate location; and**
- (c) avoiding cumulative adverse effects of subdivision, use and development in the coastal environment.** (Department of Conservation, 1994, p 4)

The NZCPS is very clear in its policy direction (Policy 1.1.1) that it is a national priority to preserve the natural character of the coast by avoiding sprawling subdivision and its adverse cumulative effects. However, the Officer's Report is silent on whether the proposal is appropriate in this location or if the effects of development will be adverse, including the cumulative effects and effects outside the development site.

There are a number of policies in the NZCPS which seek to protect and preserve the natural character of the coastal environment including its landscape and natural values as a national priority. For example, policy 1.1.2 provides guidance on protecting significant indigenous vegetation and habitat. The direction includes protection of unique coastal environments, such as dunes and wetlands, which are vulnerable to modification. Policy 1.1.4 is also relevant as it focuses on protecting the integrity, functioning and resilience of the coastal environment, including movement of biota, substrate composition, and biodiversity. This policy is important in ensuring the connectivity and movement of species, and ecosystems. These were not mentioned in the Officer's Report.

The dune lands are an integral part of the site's ecosystem creating habitats of wet and dry and ecological corridors. As discussed previously, the Officer's Report did not discuss the biodiversity or the interrelationship of the remaining dune lands in the context of ecological corridors with the adjacent lagoons. It appeared from the Officer's Report that the council's landscape architect considered that the natural character of the site had been significantly modified by its history of primary production and therefore the development and associated earthworks would not adversely affect the remaining landscape and natural values of the site. The value of these existing sand dunes is not discussed, which seems to be contrary to the policy direction in the NZCPS.

## **Resource Management Act 1991**

Section 104 of the RMA requires that decision-makers must not only have regard to the planning documents (such as those discussed above) and any other matter that is considered relevant, but also decisions are subject to Part 2 of the RMA which refers to sustainable management.

The assessment in the Officer's Report of the application against Part 2 of the RMA quoted parts of Sections 6 and 7 but did not refer to Section 8. The Report concluded, without referring specifically to any clause that "subject to the imposition of conditions, the proposal would not be contrary to these matters" (Horowhenua District Council, 2007b, p 45). The other sections of Part 2 which were not considered could have provided important guidance for decision-makers. For example, the Officer's Report could have addressed whether the change in landuse from rural to primarily residential is an efficient use of natural and physical resources (section 7 (b)).

As discussed, Section 104 of the RMA guides what should be considered when making a decision on an application for resource consent under the RMA and includes Section 1(a) which requires that regard be given to any actual or potential effects on the environment of allowing the activity. The word 'effect' has a specific meaning under the RMA as defined in Section 3. It includes present, future, and cumulative effects. It is not defined by only considering the effects of an activity within the boundary of a property, within a particular zone, or within a specified timeframe. The Officer's Report focused mainly on the immediate environment in the short-term. Once developed, the potential long-term effects of a change in landuse from rural to primarily residential do not appear to have been considered in the Officer's Report. Recommending conditions to address future landuse could have been considered, such as restricting vegetation to natives or non-invasive species, making the development feline-free, requiring land exposed not only during development but also through future use to have erosion control (including any cropping), and that any artefacts discovered after the construction stage are treated in the same way as those from during development.

The cumulative effects of this subdivision along with planned residential growth for Waitarere within the current residential zoning and also recent rural residential subdivisions across the District (Horowhenua District Council, 2007a) were not considered

within the Officer's Report. Some examples of cumulative effects from development include stormwater, wastewater, transport and roading and ecological degradation. Consideration of this application in the context of cumulative effects, as promoted by the Court of Appeal (*Dye v Auckland Regional Council* (2002, 1NZLR 337), rather than in isolation, would have provided a more sustainable approach to development planning and also the community's social and economic future. This approach would have also allowed council to discuss the costs of the development on the wider community, for example, public infrastructure and servicing of the development. Rather than being developer-driven and ad hoc, the council could have retained some control over the quality of services and its long term financial position.

Section 88 (b) of the RMA requires an Assessment of Environmental Effects (AEE) as outlined in Schedule 4. An AEE provides information to the officer and decision-makers about the actual and potential effects of development. The RMA requires that an AEE include the "effects on those in the neighbourhood and, where relevant, the wider community including socio-economic and cultural effects" (RMA, 1991, Schedule 4, Section 2). There was no evidence in the Officer's Report that the application included a section on socio-economic effect of the development on the wider community. Some of the effects that could have been considered include the council's need for an unplanned up-grade to the wastewater scheme, additional public roads that will need to be maintained, increased demand for rubbish collection and disposal, and increased energy use. Consideration of wider cumulative impacts of development are supported by Section 5 of the RMA which requires sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations.

#### **4.4.1.2 Non-RMA Policy Documents and the LGA**

As well as the RMA and associated plans and strategies, there are a number of other relevant documents, which are discussed below, that could have guided council's decision-making. These documents arguably could have been considered under Section 104 (1) (c) of the RMA (as discussed in section 2.5.4 in Chapter 2). However, there is no evidence that these documents were considered in the Officer's Report.

The documents below assist the council in promoting community well-being, a fundamental concept of sustainable development and the purpose of the LGA. The Long Term Council Community Plan (LTCCP) is statutorily required by the LGA. The other policy documents are not a requirement but the council has developed them to provide leadership, strategic direction, and integration on issues that are affecting the district. During their development these policy documents under went a public consultation process. In addition to the policy documents, the LGA itself was considered in this section of the analysis.

### **Long Term Council Community 2006-16**

Many of the same issues that were raised in the analysis of RMA plans and strategies also emerged in the analysis of the LTCCP. The LTCCP identifies the specific issues that the community want to address and the outcomes they are seeking. The community outcomes are essentially a gauge of the community's ideas about sustainability and well-being. As well as the community outcomes, the LTCCP outlines how the council will be contributing to achieving the outcomes through its activities along with a 10 year financial plan. The LTCCP provides useful up to date social and economic context for assessing the development, including societal costs.

An example of the relevance of the LTCCP is the explanation of the growth that Horowhenua has experienced. The LTCCP provides perspective by explaining that there has been a doubling in the number of subdivisions over the last four years with most subdivisions in the rural parts of the district. This is a nine-fold increase in the number of lots created (Horowhenua District Council, 2006). One of the main areas experiencing growth is Waitarere (Horowhenua District Council, 2006). In contrast the population increase is only expected to be moderate over the next 10 years because investment has been in holiday homes which do not provide a permanent population and also people tend to be middle aged or retirees, beyond child bearing age. There is also a time lag between subdivision and housing construction (Horowhenua District Council, 2006). The council's response to the district's growth is that:

A business as usual approach would mean that people within Horowhenua could continue to sub-divide and develop land wherever they wished within the current

District Plan framework. This could potentially lead to ad hoc development and importantly it would lead to demand for services in locations where such provisions may not have been planned (Horowhenua District Council, 2006, Vol 3, p 98).

The LTCCP acknowledges that:

Councils are not usually in a position to prevent development from occurring. However, they are in a position to manage it. The principal statutes for local government (the Local Government Act, Resource Management Act, and the Land Transport Management Act) mean that Councils need to do this anyway (Horowhenua District Council, 2006, Vol 3, p 105).

To address the issue of sporadic growth and the unwanted effects the council through the LTCCP, including the Development Contributions Policy, clearly outlines that residential subdivision development should be within the areas that have been identified and planned for. For example, the social and cultural vision for the district includes sustainable urban growth in specified planning areas and retention of the character of individual communities (Horowhenua District Council, 2006). This direction is also reflected in the previous RMA documents discussed, including the District Plan. According to the policy direction in both the LTCCP and RMA planning documents, the proposed subdivision at Waitarere may not be considered as sustainable urban growth because it was not within the identified growth area for Waitarere and will require unplanned infrastructure. As discussed previously, this issue was not addressed in the Officer's Report.

The Development Contributions Policy within the LTCCP requires that developers give land and/or money to the council to cover the costs associated with current and future infrastructure networks. The alternative to developer contributions is that ratepayers carry the burden for new development (Horowhenua District Council, 2006). The development contribution for each lot is "\$6, 366 + GST" (Horowhenua District Plan, 2007b, p 59). This amount seems inadequate compared to the likely actual costs that are related with the capital works and maintenance for infrastructure like wastewater, roading, community infrastructure and reserves. A comparison to the developer's contribution is that more than a sixty percent rate increase is facing Waitarere residents for upgrading the



wastewater scheme alone (Horowhenua District Council, 2006). This increase excludes the 151 new residential lots proposed by this application.

The LTCCP also highlights inequality issues for communities associated with development. For example, where there is residential development in the rural zones, the development is likely to have their solid waste collected at a lower rate than the adjacent settlement. This is because the rural zone is rated lower than the urban zone for this service (Horowhenua District Council, 2006). Another example is the reference in the LTCCP to growth in Waitarere and the extension of basic facilities such as footpaths and stormwater drainage, recognising that there is a need to balance development with the beach feel of the settlement. Because of the proximity of the development to Waitarere and the transport and personal safety issues which have been raised in the community outcomes, street lighting and footpaths may be requested in the future at a cost to the ratepayer. This factor could be discussed in assessing the application.

A significant issue for existing coastal communities is the permanency of residents in new developments. Ideally settlements and communities seek permanent residents to use infrastructure and services year round, including community facilities. For example, where a settlement has a mixture of permanent residents and a high portion of second homeowners, infrastructure must be built to service the larger peak population rather than the smaller permanent population of residents; costing more to ratepayers. Often infrastructure, such as wastewater collection and treatment, requires a minimum number of users for efficiency. This balance gets harder as the number of holiday makers increases. Another example is community services, such as medical facilities, public transport, and commercial activities which may reduce or cease during the off season, leaving permanent residents with a lower quality or no level of service. In contrast an increase in permanent population would justify any new or upgrading of infrastructure and services year round, therefore, making investment more financially and socially viable. As a result of the development the population is likely to increase by at least 300 persons when all sections are developed (about 2 persons per residential lot based on the average family size for Waitarere). It is very likely that the new development will be mainly second home owners as there are no significant employment opportunities. There is also a risk in the time lag between property subdivision and sales, given the amount of recent subdivision in the district and serviced sections already available in Waitarere. This may in

turn under utilise the infrastructure constructed to accommodate the development. These issues were not discussed in the Officer's Report but are relevant in terms of the sustainability of the development and growth management planning.

The LTCCP provides direction for a number of features that would make developments more sustainable. For example the LTCCP states "demand on the sewage system can be met by grey-water recycling, which will also reduce water demands" (Horowhenua District Council, 2006, Vol 3, p 186), among other actions. The LTCCP also promotes reducing solid waste and includes methods which target a reduction in construction and demolition wastes, supporting composting of green waste, and increasing recycling. The LTCCP also directs council to provide a leadership role in waste reduction initiatives. Initiatives to increase resource efficiency, as emphasised in the RMA documents analysed above, are also contained in the LTCCP. The lack of consideration of sustainability initiatives in the design of the development indicates a failure to consider policy direction given in both RMA and LGA documents. It also highlights an absence in the integration of LGA policies documents in RMA decisions.

### **Positive Aging Strategy**

The Horowhenua Positive Aging Strategy (PAS) was developed to ensure co-ordinated and proactive planning by the council, social service agencies, and community groups to support aging persons in the district. The number of older persons in the district is anticipated to increase from twenty to nearly thirty percent by 2021 (Horowhenua District Council, 2006b). This is higher than the national average of almost twenty percent. Older persons are living mainly in the district's urban communities, including Levin and coastal settlements. There is an expectation that they will enjoy easier access to health, and recreational and educational facilities. To address the increasing needs of an older population the PAS promotes the need to be proactive.

The PAS lists the key issues that are affecting elderly people. They include affordable and accessible transport, feeling safe and secure, affordable and appropriate housing, and safety in small coastal settlements that increase in population during the summer. In addition, the goals of the council outlined in the PAS include striving to keep rate increases to a minimum, advocating a stronger police presence in coastal communities during

summer, being aware of the social and physical requirements of older people in its amenities and services, advocating an affordable public transport system, and supporting a range of housing options for older persons.

It is likely that rates will increase as a result of the development, especially for Waitarere, as more public infrastructure will be required. The development could be designed in such a way that the rates increases for infrastructure were more sustainable by thinking about the long-term costs, for example including in the development's design initiatives and incentives to reduce waste, support sustainable transport, reduce energy use, and minimise wastewater and water consumption. Encouraging these types of initiatives not only benefits the current and future owners but also the wider community as cumulative effects of development are reduced. The proposed development also offers an opportunity to make public areas in the development safer and suitable for older and disabled persons, for example, the public access along the Wairarawa Stream.

### **Horowhenua Youth Strategy**

Young people between the ages of 12 and 24 currently make up nearly one fifth of the population of the Horowhenua District (Horowhenua District Council, 2006c). The Horowhenua Youth Strategy (HYS) recognises that young people are the future of the district and that the council needs to create an environment that encourages them to stay rather than leave the district for education, employment, or travel. The HYS was developed to ensure coordinated and proactive planning, advocacy, support and facilitation by the council, other organisations and the community. Two of the areas of concern outlined in the HYS which are relevant to the application that council are seeking to address are affordable and accessible transport and activities for youth.

Waitarere, as a holiday destination, has an increase in young people during these periods. As highlighted in the PAS, issues of personal safety and crime escalate during the holiday periods. Although there is no firm data young people are causing the issues of concern, one of the areas the HYS focuses on is activities and employment for youth. The Officer's Report could have looked at opportunities for youth activities at Waitarere when deciding whether to take on the additional public space offered by the developer. As discussed, the

development could have also been designed to address issues of personal safety, not only from transport but also crime.

Affordable and accessible transport is an issue raised in both the PAS and HYS. The elderly and youth population currently make up nearly 40% of the District's community. Accessible and affordable public transport will likely become more important as fuel prices increase (Kennedy et al., 2007) and restrictions relating to climate change emissions management (Horizons Regional Council, 1998) are implemented. The proposed development covers a significant area of land and will accommodate 151 residential allotments. As a result, the development will be dependant on private cars. The assessment of the development could have considered the location of the development, its design, and whether it could be serviced by public transport. An alternative development design may have been more advantageous to encourage sustainable and alternative transport options.

### **Local Government Act 2002**

A number of sections of the Local Government Act 2002 (LGA) are particularly applicable to the assessment of the application because the consenting authority is the council. An example is section 10 of the LGA which outlines the purpose of local government. This purpose applies to a council when performing functions under other enactments, unless the provisions in the other statutes are inconsistent LGA (Section 13, Section 76 (1), (4), and (5)). The assumption underpinning this research is that the LGA and RMA are not inconsistent as discussed in Chapter 2 and therefore council should have regard to the principles relating to local authorities in Section 14 of the LGA (Section 79 (2)). The following discussion outlines how the LGA could be used to help assess the application.

The principles (Section 14) and the decision-making process (Section 76) within the LGA are fundamental to councils achieving the purpose of the Act, (sustainable development, and accountability to their communities (section 3)). The development as proposed will likely have a considerable effect directly on the local Waitarere community and indirectly on the wider district as public resources are redirected that have been planned for elsewhere or new resources are required. Under the LGA (Sections 14 and 76) elected members who make a decision are required to take into account the community's interests

and the likely impacts on each aspect of the community's social, economic, cultural and environmental well-being (four well-beings). Given the significance of the decision of whether to allow the development to go ahead or in what form, the decision-makers should be aware of the costs and benefits to community.

The assessment in the Officer's Report focuses on the on-site environmental effects without considering the wider social, economic, environmental, and cultural context and also looks at the proposed development in the relatively short term i.e. the immediate implications from a change in landuse. Given the direction of the principles in Section 14 of the LGA, the application should be assessed against the four well-beings. For example, the assessment could have included the cost of transport and wastewater management over the long-term to the community (especially as the site was not planned for servicing in the LTCCP), whether the development is designed for personal safety, and recreational and access opportunities. The Officer's Report does not provide information for the decision-makers on the costs and benefits of the proposed development to the local community and more specifically the potential social and economic implications of new infrastructure that the development will require. The Officer's Report also does not cover Waitare and wider district's community outcomes/aspirations and how this development would promote their achievement, a decision-making requirement under Section 77, of the LGA.

Sections 14, 77, and Schedule 10, of the LGA scrutinise the use of council resources and its capacity to undertake their statutory responsibilities, this includes the maintenance and enhancement of critical infrastructure such as waste collection and disposal, drinking water supply and delivery, and roading. A development of this size can put a strain on the ability for councils to meet their statutory responsibilities, especially if significant upgrades to infrastructure and long-term maintenance are required. In addition, there are likely to be compounding effects with developments in other parts of the district that will further strain on council's resources. Schedule 10 lists the requirements of a council's planning documents, including the LTCCP. Section 2 of this Schedule lists the council's requirements in relation to groups of activities such as community infrastructure. It requires the council to explain why and how it will provide specific infrastructure and the effects that it will have on the four well-beings. Of particular relevance to this development are wastewater disposal, solid-waste disposal, transport, roading, open space, stormwater,

and drinking-water. An assessment of the development in accordance with the criteria in Section 2 of Schedule 10 would have helped to assess the application's infrastructure needs and assisted in the council's long term planning requirements for the LTCCP. In addition, such an assessment would also ensure that the developments infrastructure promoted sustainability, meeting the purpose of the LGA and RMA. The Officer's Report did not consider the developments infrastructure requirements within the context of council's ability to meet its statutory responsibilities or the potential effects on the wider community. This type of information is critical for elected members in helping them make informed decisions for their communities which are sustainable; meeting their obligations under Section 10 of the LGA (Purpose of Local Government).

Under the LGA the local authority has an obligation to make itself aware of the views of the community when making decisions (Section 14 (1) (b)). In addition to the RMA submission process, one way of doing this is to consider documents such as the Youth Strategy, Positive Aging Strategy, and community outcomes in the LTCCP. There is little information about the informal consultation undertaken by the applicants in the Officer's Report. More importantly, there is no information about the views of the community from this informal consultation. The only indication of the views of the community is from the submissions received during notification, which focus on the on-site environmental effects of the development. The council is in a privileged position in being able to have an overview of the wider implications of the development, including the socio-economic effects, and also having a responsibility to consider these when making a decision under the LGA.

#### **4.4.2 The Decision Report**

The following section analyses of the Hearings Committee Decision Report (hereafter Decision Report) for the subdivision application.

The Decision Report identified a number of areas where the application failed to comply with the rules in the District Plan. The areas of non-compliance were:

- Minimum lot size (as discussed in the Officer's Report)
- Effluent separation distance (on-site management and disposal). This particular issue was not discussed in the Officer's Report.

- Unable to meet minimum sight distances for vehicle access ways and minimum separation distances (as discussed in the Officer's Report)
- Vehicle crossings and road access (as discussed in the Officer's Report)
- Roading and earthworks in an outstanding landscape area (as discussed in the Officer's Report)

The Hearings Committee in their Decision Report identified the following as key areas in dispute after hearing evidence from the applicant, expert witnesses, submitters, and the officer:

- (a) Should the Council require connection of the development to the Waitarere wastewater scheme?
- (b) Whether the proposed buffer and reserve lots should be held in private ownership, in common ownership, or vested in Council?
- (c) What the speed limit should be for the developments road layout?
- (d) Should Council take the proposed esplanade strip?
- (e) What works off-site should be undertaken by the applicant?
- (f) Should the boulevard design be adopted for the main internal road of the subdivision?
- (g) What level of landscaping should be required of the applicant?
- (h) What level of earthworks is acceptable?

The Hearings Committee concluded that:

The applicant is required to connect to the Waitarere wastewater system and the wastewater discharged per household should be no more than 1.45m<sup>3</sup> per day. There was no explanation for this decision in the Decision Report.

The council chose not to accept the proposed reserves and buffers as it considered that "it did not need them and had no obligation to accept them" (Horowhenua District Council, 2007c, p 3). There was no further explanation why they did not need the reserves; therefore the reserves will be held in common ownership of the new residents.

The council considered “that the proposed roading did not need to confirm to urban standards and that a more rural standard would be appropriate for the development” (Horowhenua District Council, 2007c, p 3). Again there was no further explanation on why this was decided.

The council concluded that the development was consistent with the objectives and policies for both the rural zone and the sites outstanding landscape. The Council thought that the matters associated with landscaping should be mitigated by the applicant because of the highly modified vegetation on the site. For both of these issues there was no further explanation for the decisions.

The financial contributions provisions of the District Plan were only relevant to the extent set out in the LTCCP. This was the only reference to the LTCCP made in the Decision Report.

Overall the Hearings Committee considered that it has had regard to the matters outlined in section 104 of the RMA, in particular the Regional Plan and the District Plan and that the application was not inconsistent with the objectives and policies in the District Plan or Part 2 of the RMA (Horowhenua District Council, 2007c).

The Decision Report did not refer to any specific policies or objectives unlike the Officer’s Report. Instead it was very brief containing 4 pages on the decision and 10 pages detailing conditions on the application. The Decision Report did not provide much detail overall about why decisions were made. Of interest is the reference to the LTCCP and Financial Contributions Policy (developed under the RMA) which repeals and replaces itself with the Development Contributions Policy developed under the LGA. The Development Contributions Policy in the LGA not only sets out what contributions the developer will pay to council but also provides detailed guidance and principles for development. This guidance was not referred to in either the Decision Report or the Officer’s Report.

There are a number of differences between the Officer’s recommendations and the final conditions placed on the application. There is little or no explanation in the Decision Report about why the hearings committee decided not to implement several of the recommendations in the Officer’s Report. For example, the Officer’s Report recommended



that livestock were no longer farmed or grazed on most of the site. This direction formed part of the rationale that the development would enhance the natural values of the site. However, the Decision Report purposely included a condition that allowed grazing of livestock and cropping on the two largest lots. It is unclear from Decision Report and the conditions imposed whether livestock grazing and cropping were allowed on the other lots as there was no specific conditions restricting these activities.

Another area of difference between the recommendations and final decision was the area of the site to be vested in council as reserve for public use and access. The Officer's Report recommended an esplanade reserve along Wairarawa Stream for public and access and riparian management be vested in council. The applicant also offered other areas of the site to the council as part of the development contribution. The Hearings Committee decided that it did not have the need for the proposed reserve areas, including the esplanade reserve, and was under no obligation to accept them. There is no further discussion about how this decision was reached.

The Officer's Report did not make recommendations on several factors such as the boulevard concept, speed limit, and whether the development should connect to the existing wastewater scheme. The Hearings Committee made a decision on these issues but did not provide an explanation for their outcome.

#### **4.5 Conclusion**

From the Waitarere case study analysis there is no evidence of integration of the council's mandates and responsibilities under RMA and LGA. Many of the issues identified in council's non-RMA policy documents were also covered in the RMA planning documents used in the analysis. The non-RMA documents, however, provided up to date and more detailed information on district and regional issues, which arguably could have been useful for deliberations, particularly for understanding the cumulative effects of subdivision and costs implications to the wider community.

There were a significant number of possible effects of the proposal that were not discussed in Officer's Report, including whether the development was an example of

sprawling subdivision in the coastal environment and also whether this activity was a good use of natural and physical resources.

Several possible barriers to achieving a sustainable outcome through the resource consent process were also identified in the analysis. The weaknesses in the District Plan itself are probably the most significant, where the underlying rural zoning rules allows subdivision as a permitted activity with no limitation in the number of lots. The approach taken in the Officer's Report to assessing the application could also be inhibiting a more sustainable outcome as it was focused on mitigating the effects of the development on-site—demonstrating an insular approach to the assessment. This approach has arguably led to a development that is less likely to relate to the existing natural environment of the site or fit into the surroundings, including the adjacent settlement of Waitarere and the wider coastal landscape.

# **Chapter 5**

## **Coastal Subdivision Case Study at Tatapouri–Data Presentation and Analysis**

### **5.1 Introduction**

This chapter presents a second case study involving a coastal subdivision at Tatapouri, in the Gisborne District. The first section is a discussion of the reasons for selecting the Tatapouri subdivision as a case study. It is followed by the socio-economic, natural and physical context which provides insight into the challenges that new developments face. The resource consent application details are outlined, followed by an analysis of the officer's recommendation report and council's final decision report against criteria selected from relevant RMA planning documents and non-RMA policy documents. As with the Waitarere case study the data and analysis are presented together.

### **5.2 Justification for Case Study Selection**

The proposed subdivision is in the coastal rural environment as shown in the Coastal Environment Overlay and District Plan maps. It is located close to the larger urban settlement of Gisborne and several smaller coastal settlements, but on a stretch of coastline with very little urban subdivision. As the first coastal subdivision proposed north of Wainui (Jones, 2007) for some time, it could be seen as setting a precedent for further subdivision along the undeveloped coast. The Tatapouri case study was chosen because the subdivision is representative of another type of common coastal subdivision, where in contrast to the Waitarere case study there are few or no permanent adjacent residents. Therefore, a relatively new community is created by the subdivision rather than an extension to one that is already established. Although there are likely to be similarities between the two case studies there are also likely to be differences because of the number of people directly affected and the environmental context.

The application was lodged in July 2007. The Council's LTCCP 2006-16 had been adopted in June 2006, a year earlier. Therefore, the assessment of the application could have considered the content of the LTCCP. The decision on the application was made after the 2007 local election and is therefore outside of the criteria outlined in Chapter 3.

However, the same Council's Hearings Committee members were re-elected in October 2007 and could be expected to have a reasonable understanding of their obligations under both the LGA and RMA. The decision on the application was made by elected members rather than a delegated council officer or commissioner. Hence, the decision-makers should be familiar with the council's activities and the issues that face the council. The activity status of the application was discretionary allowing for the proposal to be considered in full, rather than one where the council had identified that it would restrict its discretion. The application was notified which provided an opportunity for the wider community to voice their opinions and concerns about the subdivision. Both the council officer who wrote the recommendation report and an elected member involved in the final council decision were interviewed for this research.

### **5.3 Case Study Context**

#### **5.3.1 Overview**

Tatapouri is 13km north of Gisborne City along the eastern coastline of New Zealand. Gisborne District's population in 2006 was 44, 460. Given the isolation of Gisborne from adjacent major settlements through its geography, the District faces an ongoing battle to retain or increase its population. The Gisborne District overall has a higher percentage of Maori (33%) than nationally (14.6%).

The closest settlement to Tatapouri is Makorori, then Wainui, followed by Gisborne. Tatapouri is rural in character with the main landuse being sheep and beef grazing. The dominant urban features are a camping ground with few permanent buildings, a motel, and several buildings supporting a dive school and a fishing club. There is no channelling and kerbing, street lighting, or internal sealed roads except for those within the camping ground.

Tatapouri does not have reticulated wastewater or drinking water services. The council has previously discussed a reticulated water supply but decided against it because of the cost involved and the low number of permanent residents (Gisborne District Council, 2007a). The only public open space at Tatapouri is along the foreshore. This is restricted by private ownership above the Mean High Water Springs (MHWS) or high tide around to the Tatapouri headland.

The beaches in Gisborne are generally safe for swimming except after rain when stormwater washes bacteria into the sea (Gisborne District Council, 2006a). The sea level rise predicted from global warming is expected to be 11.5cm in 50 years at Gisborne from 1990. New climate change models predict that it could rise as high as 30 to 50 cm (Savage, 2006). This rise provides a higher base for storm surges which is already predicted to be around 3m above sea level. Coastal settlements will likely become more vulnerable to flooding from storm surges, river flooding, beach and hill erosion and slippage. According to Gisborne District Council (2006a, p 4) "State Highway 35 at Tatapouri is being undermined and will be increasingly threatened. The building and boat ramp belonging to the Tatapouri Fishing Club will be increasingly at risk".

Just over twenty percent of vegetation cover in the Gisborne District is indigenous. Nearly half is pasture grazed predominantly by sheep and beef. Wetland habitat is poorly represented in the District (Gisborne District Council, 2004a). Soil erosion is one of the region's biggest issues and with a number of schemes in place to incentivise revegetation of steep hill faces (Gisborne District Council, 2006b).

Gisborne District faces numerous natural hazards and within living memory has felt the force of earthquakes, tsunamis, land slides, floods, and droughts. The District is particularly vulnerable to earthquake related natural hazards (Gisborne District Council, 2004b).

### **5.3.2 Consent Application Details**

An application was lodged by Turanganui Holdings Limited in July 2007 to subdivide an area of land into 14 residential lots ranging from 600m<sup>2</sup> to 1000m<sup>2</sup>, with a balance lot of 8200m<sup>2</sup>. It was publicly notified in August 2007 and heard by a Council Hearings Committee in December 2007.

Tatapouri is located on the northern side of Tatapouri headland. There are a small number of permanent residents associated with the local motel. The proposed development site is situated across from the beach, separated from by the State Highway. The site is flat to gently sloping. Behind the site, to the west, there are steep hill slopes which form the backdrop to the coastline (Gisborne District Council, 2007b). There are two small streams

that cross the site which drain the surrounding steep hills. The vegetation is pastoral grassland with a few trees scattered throughout the site. Adjacent to the site is a coastal reef which is used for eco tours including feeding of stingrays. Little Blue Penguins have established a colony in close vicinity to the site.

Access to the site is via the one access point of Whangara Road (State Highway 35). This road will access two lots directly and the other 12 lots will have access via right of way from the access road. The access road is proposed to be vested in council.

The wastewater collection, treatment, and disposal is proposed to be contained within the communal lot and managed by an incorporated society. Stormwater from the site is proposed to be diverted using channel and curbing and then redirected to one of the water courses. Secondary flow paths will also be diverted into the watercourses. The stormwater is proposed to be managed by an incorporated society. Roof-tank water is proposed for residential domestic water uses. The earthworks for the develop involve excavation for roads, access ways and drainage paths, re-alignment of the northern watercourse, recontouring land for seven of the residential lots, and formation of mounds within the communal lot.

The developer proposes 14 residential lots, a communal lot of 8200m<sup>2</sup> and two additional lots to be vested as state highway. The balance of the area includes two lots located on the seaward side of State Highway 35 (SH35) and an esplanade strip of 10 m following the foreshore in front of the camping ground. The strip is to ensure public access to the foreshore, including the boat ramp.

The site is historically rural with little indigenous vegetation. The applicant proposes revegetation of the streams that cross the land with native coastal species. The Tatapouri area has a rich history of occupation by Maori. The Tatapouri headland was the site of a pa and although there are no archaeological sites recorded in the proposed development area, there are some recorded nearby.

Part of the proposed subdivision has been identified as within the Area Sensitive to Coastal Hazards (ASCH) overlay. The site is also subject to potential overland flooding, land instability, slips debris, and was directly affected by a tsunami in 1947.

### 5.3.3 Planning Considerations

The applicant required both regional and district level resource consents. Because Gisborne District Council is a unitary authority, planning documents and council responsibilities in some areas are integrated.

The main planning document used in this case study to determine the activity status was the Combined Regional Land and District Plan (District Plan). The following discussion briefly outlines the planning considerations in determining the discretionary status of the application. These considerations provide an indication of some of the issues facing the development.

The site is zoned Rural General and is subject to a number of overlays in the District Plan.

These are:

- Heritage Alert
- Land Overlay 2
- Site Caution
- Coastal Environment

The proposed subdivision does not comply with the minimum lot size of 1000m<sup>2</sup> in the Rural General Zone because lots range from 600m<sup>2</sup> to 1000m<sup>2</sup> in size, with the majority under 1000m<sup>2</sup>. In addition, several lots that do not comply with the yard distance rule which makes the activity restricted discretionary. The proposal is therefore considered a discretionary activity under the District Plan subdivision rules.

The activity does not comply with the roading rules of the District Plan and as a result is considered a restricted discretionary activity. Because the proposed subdivision is located within the Site Caution Overlay it is a restricted discretionary activity. The subdivision also falls within the Coastal Environment Overlay and is therefore considered as a discretionary activity. Under the Natural Heritage Section of the District Plan the proposal is within 200m of mean high water springs (MHWS) and is not within any residential or port zones, so it is therefore considered discretionary. The proposal required realignment of a water course which is considered discretionary. Land disturbance within the land overlay 2, also required by the application, is a controlled activity. Overall, the application was considered

discretionary which means that the Council could grant or refuse the consent under section 105 (b) of the RMA.

#### **5.3.4 Public Notification**

The application was publicly notified on 4 August 2007. Five submissions were received. Four submissions opposed the development and one was in support. Although an analysis of submissions is not part of the scope of this research, the summary of submissions in the Officer's Report provides an indication of the areas of the application where the community were concerned.

The issues raised in the submissions were as follows (Gisborne District Council, 2007b):

- The impacts on water quality by the proposed effluent treatment system
- The potential disturbance of unrecorded archaeological sites and wahi tapu by earthworks and increased public access
- The discharge and quality of stormwater
- The visual impact of houses
- Access to adjacent property from SH35
- The provision of an esplanade strip and the potential effects of public access to adjacent property
- Lack of consultation
- Lack of identification of the actual and potential adverse effects
- Potential to increase rating values
- Potential introduction of predator species that will impact on little blue penguins in the vicinity
- The potential increase in pressure on the adjacent Coastal Marine Area ecology

The officer identified the following very broad categories of actual and potential effects as a result of the proposal:

- Cultural Issues
- Natural Character
- Amenity Values
- Natural Hazards



- Infrastructure
- Traffic and Access
- Positive Effects

#### **5.4 Data Presentation and Analysis**

As with the Waitarere case study, this section of this chapter comprises two parts. The first part is the data presentation and discussion of the analysis of the officer's recommendation report (hereafter Officer's Report). The second part comprises the data presentation and discussion of the analysis of council's final decision report (hereafter Decision Report).

The criteria used in the document analysis to assess the Officer's Report and Decision Report were selected from the following documents. The RMA documents included:

- Combined Regional Land and District Plan adopted in 2006
- Regional Policy Statement adopted in 2002
- Proposed Regional Coastal Environment Plan adopted in 2005
- The New Zealand Coastal Policy Statement published in 1994
- The Resource Management Act 1991

In addition to these RMA documents, which were considered in the Officer's Report and Decision Report, the analysis conducted for this research also included the Proposed Regional Plan for Discharges to Land and Water, and Waste Management and Hazardous Substances.

Although not considered in the Officer's Report or Decision Report, the document analysis for the case study, in addition to the RMA documents listed above, included criteria from the following policy documents:

- Gisborne Community Plan 2006 – 2016 (LTCCP)
- Gisborne Urban Coastal Strategy 2005-15, adopted September 2005
- Walking and Cycling Strategy, adopted 2004
- Disability Strategy, adopted June 2007
- Civil Defence Emergency Management Plan approved 2004
- Gisborne Regional Land Transport Strategy 2006-16

#### **5.4.1 The Officer's Report**

The following section covers the data presentation and discussion of the analysis findings of the Officer's Report.

##### **5.4.1.1 RMA Statutory Provisions and Plans**

###### **Combined Regional Land and District Plan (District Plan)**

Gisborne District Council is a unitary authority and has the functions of both a regional and district council. The Combined Regional Land and District Plan (District Plan) fulfils Gisborne District Council's obligations under the RMA to develop a District Plan. Regional plans are not a requirement under the RMA but may also be developed by regional councils. The District Plan's role in this unitary authority is as a combined Regional and District Plan.

Table 5.1 in Appendix 3 lists the objectives and policies from the District Plan used in the following analysis. It also identifies which objectives and policies the officer considered in their assessment of the application. There are twenty-six objectives in the District Plan that appeared to be applicable in assessing this subdivision consent application, although only seven were considered in the Officer's Report. Under each objective there are one or more policies that guide how the objective will be achieved. Forty-six policies in the District Plan were considered to be relevant. However, in the Officer's Report only 13 policies were considered.

###### *Tangata Whenua and Cultural Heritage*

Maori make up about one-third of the District's population and have substantial land holdings. The District Plan's overlay (Map r99a) identifies that there are a number of significant waahi tapu and archaeological sites identified on the Tatapouri headland and near the campground. There is also a heritage alert over the proposed development site (Map r99b). This suggests that there is a strong historical, if not current, relationship of Maori to the proposed development site and area. For this reason constructive involvement of Maori in consultation is seen as important. The officer did not consider the

objectives and policies in Chapters 1A (Tangata Whenua) and 3 (Cultural Heritage) of the District Plan.

The Officer's Report (p 7) noted that one submitter stated that "we are in no doubt that unrecorded archaeological sites and wahi tapu are on Tatapouri". However, an archaeological report from the applicants presented subsurface testing and concluded that no archaeological sites were identified on the property, although, the archaeologist considered that land disturbance may encounter some sites (Gisborne District Council, 2007b). The same submitters also raised concerns about how increased residents and visitor numbers could impact on the adjacent waahi tapu and archaeological sites on the Tatapouri headland and campsite. From the Officer's Report it appears that the applicant has consulted with local landowners and hapu representatives prior to submitting the application to the council (Gisborne District Council, 2007b). Once submissions were received the applicant continued discussions with submitters towards agreeing a protocol for archaeological remains that are discovered during development.

Although in the Officer's Report it said that it would discuss the development's effects on the adjacent waahi tapu sites, there is no further direct reference to this issue. However, the Report did say that "there may be a slight increase in numbers due to this subdivision" visiting the coastal area but also that it already "receives a large amount of visitors" (Gisborne District Council, 2007b, p 11). As there will likely be an increase in people using the coastal area and the proposed esplanade strip as a result of the development, the objectives and policies in the District Plan would have supported discussions with hapu and the Department of Conservation about how to manage the biodiversity of the coastal area and known archaeological sites, including providing an opportunity for tangata whenua to play a larger role in kaitiakitanga or stewardship of the adjacent marine area and sites of significance to them. Therefore, this issue may have benefited from being addressed within the context of the policy guidance in Chapter 1A and 3 of the District Plan.

It was also noted that within Chapter 3 of the District Plan that the only policy guidance on newly discovered sites not within the current heritage overlays is Objective 3.3. However, the policies relating to this objective only cover identification of sites and not management. Therefore, there is a gap in policy guidance for managing new sites that are not listed.

*Consideration of the application in isolation of its wider context*

The assessment of the application focused on mitigating the effects from the development, mostly on the site itself. The application did not appear to be considered in the wider context of issues that face the district, for example, environmental issues (such as, natural hazards risk management, land care, loss of significant habitats, ecological corridors and plant pests management, degradation of outstanding natural landscapes, lack of energy efficiency, solid waste management) and social, economic, and cultural well-being issues such as, road and utility network impacts and costs, degradation to cultural and historical sites, and financial and rating impacts on the wider community. For example, Chapter 4 of the District Plan sets specific standards that, when met, should ensure the natural heritage of the district is not adversely affected. This includes six overlays which identify natural values of significance or that are particularly vulnerable. The District Plan also states “that they are not intended to encompass all natural heritage values and are not the sole measure of significance” (Gisborne District Council, 2006e, Chapter 4, p 4).

The Officer’s Report included one policy (policy 4.4.6) from Chapter 4 which seeks to avoid the adverse effects of subdivision on natural heritage values within the Coastal Environment. The policy’s focus is on the relationship of a site with the wider context of the environment, including avoiding sporadic and cumulative effects of subdivision, and protecting natural landforms, biodiversity, and landscape. The Officer’s Report found that the proposal was generally consistent with policy 4.4.6 and that by clustering housing, a sprawling approach to the development and ad-hoc and cumulative effects of subdivision were avoided. The Officer’s Report mentioned that the closest settlement was Makorori and that the proposal occupied a different visual landscape. The Report also considered whether the activity was suitable for the proposed location and concluded with the advice of the Landscape and Visual Assessment, provided by the applicant, that the sites location between the state highway, existing buildings, and steeper hill country makes the location suitable for residential subdivision (Gisborne District Council, 2007b). Most of the discussion on this topic in the Officer’s Report focused internally on the site itself rather than within the context of the wider rural coastline and in particular the northern coastline where it is relatively undeveloped.

Another example of the application being treated in isolation from its wider context is the consideration of biodiversity. Although the site itself may not be endowed with indigenous

flora and fauna there are areas of significant conservation value identified in the Regional Policy Statement near Makorori on the Tatapouri headland, as well as the adjacent marine area (Outstanding Landscape) (Regional Policy Statement, Map 2A.22). Protection and enhancement of these significant features is provided for by policy 4.4.1 and includes consideration of the impacts of pests and the use of ecological corridors. Policy 4.4.2 also provides support for the objectives in 4.3 by outlining factors to be considered when assessing resource consents for areas not within Protection Management Area. The policy directs protection, through maintenance and enhancement of biodiversity and involves considering the location of development and its association with significant natural heritage, including as ecological corridors.

In addition policy 4.4.3 focuses on addressing the effects of activities on aquatic ecosystems and riparian areas. It promotes dealing with the in-stream effects of activities such as soil, water, and nutrient runoff from land and encouraging planting of riparian margins where no vegetation exists. This policy is relevant to the application because two streams cross the property and enter the adjacent marine area. In a severe storm, which is not unusual on an exposed coastline, the steep unvegetated erosion prone farmland behind the site (the catchment for the streams) is likely to cause in-stream sediment loading. When combined with the site's stormwater there is potential for the streams to be heavily laden with sediment and other materials that will affect not only the quality of water within the streams themselves but also the adjacent marine environment.

The Officer's Report concluded that the steps taken by the applicant to avoid and mitigate the adverse effects of the development on the site would achieve consistency with the District Plan's direction on natural heritage. However, the Report did not address the effects of stormwater disposal on the wider receiving environment, nor did it consider what actions could be taken to enhance biodiversity of the site in relation to its wider context. The application could have taken the opportunity to not only mitigate potential effects of the development but also enhance on-site natural values which would also increase the resilience of adjacent biodiversity and the receiving marine environment. This wider approach to assessing an application is supported by the policy guidance in the District Plan.

### *Addressing Natural Hazards*

Chapter 5 of the District Plan seeks to address a range of natural hazards including land instability, flooding, coastal hazards such as erosion, volcanic activity, and climate change. It recommends a 100 year planning horizon and identifies that the Regional Coastal Environment Plan and the Regional Policy Statement should be referred to alongside the District Plan for policy guidance in the coastal environment and natural hazards. The site is within the Area Sensitive to Coastal Hazards (ASCH). Policy 5.4.1 states that “in extreme hazard areas where the natural hazard cannot be avoided or mitigated new development and any related subdivision should not occur” (Gisborne District Council, 2006e, Chapter 5, p 3). The explanation of the policy identifies these areas as where severe effects from natural hazards are likely to occur. It acknowledges that they may not occur frequently but that they can occur with little warning.

The site is prone to a number of natural hazards, including overland flooding from the steep hills behind. An example of a rare event with significant potential effects was the tsunami that hit Tatapouri in 1947 (NIWA, 2002). The wave was estimated to be 10m high and travelled about 300m inland (NIWA, 2002). The proposed subdivision is between 50 and 200m from MHWS and building platforms 6-12m above sea level. The same source also stresses that smaller tsunami events which are reasonably frequent can cause significant damage if they coincide with a high spring tide or local storm event. Tsunamis are known to travel large distances up streams and rivers, like the streams that cross the site. The Officer’s Report acknowledges the risk of tsunami to the site but considers that the unpredictability of such an event makes it hard to quantify the risk and that the effects of the tsunami are some what mitigated by the proposed building heights (6m to 12m above sea level) (Gisborne District Council, 2007b).

The Officer’s Report refers to objective 5.3 which seeks to provide a pattern of human settlement that has a high level of personal safety from natural hazards, addresses risks to property and infrastructure, and protects natural features that could lessen the impact of natural hazards. The proposal involves developing small stop banks and realigning a stream to manage stormwater and flooding. Although not directly addressed in the Officer’s Report, policies 5.4.5 and 6 include assessing the effects of these changes on the natural character of the site and the surrounding landscape. Overall the Report stated that “the site is not any less susceptible to the effects of climate change than other coastal

settings and is at an acceptable level above sea level” (Gisborne District Council, 2007b, p 19). Although this may be the case, many of the settlements currently in the coastal environment will, if they are not already, potentially be affected by the impacts of climate change and natural hazards. The more appropriate focus, arguably, should be what makes this proposed settlement a lower risk to natural hazards and climate change than other coastal settlements in the district. When assessing the level of risk of the site it is unclear from the report if the wider context was considered, such as the historical facts, the risk to lives, property, and the environment, and cleanup costs to the community.

*Pattern of settlement and cumulative effects of subdivision*

There are several areas where the District Plan identifies that the pattern of human settlement causes adverse environmental effects, particularly cumulative effects.

Chapter 8 of the District Plan provides guidance to address the issues associated with network utilities. Network utilities include wastewater disposal, water, energy, telecommunications, and roads. The chapter’s purpose is to promote the efficient use and development of utility networks while addressing adverse effects from them. The District Plan acknowledges that dispersed settlement patterns make installation and operation of utility networks difficult both economically and physically. This chapter was not referred to in the Officer’s Report. Arguably, it is applicable to assessing the application as there are a number of utility networks that are required by the proposal such as wastewater, stormwater, and roads. The Officer’s Report discussed some aspects of network activities effects on the environment but not their effect on amenity values, efficient energy use, nor health and safety as directed by Objective 8.3.1. In addition Chapter 12 (Subdivision) of the District Plan has a long list of policies that mainly cover infrastructure. The Officer’s Report referred to parts of policies in this chapter. For example, policy 12.4.2, which was not referred to in the Officer’s Report, appears to be very relevant as it requires that council have regard to adverse effects on the functioning of any network utility infrastructure. The policy makes it explicit that the council needs to consider whether the proposed infrastructure is viable, including whether it is affordable to the community (this is also supported by policy 14.5.5 in Chapter 14: Financial Contributions, Works and Services). The applicant proposed installing their own waste and stormwater infrastructure. Policy 12.4.3 enables applicants to install their own infrastructure as long as it meets

specific standards in the District Plan and the environment is safeguarded. The Officer's Report referenced this policy but did not directly address the issue. Some councils (as in case study 1) require that where possible certain network utilities, such as wastewater, be reticulated because the community, environmental, and health costs are too high if something goes wrong or the incorporated company managing the facilities folds. There is no discussion in the Officer's Report weighing up the cost and benefits of reticulation of infrastructure and alternatives.

The District Plan acknowledges in Chapter 12 (Subdivision), that subdivision is related to a number of other chapters in the District Plan. As discussed, this chapter was referred to in the Officer's Report, however, there was no reference to Objective 12.3.2 which requires that subdivision is consistent with a high-quality urban environment and that landuse should be integrated with the provision of infrastructure to promote a high level of amenity, a safe and healthy environment, encourage resource and energy efficiency, and address adverse environmental effects. In line with this policy direction, the development offered an opportunity to encourage technology that reduces the amount of resources used by a subdivision such as private renewable energy generation (solar and/or wind power), recycling of grey water, sustainable drainage systems, and adopting house designs that utilise passive heating. In terms of resource and energy efficiency the development's impact on the road network could also have been considered in terms of escalating private vehicle use in the absence of public transport and therefore increasing the use of fossil fuels.

The District Plan allows for the proliferation of non-reticulated wastewater systems along the coast and also stormwater directly entering the marine environment. Both activities have the potential to significantly affect the environment. The coastal environment is prone to natural hazards, including inundation. Particular care should be taken in the design of non-reticulated sewage schemes and stormwater disposal to ensure that untreated sewage and contaminates in stormwater do not enter the marine environment, particularly in the event of a natural hazard. The best practice planning horizon for designing such schemes is to plan for a 1 in 100 year event as directed in Chapter 5 of the District Plan. It is unclear from the Officer's Report whether the infrastructure was assessed against the risk of inundation and natural hazards.



### *Financial Contributions*

The District Plan recognises that there is pressure on the physical environment and network infrastructure from among other things “growth in residential development” and “sensitivity of the environment to subdivision and development” (Gisborne District Council, 2006e, p 14-1). Financial contributions are considered in the District Plan as a way that the community can provide for services and facilities necessary for their well-being, health, and safety, and so that natural and physical resources are managed sustainably into the future and adverse environmental effects are addressed. The District Plan considers that the degree of contribution should be reasonable and fair and take into account several principles outlined. Contributions can take into account on-site services, such as roads and stormwater and also off-site services such as landfills, roading, and community facilities. The Officer’s Report did not refer to the policies and objectives in Chapter 14, although the proposal is considered as discretionary in the chapter rules. From the Officer’s Report it appears that only reserve contributions were requested from the applicant.

### *Residential subdivision in the rural zone within a coastal overlay*

The structure of the District Plan creates a potentially confusing decision-making situation because the application is for a residential subdivision activity in a rural zone that is within a coastal overlay. The circumstances involve three chapters of the District Plan directly (Rural, Subdivision, and Residential) and the requirements of the Coastal Overlay in the Coastal Plan. I will briefly work through some of the difficulties that this situation presents.

The District Plan describes Gisborne District as a rural district with only 5 % of the region having highly productive soils (Chapter 21, p 1). One of the issues that Chapter 21 (Rural Zones) seeks to address is that the Rural Coastal Environment tends to attract subdivision and in the past it has not always provided for amenity, natural, and cultural values. The site itself has not been classified as highly productive and therefore falls within the Rural General Zone which covers the majority of the district. The minimum Rural General lot size of 1000m<sup>2</sup> is smaller than if not equal to, several residential zoning lot sizes. This lot size applies to the majority of land within the district which can be therefore subdivided down to what is essentially residential land use. There are likely to be some topographical and economic restrictions. However, the rural environment and, in particular, the coastal

rural environment (because it is mainly unproductive land), is able to be easily compromised by residential development.

The Coastal Environment Overlay makes subdivision discretionary in the coastal environment. To address the concerns raised in the District Plan about the adverse effects of subdivision on the coastal environment it would be expected that subdivision would be more restrictive within this overlay. However, the minimum allotment size and limit on the number of lots associated with this overlay is no more restrictive than the underlying Rural General zoning. As discussed, the majority of coastal land has an underlying Rural General zoning which will likely be accepted as the permitted baseline for the most coastal subdivisions. It would be difficult to argue anything different from this. In addition, although there may not be a high demand for subdivision in rural or coastal areas given the current economic downturn, the ability to say no to a development to manage the district's settlement patterns is diminished by the underlying zoning. Without a plan that directs where residential development should be located and zoned accordingly, the current situation may increase the cumulative effects associated with small settlements scattered across the district.

Although the subdivision is in the rural zone it will clearly be a residential activity because the section sizes are small and will not enable rural activities, the houses will be in close proximity to one another, and the proposed kerb and channelling, and lighting are all characteristics of a residential/urban environment. In addition, the Officer's Report acknowledged that the rural character of the site will be compromised (Gisborne District Council, 2007b) and many of the conditions that are proposed are to an urban standard. Despite the obvious residential nature of the development, the Officer's Report did not consider Chapter 17 (Residential Zone) in the assessment. Arguably, Chapter 17 should have been considered because it provides guidance on managing residential activities to promote sustainable management of the district's resources, including cumulative effects. There were a number of aspects in the policy direction of Chapter 17 which were not addressed, such as those that related to amenity value under Objective 17.5.2, for example road safety.

### *Weaknesses in the District Plan*

The District Plan makes it difficult to assess a subdivision application in the coastal environment. Although the proposed Regional Coastal Environmental Plan (Coastal Plan) strongly recognises the integration and connection between land use and coastal environment including impacts on the marine area, reference and policy guidance on this issue in the District Plan is very limited. This was also apparent with other planning documents such as the Regional Policy Statement and the Proposed Regional Plan for Discharges to Land and Water, Waste Management and Hazardous Substances. In particular, this weakness was evident in the District Plan because only three chapters have policies that directly referred to subdivision effects in the coastal environment. These were Natural Heritage, Natural Hazards, and Esplanade Reserves/Strips. The other chapters may have some rules that linked to the Coastal Environment Overlay but lack objectives and policies that relate to the unique issues facing the coastal environment. The result is that even though subdivision is discretionary in the coastal environment there are few policies that guide decisions on the unique issues associated with the coast and achievement of the policy direction in higher order planning documents. The chapters in the District Plan which arguably should be more strongly linked to the Coastal Plan are Land Disturbance and Soil Conservation, Subdivision, Rural Zones, and Residential Zones. It may be that the District Plan was reliant on the Coastal Plan for policy guidance to address coastal issues. However, this was not explicit in the wording of the District Plan in the several chapters where the Coastal Plan would have strengthened policy guidance on coastal subdivision.

The lack of reference to coastal issues in the District Plan was exacerbated by the approach in the Officer's Report to the assessment of the application. If the objectives and policies in the Coastal Plan, the Regional Policy Statement, and New Zealand Coastal Policy Statement were used in the assessment of the application, instead of only relying on the District Plan, more integrated consideration of the development within its coastal context would have been required.

### **Other Relevant RMA Planning Documents**

The following analysis considers criteria from RMA planning documents other than the District Plan. The analysis also considers the RMA. Table 5.2 in Appendix 3 lists the policy

guidance from each of the documents which was considered relevant to assessing the application.

The Officer's Report referred to the Regional Policy Statement, the Proposed Regional Coastal Environment Plan and several principles in the New Zealand Coastal Policy Statement (NZCPS). The Officer's Report did not refer or discuss any objectives or policies in these documents because the approach taken was that because the District Plan had to be consistent with the other RMA documents, there was little need to refer to their policy guidance. The Officer's Report also concluded that because the application was consistent with the District Plan, "further repetition of policies is not considered necessary" (Gisborne District Council, 2007b, p 24).

The Officer's Report stated that the Proposed Regional Coastal Environment Plan (Coastal Plan) "contains no rules in relation to the landward side of the arbitrary boundary of MHWS" (Gisborne District Council, 2007b, p 23). However, contrary to this assumption the Coastal Plan covers the part of the coast that lays landward of the coastal marine area as well as the marine area (Gisborne District Council, 2005a) and as a result has objectives and policies that include the landward side of MHWS which could have been applied to the application. The Officer's Report also concluded that the purpose of NZCPS was mainly to provide direction for development of Regional and District Plans. However, the NZCPS also provides policy direction for assessing consent applications.

When the planning documents used to assess this application were developed there was no obligation to give effect to documents further up the planning hierarchy. The direction in the RMA at the time of their development was that they 'should not be inconsistent'. This means that planning documents such as the District Plan did not need to cover all the issues or implement all the methods in documents further up the hierarchy. As a consequence, there are areas in older policy statements, strategies and plans (such as those used to assess this application) that are not covered by the current District Plan. For example, the link between the Coastal Plan and the District Plan is very weak at best, therefore, the District Plan provides minimal implementation of the Coastal Plan and NZCPS. The policy direction and rules for the coastal environment are mainly within the Regional Policy Statement and Coastal Plan and would be missed if these documents were not referred to.

Because the Officer's Report has not directly referred to planning guidance from the following RMA documents, for the reasons mentioned above, I will focus my analysis on areas where I think it is necessary to show that the direction provided by these documents would have added value to the assessment of the application or if it emphasises a point previously raised. The analysis undertaken was very detailed and therefore the key points from each document are summarised below.

### **Regional Policy Statement**

As a unitary authority the Regional Policy Statement is a mandatory document. The Regional Policy Statement (RPS) identifies the significant resource management issues of the region and how they will be addressed. The Officer's Report did not include any reference to the RPS objectives or policies and nor did it address several areas where there was very clear policy guidance. In addition, the Report did not identify that the adjacent marine area is acknowledged as an outstanding landscape (Map 2A.22).

The RPS acknowledges throughout that the pattern of human settlement is key to addressing a substantial number of issues such as the effects of natural hazards (Chapter 2), resource and energy efficiency (Chapter 5), and waste management (Chapter 8). In comparison, the District Plans guidance on the issue of the effects of settlement patterns was somewhat weaker. As discussed, the subdivision was not considered in the context of these wider cumulative effects of development. An example where the RPS seeks to address cumulative effects of development is in Chapter 2, policy 2.3.2, which encourages changes in patterns of human settlement to places which are not affected by natural hazards. As previously mentioned Tatapouri has experienced a tsunami in the past. Within the explanation of the policy it is noted that "parts of the coastline would be more at risk today (from tsunami) than in 1947 because of the extra development which has occurred" (Gisborne District Council, 2002, p 54). The proposed subdivision is potentially putting more lives at risk from natural hazards. Although the Officer's Report did consider the risk of natural hazards on the site, given the background of the location and the policy direction in the RPS, arguably a precautionary and cumulative approach could have been undertaken to the assessment. Another example of where cumulative effects of development could have been considered is the use of non-renewable fossil fuels and

energy consumption. The RPS identifies that non-renewable fossil fuels are the main source of energy for transport, however, the increasing use of these products is unsustainable and significant economic and social costs are associated with their depletion (Gisborne District Council, 2002). To address this issue Policy 5.1.2.1 encourages efficient energy use through urban form, including subdivision patterns, design and location of buildings, transport modes and patterns, energy saving techniques in residential situations, and waste management. In addition, Policy 5.2.2.3 emphasises the need to promote greater use of cost effective energy sources in domestic energy sources and that energy saving technology be promoted in residential situations. The methods in the RPS include assessing energy efficiency as part of the environmental effects during the resource consent process. However, the development's effects on energy use were not mentioned in the Officer's Report. Although efficient energy and resource use is encouraged in the policies of the District Plan there are no rules to support this intention or the use of alternative energy supplies from fossil fuels in the residential developments. There are also no rules in the District Plan that relate to managing the increase in private car use associated with the location of developments as promoted in the RPS. Possibly because the Officer's Report has only referred to District Plan policy, these types of issues have not been assessed.

The assessment in the Officer's Report mainly focused internally on mitigating the effects of the development on the site. In contrast, the objectives and policies promote protection and enhancement of not only on-site natural values but also those areas adjacent, downstream and district-wide. For example, some of the issues which the RPS seeks to address that compromise natural and physical resources are soil erosion and sedimentation (objective 2.1.1.2), stormwater contaminants (policy 3.1.3.3), and transport and infrastructure. For instance, when considering an application for a site adjacent to a Protection Management Area (PMA) not only are potential effects mitigated but opportunities are also sought which will improve the quality and resilience of the PMA. As discussed the site is adjacent to two PMAs. One covers the adjacent marine area and headland as an Outstanding Landscape and the other is a Terrestrial Area of Significant Conservation value on the Tatapouri headland (RPS, Map 2A.22). The objectives and policies of the RPS would promote activities that would enhance these features such as revegetation of ecological corridors (the two streams crossing the site), enhancing water quality of streams (reducing sediment from the site and also the steep hills behind),

developing an integrated management plan, regulating plant and animal pests, and managing soil erosion. Through these objectives and policies the RPS also recognises the strong relationship between landuse and the coastal marine area.

Policy 2.6.2.9 covers preserving the coastal environment from inappropriate subdivision. The Officer's Report discussed at length the site's lack of natural character and the proposals isolation from the adjacent outstanding landscape area of Tatapouri headland but there is little discussion about the relationship with the surrounding existing character of the rural/coastal environment. The character of this coastline has very few permanent residents and is dominated by open landscape with little native vegetation. It will clearly be changed by the development. In addition to the above policy guidance the RPS allows development in the coastal environment where areas are already degraded as long as the development preserves the natural character and addresses adverse environmental effects (Policy 6.2.2.5). No explanation is given in the RPS of what degraded natural character is in the coastal environment. However, if indigenous vegetation cover is the main requirement for assessing natural character of the coastal environment and pastoral use is considered degradation of the coastal environment, as with the Waitarere case study, the majority of the Gisborne region's coastline passes the first hurdle for subdivision development. The case for subdivision as a means of enhancing the coastal environment therefore is also easily argued. If this situation perpetuates, the potential adverse effects associated with subdivision will become cumulative, particularly the secondary effects of managing an increasingly scattered population. The question perhaps should be whether it is an appropriate proposal given the wider coastal context and the current limited number of buildings along this part of the coast which is visually separate from the closest adjacent settlement of Makorori.

The objectives and policies in the RPS promote integrated management of heritage sites and the development of resource management plans for protection of sites and resources of importance to tangata whenua (Gisborne District Council, 2002). The council's duty under the RPS is to protect and manage heritage sites. There is likely to be an increase in people to the area because of the development and sites of importance to Maori may be at risk of being damaged. The development provides an opportunity for the council to facilitate the protection and management of adjacent significant sites in an integrated way with tangata whenua, the Department of Conservation, and other interested bodies. In line

with policy 6.2.2.2, any management plan should also consider giving effect to kaitiakitanga and tino rangatiratanga.

Waste management has been identified as a significant issue for Gisborne and residents have indicated that they want to see more efficient use of resources and a reduction in the cost of handling waste (Gisborne District Council, 2002). Policy 8.1.2.4 targets waste reduction. This concept could be applied to the construction of dwellings on the property as a covenant. It is unknown whether there will be waste collection services for the subdivision or whether new residents will have to drop off their waste at a nearby transfer centre. There may also be an issue with rubbish disposal at the reserve if more people are enticed to use the area. There will also likely be more than one new resident that will use the boat ramp. An upgrade in facilities for boat waste disposal may have also been worth considering. These services increase the cost of waste management to the wider community. Waste minimisation and disposal have not been discussed in the Officer's Report. There are no rules in the District Plan to support the RPS's policy guidance on this issue in relation to subdivisions.

### **Proposed Regional Plan for Discharges to Land and Water, Waste Management and Hazardous Substances**

The Proposed Regional Plan for Discharges to Land and Water, Waste Management and Hazardous Substances (RPDLW) is not a mandatory document under the RMA. Such Regional Plans can be developed to assist the council to address specific issues towards the purpose of sustainable management.

The Officer's Report did not incorporate the RPDLW, possibly because most of the issues the District Plan covers are part of the council's regional responsibilities under the RMA as opposed to the district's. There is some guidance in the RPDLW which adds value to assessment of the application.

The RPDLW identifies that there are several waste management issues in the coastal environment section of the Regional Policy Statement, including the need for integrated management of the coastal environment, degradation of coastal water, and contamination of sediments. The RPDLW singles out the Coastal Plan as the main mechanism for addressing these issues.



Section 2.1 of Chapter 2 of the RPDLW covers waste minimisation. Objective 2.1.1 encourages progressive reduction of waste in the region and is supported by policies outlined in 2.1.2, including as far as practicable the hierarchy and management of residual wastes will be implemented by all involved in waste generation and the costs will be met by waste generators. To support waste minimisation one of the methods is that the council will encourage residents to separate waste at the source and to compost where possible. Although there are no rules in the District Plan directly associated with providing waste management facilities for new subdivisions there is an opportunity for them to be incorporated into the development's design, as discussed under the analysis of the RPS. Waste disposal may become problematic for the development if most of the new homes are used as baches.

Section 7.0 of Chapter 7 seeks to address discharges of uncontaminated water to water, i.e. stormwater. The Officer's Report covers the engineering required to manage the stormwater as opposed to the potential environmental effects from it (Gisborne District Council, 2007b). The assessment could also have included contamination, erosion, flooding, the sensitivity of the receiving environment, values of tangata whenua, and physical processes in the area, consistent with Objective 7.1.1 and policy 7.2.2.

### **Proposed Regional Coastal Environment Plan**

The Proposed Regional Coastal Environment Plan (Coastal Plan) is Gisborne District Council's Regional Coastal Plan. The Coastal Plan covers the "part of the coast that lays landward of the coastal marine area as well as the marine area" (Gisborne District Council, 2005a, Chapter 1, p 1). The Coastal Plan is only legally required to cover the marine area (below Mean High Water Springs (MHWS)) but it is recognised that:

Such a plan would fail to cover the effects of many activities that may cross the administrative boundary of the line of mean high water spring and that the elements which comprise the Coastal Environment are inextricably linked and should be treated as one system (Gisborne District Council 2005a, Chapter 1, p 2).

The coastal environment is considered to be an area where the coastal processes are a significant part or element.

As previously discussed, the Officer's Report did not mention any of the objectives or policies in the Coastal Plan and the RPS and RPDLW recognises the Coastal Plan as the main means of providing policy guidance on issues in the coastal area. This position is supported by the fact that the District Plan does not have a chapter on coastal management and very little is mentioned about the specific issues within the coastal environment as directed in planning documents further up the hierarchy such as the NZCPS and RPS. The Officer's Report therefore could have referred to the Coastal Plan directly in the assessment as there are numerous objectives, policies, methods and rules on issues within the Coastal Plan that are applicable to the landward side of MHWS which are either not covered by the District Plan or not strongly promoted in it.

The Officer's Report rightly states that "there are no specific rules or policies in the District Plan in relation to tsunami hazards and assessment" (Gisborne District Council, 2007b, p 13). This is one example of where the Coastal Plan's additional policy guidance would have helped to assess the application through its policy guidance which directly relate to tsunamis (section 3.8).

There are a number of objectives and policies in Chapter 2 of the Coastal Plan that promote preservation and enhancement of natural features as a matter of national importance, including avoiding adverse effects on natural character, finding opportunities to enhance values that are degraded, and retaining the natural landform of the coast (Objectives 2.1.3C, 2.3.3C, policy 2.3.4E). These matters are included in Part II of the RMA as well. The application provides an opportunity to enhance not only the natural character of the site but also the resilience of adjacent areas that have been identified as regionally important.

The assessment in the Officer's Report centres largely on mitigating obvious adverse effects of the development with little discussion on the opportunities that the development provides to enact some of the policies in planning documents that promote enhancement. For example, in relation to enhancing natural character (issue 2.1) the Coastal Plan recognises that although an area may have been modified it still has a degree of natural

character. The degree of remaining natural character depends on the scale of the modification of the coastal landform and capacity of life supporting natural elements (Gisborne District Council, 2005a). The Coastal Plan identifies that there are very few remnants of coastal vegetation left in the Gisborne Region and ecological corridors have largely been degraded and destroyed, confining species to small pockets of vegetation. This makes them more vulnerable to predators and plant pests (Gisborne District Council, 2005a). Policy 2.3.4B and issue 3.7 give priority to the removal of pests to reduce adverse effects on significant habitats and vegetation. Although it is recommended in the Officer's Report that the subdivision is cat and dog free, there was no mention of plant pest management to help maintain and enhance ecological corridors and adjacent significant ecological values.

Another example is Chapter 2 of the Coastal Plan which requires maintenance and enhancement of public access to and along the coastal marine area and lakes and rivers in the coastal environment, a requirement also of Part 2 of the RMA. Although the proposed esplanade strip would be ideal to increase public access to the coast given the current private property restrictions, there may be a number of adverse effects on the outstanding landscape, and the adjacent conservation and archaeological values. In acknowledging that there could be risks associated with public access, Policy 2.4.4F requires consultation to be undertaken with landowners, the Department of Conservation and tangata whenua regarding proposals for public access to the coast. Policy guidance also includes involving the community in the management of protection areas such as outstanding landscapes and significant habitats (objective 4.3.4A and policy 4.3.4B). The opportunity could have been taken to involve the existing and new residents and other interested organisations in developing a management plan for the esplanade strip and any associated effects from increased public access to these regionally significant values.

Similar policy advice to the RPS is found in policy guidance of the Coastal Plan which promotes a precautionary approach to making decisions in the coastal environment especially given the lack of knowledge about coastal processes and ecosystems, including natural hazards (Policy 4.5.4D). As discussed previously a precautionary approach was not raised in the Officer's Report. Given the policy guidance in the Coastal Plan a precautionary approach could have been applied to the assessment of natural hazard risks and including overland flooding and tsunamis. Arguably, it could also have been applied to

the design of the stormwater and wastewater systems to assess the risk if they fail. For example, as part of the precautionary approach, Policy 3.8.4Q discourages new development in areas of high risk based on a 100 year planning horizon. The Officer's Report did not state the planning horizon in which the application was assessed against natural hazards. The precautionary approach in the Coastal Plan (Objective 3.8.3D) also requires people to be aware of the risks of natural hazards so that they can prepare for them. Arguably, new residents should be made aware of the risks and ideally have a management plan. This was not discussed in the Officer's Report or in the proposed conditions. The Officer's Report stated that:

Due to the unpredictability (unless a distant event with prior warning) of this hazard it is difficult to adequately quantify the risk associated with tsunami....The site is in close proximity to steep hill country, which would provide refuge in a worst case scenario...It is not considered that this site is any less susceptible to the effects of climate change than other coastal settings (Gisborne District Council, 2007b, p 13, 18).

As a result of these comments it appears that the risk of natural hazards is marginalise.

### **New Zealand Coastal Policy Statement**

The Officer's Report outlined seven general principles from the New Zealand Coastal Policy Statement (NZCPS) which must be given regard. The Report concluded that the NZCPS's purpose is mainly to provide direction for development of Regional and District Plans and that "the developments consistency with those lower tier plans is considered adequate in providing consistency with NZCPS policies"(Gisborne District Council, 2007b, p 25).

The Officer's Report concentrates on areas where the site's character is already compromised as a justification for development and as previously mentioned, most of the commentary is focused on the site itself rather than its context. The policy direction in the NZCPS in contrast focuses on a subdivisions relationship with the surrounding environment, like how it fits within the landscape, seascape, and landforms (Policy 1.1.3) and the connections with regionally significant habitats and outstanding landscapes. In

addition Policy 1.1.5 of the NZCPS states that “it is a national priority to restore and rehabilitate the natural character of the coastal environment where appropriate” (Department of Conservation, 1994, p 5). Although the Officer’s Report concluded that the site itself is degraded and that the effects of the development will be mitigated there is no discussion about how the proposed development will achieve the national priority direction given in these policies.

Section 3.3 of the NZCPS directs a precautionary approach to be taken towards proposed activities in the coastal environment and comments that the classification of activities allows for such an approach. The status of the application is discretionary in five areas and restricted discretionary in two areas (Gisborne District Council, 2007c). Because the activity was judged overall as discretionary, the council has reserved the right to grant or refuse an application. Arguably, because the majority of the proposal’s activities are discretionary, a more precautionary approach than that undertaken would have been justified when assessing the application. One example of where the precautionary approach is applied in the NZCPS is risks from natural hazards, an issue previously discussed in association with other RMA documents. The NZCPS specifically outlines policy direction for new subdivisions in areas at risk of natural hazards in Section 3.4. Policy 3.4.5 provides direction that new subdivisions should be located and designed to avoid the need for hazard protection works and policy 3.4.6 permits protection work for natural hazards for existing subdivisions where it is the best practicable option. The proposed development includes protection works for overland flooding such as the small stop banks and bund (Gisborne District Council, 2007b). As the direction from these policies only permits protection works for existing subdivisions, it would have been useful for the Officer’s Report to provide further rationale about why their recommendation is contrary to the approach directed in the NZCPS. In addition the Officer’s Report could have included whether the proposed protection works would require ongoing work and mitigate the effects in a 100 year event as policy guidance in other documents discussed recommends. The Proposed NZCPS 2008 establishes more stringent standards for coastal development in areas at risk of natural hazards than its predecessor, where it requires that subdivision is avoided in areas potentially affected by coastal hazards.

It is a national priority to promote protection of characteristics of special value to tangata whenua and that consideration should be given to their management (Policy 2.1.2 and

2.1.3). Some submitters raised issues about the developments effect on waahi tapu sites and the adjacent marine environment, including water quality. As discussed, one initiative would be to develop a management plan with tangata whenua.

### **Resource Management Act 1991**

In addition to assessing application against the RMA planning documents above and any other matter considered relevant, deliberations are also subject to Part II of the RMA, the purpose of sustainable management (section 104).

Portions of Part 2 of the RMA were quoted in the Officer's Report, however, specific clauses were left out which must either be provided for or given regard when assessing the application. These were Section 6 (b) and (c) (protection of outstanding landscapes and significant habitats) and Section 7 (g), (i), and (j) (finite characteristics of natural and physical resources, effects of climate change, and benefits derived from the use and development of renewable energy). Most of these factors were included in the policy guidance in RMA documents referred to above and require an assessment of the proposals impacts in a wider context than that taken. If these RMA factors were considered the development may have been more sustainable.

Section 88 of the RMA requires that an application must include an assessment of effects in accordance with Schedule 4. Arguably, the assessment should have included any alternative methods of discharging stormwater and wastewater. This would have provided an opportunity to identify the most sustainable option.

Section 106 of the RMA allows an authority to refuse consent if it considers that the area in question is subject to damage by a number of physical processes including inundation. This question was not addressed and it would appear from the Officer's Report that inundation would be regarded as a low risk.

#### **5.4.1.2 Non-RMA Policy Guidance and the LGA**

As with the Waitarere case study, criteria from council's plans, policies, and strategies, other than RMA documents, were used in the document analysis. The following section discusses this analysis.

## **Community Plan 2006-2016**

The Community Plan (LTCCP) was adopted in June 2006. The Community Plan highlights a number of significant issues that the District is facing which include:

- The road network, including costs and safety
- Provision and management of water services
- Infrastructure, energy costs, and resource efficiency

The council spends most of its money on roads and water. Water expenditure includes sewage, drinking water, and stormwater (Gisborne District Council, 2006c). Solid waste disposal also costs the district a considerable amount with disposal to landfills outside of the district (Gisborne District Council, 2006c). Two thirds of council's expenditure is on infrastructure (Gisborne District Council, 2006c). Infrastructure is therefore a considerable expense for the council and consequently the district rate-payers. The council evaluated wastewater and potable water reticulation at Tatapouri in 2006 (Gisborne District Council, 2006c) and recommended that because of the topography and low number of residents at Tatapouri that reticulation would be too costly to ratepayers (Gisborne District Council, 2007a). The development may increase the viability of future water service reticulation because of the possible boost in the number of permanent residents at Tatapouri. The long term viability of water reticulation services could have been assessed as one of the alternative options for the development.

There are a number of community outcomes that are relevant to assessing the application. Many of the barriers identified in the Community Plan to achieving the community outcomes are from the cumulative effects of subdivision which are exacerbated by settlement patterns. It is interesting to note that the RMA planning documents covered above also have policy guidance on most of the issues and goals raised by the community outcomes.

The community outcome for connected communities includes “affordable, safe and reliable transport networks, people feeling connected and part of communities..., and people having access to all essential goods and services” (Gisborne District Council, 2006c, Vol 1, p 7). Transport infrastructure, including energy efficiency, has been highlighted as a

significant cost and issue for the district. A safe and healthy haven is also an outcome of the community. It includes “roads that are safe to walk, cycle and drive on...and guardianship of our environment for future generations” (Gisborne District Council, 2006c, Vol 1, p 11). The development's distance from Gisborne will increase the use of private motor vehicles and restrict access to services. The Community Plan predicts an increase in forestry vehicles using the district's roads by 50% over the next ten years, which may affect the safety of other users on SH 35 at Tatapouri such as pedestrian, and cyclists. Road safety is likely to be an issue for the development as more people enjoy the adjacent marine area because of increased public access from the proposed esplanade strip. There may also be an increase in people walking and cycling the short distance to Makorori Beach for swimming. Further assessment in the Officer's Report on road safety, given these issues and the wider communities concerns, may have provided alternative management of SH35 in the developments location to address the potential conflicts associated with increase use of the road corridor.

The Community Outcomes embrace providing for prosperous communities. The explanation of this outcome includes that “communities are proud of their environment and willing and are able to care for it for future generations” (Gisborne District Council, 2006c, Vol 1 p 9). This can be interpreted as highlighting the community's commitment to sustainability and a willingness to be involved in achieving it. As discussed, there is an opportunity as part of new development to establish a collective management plan for areas of ecological and historical value. This provides a coordinated way for people to become involved in caring for their environment.

Positive leadership in “improvements to infrastructure and promoting environmental sustainability” is also a community outcome (Gisborne District Council, 2006c, Vol 1, p15). The council has included planning as its contribution towards this outcome. This direction could be taken as the council providing leadership in sustainability and environmental management. The council could demonstrate this leadership role when assessing consent applications by giving attention to the consideration of alternatives for waste and stormwater management, ensuring that the option chosen is the most efficient, effective, and environmentally sustainable not only for the site but also the surrounding environment. The council is currently supporting energy saving initiatives through promotion of retrofitting insulation in homes (Gisborne District Council, 2006c). Although the council is



supporting this project there is little indication of other initiatives that directly support energy efficiency in the district, including in the District Plan's rules. The development could have considered promoting increased energy efficiency technology inline with the council's leadership direction and the general direction in the RMA (section 7 (ba)). Another area where the council could have shown leadership is waste management. The Community Plan identifies the region's goals for solid waste management which include encouraging reduction of waste at the source, encouraging diversion of waste from the waste stream and that there is adequate provision of facilities. It is acknowledged in the Community Plan that the RMA process is one means of addressing the waste management as an adverse effect of an activity. As discussed previously, solid waste disposal as a result of the development was not considered in the Officer's Report.

Throughout the community outcomes, sustainability is raised in the context of public health and safety. The council considers that its infrastructure programmes contribute to this goal. It is important to therefore ensure that the infrastructure networks achieve these outcomes whether provided by the council or privately, including wastewater management.

In essence, the Community Plan provides some direction for assessing the application around the outcomes that the community seeks for the district and also some of the issues that it faces. What the Community Plan is lacking is providing guidance about how the council and the community will overcome these issues and achieve the outcomes in the context of sustainability. In other words, the Community Plan is relatively limited in providing guidance for the development about how it could be more sustainable.

### **Gisborne Urban Coastal Strategy 2005-25**

The Gisborne Urban Coastal Strategy (GUCS) was developed by the council to manage growth in the coastal areas around the city. It extends from the Waipaoa River in the south of the district to Makorori which is on the south side of Tatapouri headland. Although it does not include Tatapouri, the GUCS is discussed here because it provides guidance for urban coastal developments similar to that proposed at Tatapouri. The GUCS lists a number of general objectives which include:

- Providing more housing opportunities in safe, attractive areas,
- Preventing uniform strip development
- Avoiding further development in hazard areas unless mitigation is possible

- Maintaining a green backdrop to the coastline
- Making better use of coastal reserves and open spaces through improved design and landscaping and recognising their proximity to the sea
- Protecting sites and areas of significance to tangata whenua
- Promoting historical and cultural features
- Replanting coastal hillsides in native vegetation where practicable
- Improving the quality of stormwater and wastewater discharges
- Promoting the development and protection of ecological corridors

The Tatapouri subdivision housing is proposed to be clustered instead of in a line which is consistent with the GUCS objectives. The proposed landscaping plan could be enhanced further to take into account a number of the objectives above by including for example, strengthening ecological corridors, planting the site to create a green backdrop, designing and landscaping the proposed esplanade reserve to recognise, and enhance the coastal values.

The policy direction and the objectives outlined GUCS are replicated to some degree in many of the RMA planning documents considered above, for example, avoiding development in areas affected by natural hazards, reducing urban sprawl, and enhancing water quality. However, as previously discussed the Officer's Report places little emphasis on these wider contextual factors.

### **Walking and Cycling Strategy**

The Walking and Cycling Strategy aims to make Gisborne a walking and cycling region. The strategy seeks to identify walking and cycling networks, facilities, and actions to increase the number of cyclists and pedestrians, including identifying issues that reduce cycling and walking experiences, such as safety. Council's role in this strategy is promoted as one of leadership. There are a number of benefits identified from increased cycling and walking in the Strategy including:

- alternative transport choice
- increased engagement with communities (therefore better connected communities)
- health
- reduction in use of fossil fuels and pollution

- tourism benefits

The Strategy encourage links between the coast and town, avoiding conflicts between motor vehicles, and prioritisation of walking and cycling as modes of transport on roads. However, it suggests that currently State Highways are not designed for cyclist's safety. In addition, there is little regard to those with disabilities, and there are conflicts between vehicles, cyclist and walkers.

As a result of the proposed development, pedestrians and cyclists in the area are likely to increase (potentially by about 40 based on the average family size for the area of 2.9). Given the policy direction, coastal location, and proximity to Gisborne, walking and cycling should be encouraged. The Strategy emphasises the need to consider, when assessing subdivision applications, that steps are taken ensure that pedestrians and cyclists have a safe experience and in this case, especially given the location of SH35 and the expected increase in heavy traffic. Pedestrian and cyclist safety were not considered in the Officer's Report.

### **Disability Strategy**

The Council has a Disability Strategy that states that "within its roading design and programmes, [council] will provide for ease of use for people with impairments" (Gisborne District Council, 2007d, p 2). Although this commitment includes footpaths, public spaces, crossings, signage, and public facilities, there is no reference to this being assessed in the Officer's Report.

### **Civil Defence and Emergency Management Plan 2004- 2009**

The Gisborne District Civil Defence and Emergency Management Plan (CDEMP) seeks to provide coordinated and integrated management of natural and technological hazards and includes input from a wide range of agencies.

There are number of goals and strategic directions in the CDEMP that are relevant to the application for subdivision at Tatapouri, such as:

- Communities are planned according to a long term strategy consistent with known hazards and vulnerabilities
- Risk management is incorporated into planning processes where human activities interact with natural hazards
- Emergency management should be part of community planning and decision-making on where and how people construct communities
- Buildings should be located and designed to reduce risks from natural hazards
- Decisions should be based on long term sustainability, for example the short term risk maybe low and able to be mitigated but the long term risk is high and unacceptable

The CDEMP identifies a number of issues, including that emergency management is not part of the planning about where communities are developed and there is an attitude of “she will be right” and a lack of recognition by strategic decision-makers (Gisborne District Council, 200b, p 19). In addition, the issues to overcome include “communities pressure to implement short term mitigation measures because of unacceptable impact on a present life style” and the “increasing dependency on technology and the risks associated with it failing” (Gisborne District Council, 2004b, p 21).

The policy direction provided by CDEMP is that emergency management should be part of decisions for development, and a long-term risk management approach should be taken about where communities are located and how they are built. As discussed previously, from the Officer’s Report it appears a complacent approach was taken to hazard management risks, with a focus on engineering solutions rather than a long term district wide risk management approach. There is also a direction in the strategy that CDEM Officers should be involved in decisions, it is unclear from the Officer’s Report if this was the case.

### **Regional Land Transport Strategy 2006**

The Gisborne Regional Land Transport Strategy (RLTS) outlines the framework for Gisborne’s land transport system for the next 10 years (Gisborne District Council, 2006d).

The economic development section of the RLTS raised the need for alternatives to road transport to keep the costs down. The RLTS suggests that the east coast has a higher unemployment rate and high reliance on private cars because there is a lack of public transport services to the east coast beyond Gisborne. Access to services and conveniences is therefore restricted (Gisborne District Council, 2006d). Stormwater run-off and energy inefficiency are identified also by the RLTS as environmental consequences of the current transport system. As a means of addressing the district's transports issues, the RLTS promotes landuse planning, promotion of alternative modes of transport, and reducing the need for travel (Gisborne District Council, 2006d).

The policies direction in the RLTS which could have been used to help assess the Tatapouri subdivision application are: to manage the effects of land use on the road network (including safety), identify causal factors for accidents and initiate improvements, provide greater modal transport choices for the community, sustainably manage the effects of transport on the environment, and reduce travel demand.

### **Local Government Act 2002**

As with the Waitarere case study there was no consideration of the Local Government Act (LGA) in the Officer's Report, including rating, cumulative impacts, and the effect on achieving community's outcomes. Therefore, the findings of the Waitarere case study similarly apply to the Tatapouri case study.

#### **5.4.2 Hearings Committee Decision Report**

The Decision Report relies heavily on the Officer's Report for policy direction and guidance, similar to the Waitarere case study. There was no direct reference in the Decision Report to policy in the RMA documents discussed above or the RMA, except specific rules in the District Plan relating to conditions of the consent and that granting the application was pursuant to sections 104 (1) and 104B. There also was no direct reference to non RMA documents, including the LGA.

The Decision Report itself focused mainly on the issues raised in submissions and covered by those people that spoke at the hearing, including the applicant. The submitter

believed that their proposal was the best approach for residential development of the land (Gisborne District Council, 2007c). The applicant therefore requested that the even though the site was in the rural general zone that it would be more appropriate to assess the development against the general residential zone rules, given the type of activity proposed (Gisborne District Council, 2007c).

The Decision Report singles out several of the more significant issues associated with the proposal and discusses a number of them in more detail providing some rationale behind the decisions made.

The Decision Report acknowledges that the existing amenity values will be changed by the development. The report notes that the Officer has outlined a number of mitigation measures to reduce the visual effects on amenity values and landscape values, including applying the residential requirements from the District Plan with several exclusions. However, from the Officer's Report there was no mention of the District Plans residential policies.

The Decision Report identifies that although the Department of Conservation still had reservations about the wastewater treatment design. The Officer was of the opinion that the design was sound. The Hearings Committee agreed with the Officer's position as they decided to grant the proposal without further modification of the wastewater design. Although the conditions in the Decision Report required monitoring of the discharges at the source there was no monitoring required within the dispersal field, the on-site streams, or in the adjacent marine area for diffused cumulative effects, in line with policy direction in the RPDLW (policy 6.2.3, and method 6.3.5).

The Hearings Committee was satisfied that the stream realignment would not cause sediment accumulation within the watercourse on the site. However, there was no mention of sediment effects on the adjacent marine area which debatably could increase with the more direct flow from the streams realignment.

The Decision Report specifically outlines reasons for the decision to grant the application. The Hearings Committee generally felt that the development design and mitigation proposed will minimise any effects. The Hearings Committee also thought that the

subdivision would provide “additional coastal housing opportunities for the general public” and the “economic well being of the applicant” (Gisborne District Council, 2007c , p 26).

From the Decision Report the following conclusions that can be drawn. The Hearings Committee places a significant amount of trust in the Officer’s Report and the evidence of council’s technical experts. The focus of the discussion and conditions in the Decisions Report are around mitigating the effects of the proposed activity mainly on the site itself. The discussion does not address the potential effects on the wider environment and district context, including whether the proposal increases the cumulative effects associated with settlement patterns.

At a more detailed the conditions apply a 50 year risk assessment to the stormwater design. The District Plan promotes the use of a planning horizon of 100 years for hazard risk management. Applying a longer risk management timeframe to not only stormwater management, but also wastewater and natural hazard management could have potentially reduced the risk to life, property, infrastructure and the environment.

## **5.5 Conclusion**

As with the Waitarere case study, there is no evidence identified through the analysis of alignment or integration of the decision-making and sustainability requirements given to council under the RMA with the LGA. New policy direction was identified in council’s policies, plans, and strategies, other than RMA documents which were relevant to the proposal and if used to help inform decision-making, arguably, could have increased the sustainability of the proposed coastal development. However, much of the policy direction was similar and reinforced that found in the RMA planning documents. Despite the repetition of policy direction, many of the issues remained unaddressed in the Officer’s Report and the Decision Report. A number of possible reasons for this failure were identified through the case study analysis, for example, the primary reliance on the District Plan to assess the application, assessment of the site in isolation of the surrounding environment and district wide issues, and the focus on mitigation of effects rather than enhancement of the environment.

# Chapter 6

## Interviews

### 6.1 Introduction

The interviews were used to supplement the documentary analyses and provide a richer understanding of the participants' implementation of the RMA and LGA, and also possible barriers to the Acts implementation and integration, as discussed in Chapter 3 (Methodology). The interviews were semi-structured (see Appendix 4 for the Interview Schedule). The interviews were recorded, transcribed, and then thematically analysed manually.

The following analysis identifies and discusses themes that were drawn from the interviews. To focus the analysis I have divided my discussion in to four categories, although many of the areas are interrelated. Quotations used from the interviews do not identify the author to ensure unanimity, as agreed with the participants.

### 6.2 Analysis

#### 6.2.1 Approach to Assessing the Application

Under the LGA elected members have broad responsibilities for making decisions on issues outside of the RMA consent process, for example, infrastructure works, community initiatives, and council financial and strategic planning. Resource consent planners are generally focused on the RMA resource consent process and often work in relative isolation from other projects around the organisation, including strategic and financial planning. A resource consents planner's professional training has traditionally emphasised RMA consents processes, plan development, and interpreting the RMA.

Although there is an expectation that elected members will use their wide community knowledge and broad statutory mandates, and local representation in RMA decisions (Upton, 1997), there is a great deal of reliance on the Officers' Reports and as there were few deviations from these in the final Decision Reports.



As a result, both applications in the case study research were decided in relative isolation from the immediate and wider environment and impact on the community, including cumulative effects, even though there was policy direction to do so in the RMA documents used in the Officer's Reports to assess the applications. They instead focused on mitigating the effects of the proposed development on the immediate site. This approach to assessing the applications was determined through the case study analysis and also the interviewees' responses to questions on factors that were not included in the assessment of the application. For example, all the interviewees responses revealed that the district-wide cumulative effects of subdivision, transport (including cycling and walking) and utility networks, resource and energy efficiency, community social and economic impact including rates, and the site's relationship with adjacent natural and landscape values were not considered. One of the interviewees, for example, when asked whether cumulative effects of the development were taken into account or whether the development was assessed in isolation they said "I guess the answer is no...the reason is because the way the Plan is written".

Another said:

To be honest I think it was the latter [isolation]...I don't remember it being part of the submission process or part of our deliberative process either.

It was also evident in answers to questions about the relationship of the site with the surrounding natural and landscape values that there was little consideration about how the site links with the immediate marine environment or could influence significant features of indigenous vegetation or wetlands. All interviewees acknowledged that the assessments and decisions were undertaken in relative isolation.

Interviews conducted for both case studies provided insight into how rural coastal land was valued. Both development sites and the immediate surrounding landuse were in primary production. Because of this landuse, the sites were considered highly modified with very little landscape or natural value. This was largely determined by the lack of indigenous vegetation. The belief from interviewees was that subdivision would enhance the landscape and natural features of the site mainly through some revegetation with indigenous species. It was also thought that because the sites were considered highly

modified that the developments proposed, in particular the earthworks, would not adversely affect the natural and landscape values.

The case study document analyses and interviews identified that the consent application assessments focused mainly on mitigating the effects of the proposals with little attention paid to the opportunities to address, rehabilitate, or enhance features and values associated with the site and surrounding community. As one interviewee explained “the focus was more on risks”. In both case studies interviewees acknowledged that there was little or no consideration of promoting and enhancing values such as public access, ecological corridors, landscape features, or public safety. This was even though policy guidance encouraged and/or directed enhancement/rehabilitation of specific values that are endanger of being lost or degraded due to development. This will be discussed further in Chapter 7: Discussion.

The zoning and the rules in the District Plans (in particular the rural zoning rules) were used as a foundation for decisions. For example, both officers agreed that the developments were residential landuse but did not consider the residential policies because the underlying zone was rural. They both felt that they could not have given weight to the residential objectives and policies because of the zone based planning approach of the District Plans.

In both District Plans there were quite a number of objectives and policies that did not have any rules associated with them. The officers felt that it would be difficult to implement some of the policy direction because of the lack of rules, for example in the area of resource and energy efficiency (including transport), solid waste management and also cumulative affects of subdivision. As one interviewee stated:

Even though the activity was discretionary the rules are used as a baseline and if there are no rules it is difficult to implement the policy.

Although RMA planning documents other than the District Plans were considered to some extent, more weight was given to the rules in the District Plans. This was apparent from the officers’ answers when questioned about some of the policy directions in the NZCPS and RPSs and why they were either not considered or the recommendation seemed

contrary to the policy direction. When asked if methods like energy and resource efficiency, including grey water recycling and renewable energy, were considered as promoted in the RPS, an interviewee said “the District Plan did not have a rule on the issue”. A more specific example is the policy direction in both Regional policy Statements to avoid sprawling and ad hoc subdivision, with a preference to confining residential development to existing settlements. However, the District Plan rural zoning in both case studies allows subdivision to a residential allotment size in the rural zone as a permitted activity, even in the coastal environment. As one interviewee said:

The District Plan anticipates this type of development in the coastal environment because of the permitted lot size...I am not entirely sure that you could say that it is unplanned in that respect.

### **6.2.2 Limitations of the District Plans**

The document analysis identified a number of general weaknesses in the District Plans and these were confirmed in the interviews.

In some areas of the District Plans the link between objectives, policies, and especially rules was weak. The connection between these features of the District Plans is very significant given the reliance that officers place on rules when assessing consent applications.

Both officers and elected members felt that the District Plans were generally out of date and were developed in a period when councils were trying to encourage growth wherever possible to sustain their local economies. The result is that the District Plans are generally very lenient and it has been difficult to constrain growth given the recent pressure for development, especially in prime coastal areas. In the words of one interviewee:

It is an old and very weak plan. It was good for its day. It was enabling. But those were times when council was really trying to encourage growth. It worked too well.

Two interviewees expressed the view that, although the District Plans had some good guidance, much of it needed to be updated to address new issues, values, and apply new

technology. One interviewee felt that although individual sections could be updated, the council was waiting for the 10 year review period because changing the District Plan was a very onerous and a long drawn out process.

Because both District Plans assessed applications based on land use zoning, the officers felt that they were limited in applying objectives and policies from elsewhere in the District Plans. For example, although the land use activity proposed was clearly residential, the officers did not apply the residential objectives and policies because the underlying zoning was rural. One interviewee said “no rules were triggered in the residential zone, although I could have used them [residential zone policies and rules] as guidelines”.

Those interviewed felt that the outcome in each case study was sustainable and that the consent process and the District Plan allowed them to achieve that. As previously discussed, two the interviewees qualified this by saying the development was anticipated in the District Plans coastal environment because it generally met the permitted lot size and rules for the underlying rural zoning and therefore it achieves the sustainability threshold in the District Plan. They also said that more could have been done in terms of integrating and enhancing the site’s natural environment with its surroundings.

### **6.2.3 Leadership and Political Commitment**

Several factors identified in the interviews reflected a general lack of leadership and political commitment by the councils to seriously advancing sustainability initiatives in their district.

In the documents analysed in the case studies there were a number of areas where there was strong policy direction on managing certain issues towards achieving sustainability. Examples of such policy direction are reducing solid waste, increasing cyclist and pedestrian access and safety to promote sustainable transport, integration of biodiversity rehabilitation and enhancement, involving tangata whenua and community in protection and enhancement of significant features, and increasing resource and energy efficiency. In some areas, such as promoting safer cycling and walking and waste management the councils had made a public statement through strategies or policies that they would show leadership. When asked why the proposed developments did not include features that

supported the policy direction, the interviewees generally responded that the District Plan did not have specific rules that implemented the policy direction, issues were not raised by submitters or council staff, and there was a reliance on the applicant to promote ideas to address these types of issues. For example, when asked why energy and resource efficiency was not considered one interviewee said:

The difficulty is that council can't really require that sort of stuff under its Plan. If it wasn't proposed then I doubt it would be [considered].

Lack of political commitment to promoting sustainable solutions was also apparent in an interviewees' response to questions about growth and development planning. Landuse planning was identified in documents used in the analyses as an integral part of addressing many of the districts' sustainability issues, including using the opportunities the consent process offers to influence outcomes. For example, landuse planning is identified as a method to reduce private car use and therefore consumption of non-renewable resources and increasing air quality. When asked why this policy direction was not considered, one interviewee stated that it would be "politically not good" to consider a subdivision in this context.

There appears to be a limited commitment to encouraging and introducing new technologies that will improve sustainability of developments, such as domestic renewable energy and resource efficiency technology. There is also a reluctance to endorse sustainable urban design which moves away from many older hard engineering techniques to more environmentally sensitive and resource efficient methods, for example, soft surface drainage, passive solar heating, re-use of grey-water, composting toilets, renewable energy, and planning for alternative modes of transport. Two interviewees considered that these types of methods should be at the initiative of the applicant because "they are definitely not promoted by the District Plan". When asked about promoting water reduction, grey-water recycling, and solar and wind power, an interviewee said "we are not very into that...we have a low rating and economic base".

Although both councils accessed outside expertise as required, in both case studies the officers explained that external organisations instead, such as the Department of

Conservation and Land Transport New Zealand were relied on to identify issues and suggest solutions. One interviewee said that:

We do have expertise here but in saying that we are also quite reliant on outside agencies, like the Department of Conservation, as we don't have an ecologist.

In one council the role of planners was being undertaken by engineers as described by an interviewee “[The council] use technical staff [engineers] to process consents, which is probably not a good situation”. This may reduce the quality and integration of decision-making.

All interviewees were asked, out of social, economic, cultural, and environmental well-being, which order do you think the officers/elected members place more emphasis on? Two interviewees considered that the environment had more weight than the other well-beings because of the content of RMA planning documents and the RMA's purpose. Two interviewees mentioned that economic well-being was generally given more weight by officers in one council and elected members in another. One interviewee considered that the order of preference was:

Economic, social, and then interchangeably environment and cultural well-being.

Officers and elected members generally thought that their council was committed to ensuring that there is adequate public consultation for the planning applications. From the interviews it was felt that the community had the opportunity to be involved and that the design, particularly in the Tatapouri case study, was altered to address the concerns of submitters. In one case, it was acknowledged that better consultation could have been undertaken with iwi but that this issue was not particular to this application. In this council the issue was recognised as a council-wide and it was agreed by both the officer and elected member that “council doesn't quite know who it should be talking to” and “we need to do better”.

#### **6.2.4 Understanding of the LGA and RMA**

Three of the interviewees acknowledged they had very little or no understanding of the LGA, including the purpose, decision-making responsibilities, and principles. For example, when asked about the purpose and principles of the LGA, one elected member said

I don't feel I am particularly well versed – some of those things you said I thought oh yeah that's right I think that is in the LGA but would never be able to tell you.

The other elected member had a good grasp of the LGA and clear understanding about the RMA and LGA and how they thought they should work together:

We have an obligation to apply both of those pieces of legislation to activities to allow some growth but while protecting the environment at the same time...they need to work together because they are our two bibles. Where we are looking at a hearing for a resource consent for a subdivision... the guiding principles of the RMA are what are important but then the function of arriving at having something to actually consider brings in the strands of the LGA that allow consultation and allows us to consider the four well-beings. At the end of the day the actual physical hearing process is driven within the parameters of the RMA.

Three interviewees found it hard to describe what sustainable management and sustainable development is and the differences between them, avoiding the question or answering it in part. The fourth interviewee clearly articulated sustainable management as:

The long term approach to managing resources and how humans use those resources and sustainable development as about allowing the district to grow within the limits of those resources.

Interviewees were asked which of the two established concepts of sustainability (e.g. a balancing act between all four well-beings or an environmental bottom line) they thought best fits their ideas or whether they had an alternative view. Two interviewees clearly identified that that they thought there is an environmental bottom line that should not be compromised and that social, economic and cultural well-being should be managed above it. One interviewee considered that humans are apart of the environment and that a

balance between all four well-beings should be sought and another felt that in some instances the benefits of one well-being can outweigh the costs to another, including a detrimental effect on environmental well-being.

Two of the interviewees considered that rating and financial impacts on the adjacent community and wider district should not form part of the decision of whether or not to allow a development to go ahead. Instead these were considered an LTCCP issue. The other two interviewees deemed it imperative that the costs to the wider community and district of additional or upgrading of infrastructure be considered as this was an effect of the development.

When assessing an application other relevant information to the consent can be considered under Section 104 of the RMA. As previously discussed there was relevant guidance for assessing the subdivision applications in council documents other than those developed under the RMA, such as the LTCCP, waste management strategies, civil defence and emergency strategies, and land transport strategies. These documents provide background information, emphasised or provided additional relevant policy guidance to coastal development decisions. However, from the interviews and the document analysis there was no reference to this guidance and only RMA planning documents were used to assess the applications. One interviewee felt that non-RMA documents should be used to help develop RMA policy direction in plans and strategies but they should not be used at the consent level to determine a decision. However, in both case studies interviewees mentioned that they would have considered any growth/development management plans and strategies which are developed under the LGA when assessing future applications for subdivision. Gisborne District Council's Urban Coastal Strategy, which provides policy guidance for sustainable coastal development, was not referred to in the assessment of the application. When questioned about why the strategy was not used, the interviewee explained that it was because the development was located outside the area planned for growth in the strategy. Like many developments in the coastal environment there is no certainty that applications for development will always be located in the areas which are planned for growth.



### **6.3 Conclusion**

Interview data supported the analysis and findings in Chapters 4 and 5. The interviews added understanding about the approach taken to assessing the applications and the reasoning behind some of the decisions. They also helped to identify a number of limitations that are restricting practitioners involved in the RMA consent process from seeking a more sustainable outcome.

The findings from the case study data analyses showed there was virtually no integration of the LGA in RMA decisions. The interviews were instrumental in understanding why this situation exists. In particular, they identified a general lack of understanding of the LGA by RMA practitioners which is reinforced by a silo approach to assessing consent applications. There is also a reluctance to use documents other than those developed under the RMA to assess consents and a reliance on District Plan rules to assess applications, even if the consent is discretionary.

# Chapter 7

## Discussion

### 7.1 Introduction

The objective of this research was to investigate how councils were applying their responsibilities and the sustainability direction under both the RMA and LGA to coastal subdivision decisions. The research also explored whether non-RMA plans, strategies, and policies, added value to decisions and promoted a more sustainable outcome. In addition, possible barriers to integration and alignment of the LGA and the RMA in resource consent decision-making were identified.

In answering the research question, it was expected that through the case study analyses that evidence would be found of integration and/or at least alignment of the responsibilities and direction given to councils through the RMA and LGA. Instead the analysis showed that integration of councils' mandates under these two Acts is very limited. There was evidence of coincidental alignment in both case studies where the direction in the RMA planning documents and other council plans, policies, and strategies sought the same outcome on issues. However, the policy direction in both RMA and LGA documents was often ignored by the officers and elected members who deliberated on decisions and as a result the outcome frequently not achieved. The analysis was successful in identifying a number of obstacles that are arguably reducing the likelihood of achieving a truly sustainable outcome in planning decisions and the attainment of integration and alignment of LGA and RMA mandates.

This chapter draws on the findings of the case studies, including the interviews, to discuss the integration and alignment of the LGA and RMA mandates in coastal subdivision decisions. The limitations identified through the research are also discussed so that they can be addressed to better achieve the integrated sustainability mandates of both the RMA and LGA.

## **7.2 Integration and Alignment of the LGA and RMA**

Chapter 2 of this research identified a number of areas where the RMA and LGA could be better integrated, including, where the strengths of the LGA's wider sustainable development mandate, prescriptive decision-making process, and principles could be used to support more sustainable outcomes in consent decisions. The areas of possible integration of particular relevance to this research are having a common strategic vision that the councils and community can work towards, consultation, and decision-making. The following section discusses these concepts in more detail in relation to the findings from the case studies.

### **7.2.1 Strategic Vision**

The community outcomes in the LTCCP are intended to provide a strategic vision for the community, council, and other organisations within the community. Similarly, the objectives and anticipated environmental outcomes in the RMA planning documents present a sustainable management vision that is also agreed with the community through a consultation process. At a legislative level both the RMA and LGA have a sustainability vision that is detailed through principles and processes in these statutes. As discussed in Chapter 2, having a single strategic vision is seen as a key component in achieving sustainable development, along with well coordinated and integrated policy direction so that resources are used effectively and efficiently.

In both case studies the RMA planning documents and a council's other policies, plans, and strategies all have a similar strategically aligned direction, although its not explicitly stated or coordinated. Notably, there was additional policy direction (including environmental) in the councils' other documents that was not in the RMA planning documents. However, through the case studies and interviews no inconsistency between RMA and the other council documents was identified. Examples of additional policy direction that was not inconsistent to what was in the RMA planning documents include in the Horowhenua case study the promotion of reducing construction waste (Horowhenua District Council, 2006a) and in the Tatapouri case study that public infrastructure is designed to meet disability standards (Gisborne District Council, 2007d) .

Through the case studies analyses, a council's non-RMA policy documents, in addition to providing valuable policy direction, were also found to provide useful contextual information to better inform RMA decisions. In particular, in the Waitarere case study (Chapter 4), the Horowhenua District Council LTCCP had contextual information about the Waitarere wastewater treatment scheme and the rate increase required to accommodate its upgrade. This information could have been used to help evaluate whether the development's infrastructure requirements are sustainable for the existing Waitarere community and the wider district. Although in the Tatapouri case study (Chapter 5) the LTCCP did provide some contextual information, particularly around the cost of infrastructure to the district, the council's other non-RMA documents afforded more useful background information, as well as good policy direction, that would have been valuable for decision-makers. For example, the Regional Land Transport Strategy 2006 and the Civil Defence and Emergency Management Plan 2004-2009 both outlined the issues facing the district in the area concerned, including identifying specific barriers, and providing guidance on how to overcome them in more detail than the RMA documents.

The situation described indicates that in both case studies there was limited coordination between the council's strategic policy documents and no explicit common sustainable vision which links them together. This is particularly apparent between the council non-RMA policy documents and RMA planning documents. In the RMA documents this situation reflects the fact that many were developed prior to the LGA 2002. However, it supports the Controller and Auditor-General's (2007) findings that integrated sustainable development has yet to infuse the thinking of local authorities, which should be apparent in the LTCCPs and council policy documents developed after 2002.

### **7.2.2 Using Policy Direction to Achieve the Sustainable Vision**

The case studies not only identified that policy direction in council non-RMA policy documents was not used to help inform decisions but also that relevant policy direction in the RMA planning documents themselves was largely not considered. This was especially apparent where policies directed consideration of cumulative effects, promoted enhancement, and required looking at the application within the context of its relationship with the wider surroundings. For example, some of the issues common to both RMA policy guidance and other council documents which were not discussed in both the Tatapouri

and Waitarere case studies were energy and resource reduction (including reducing private vehicle use to reduce fuel consumption and increase air quality), confining urban development to current settlements in an effort to reduce coastal sprawl and the associated cumulative effects such as scattered infrastructure (including public transport, waste and storm water services, and solid waste collection), taking a precautionary approach to natural hazards, and involving the community and local iwi in managing natural, historical, and cultural values. What this situation indicates is plans have failed to be implemented under both a conformance and a performance approach to plan implementation as discussed in the methodology in Chapter 3. This finding also supports the research conclusions of the New Zealand based PUCM programme (Day et al, 2003) which found that plans were not being implemented as intended.

### **7.2.3 Consideration of LGA Responsibilities and Direction**

A council's sustainability direction and requirements under the LGA, including the decision-making responsibilities, apply to all decisions that a council makes, including those under other enactments as discussed in Chapter 2. This research included assessing whether councils' LGA mandate is being integrated into the RMA resource consent decision-making used to assess coastal development. In both case studies there was no evidence of integration. This was especially so in the Waitarere case study where there was no discussion about the costs of the new public infrastructure required by the development (such as roads, wastewater, public reserves, and solid waste collection). Because of the significant size of the subdivision and because the development contributions requested would not cover the actual cost of infrastructure development and maintenance, a number of factors should arguably have been considered by decision-makers that fall under the council's LGA mandate. Examples of where the LGA decision-making and consultation requirements could have been used to provide better information for assessing the developments infrastructure needs included: identification of the views of the community that will pay for upgrading services (Section 14(b)), whether it is efficient and effective use of council resources over the district (Section 14 (g)), and whether it is in the interest of current and future communities taking into account the impact on their social, economic, cultural, and environmental well-being (Section 14 (h)). There was a very strong view from three of the interviewees that LGA considerations should not be included in deliberations. However, two of the interviewees thought that rating impacts should be considered as an

effect of development. This position was also supported by both councils' Development Contributions Policies.

This situation also highlights another area of local government's role under both the LGA and RMA which includes ensuring that those affected by an activity are informed and have an opportunity to participate. On reflection of some of the more significant long-term effects of development, arguably, the council itself and as a representative of the community well-being is one of the most affected parties and should be considered as such in development decisions. Decisions on subdivision resource consents can directly affect a council's roles and responsibilities, for example, a council is responsible for a significant amount of public infrastructure such as roads, wastewater, drinking-water, and community reserves for recreation and public access. The majority of these infrastructure needs are paid for by the wider community through rates. In addition, councils also have mandates and responsibilities under other legislation besides the RMA that they need to comply with (LGA Section 77 (b) (iii)), such as the strategic direction in the LTCCP and any other policies, strategies, and plans that have been publicly consulted on. As Borrie et al., (2004) observes there is an expectation that these council documents, along with the RMA planning documents, will influence the outcome of decisions to promote the strategic direction within them. In addition, the council is the main advocate for the wider community's interest because not only is it entrusted with significant infrastructure and the collection of rates, it is the only organisation that has a mandate through the LGA to promote community well-being and sustainability (similar to the Department of Conservation's advocacy for indigenous species). The council and the wider community that it represents are the most affected party over the long-term by any subdivision development, especially as the developer has no vested interest once sections are sold. Therefore, it is essential that a council as representative of wider community interests and as an advocate of sustainability and community well-being is included in considerations as an affected party and not just as a decision-maker. However, as illustrated in the discussion on the Waitarere subdivision public infrastructure requirements, there is little evidence from the case studies that the council itself and the wider community that it represents were considered as an affected party.

### 7.3 Limitations to Considering and Applying Policy Guidance

Chapter 2 identified a number of possible obstacles to achieving sustainability under the RMA and also to integration of the RMA and LGA. Talen (1997) considered that both the planning documents used and planning behaviour were deficient. The PUCM research generally supported this finding. Carmona and Sieh (2004) considered that the issue was more deep seated and that factors like the economic systems, human behaviour, and scale of the problem would need to change to get a more sustainable outcome from planning. The document analyses and the interviews undertaken in this research provide further evidence in confirming many of the limitations discussed in Chapter 2. Table 7.1 below summarises these findings and the discussion that follows elaborates on how the limitations identified are not only affecting the RMA planning system but also how many of them will arguably be reducing the alignment and integration of the RMA and LGA in consent decisions.

Table 7.1: Limitations to achieving a sustainable outcome from RMA planning.

<b>Organisational Influences</b>
<ul style="list-style-type: none"> <li>▪ Lack of integration across councils of functions such as RMA planning, LGA planning, and infrastructure - creating a silo staff structure</li> <li>▪ Lack of understanding of the LGA by staff involved in RMA planning</li> <li>▪ Lack of understanding and support for the resources and processes within council required for RMA planning- trained staff with the right expertise to support the process</li> </ul>
<b>Political Influences</b>
<ul style="list-style-type: none"> <li>▪ Lack of political commitment and understanding of the LGA by those involved in the RMA process.</li> <li>▪ Lack of council leadership in promoting an integrated sustainability approach to decisions and proactive support for more sustainable technology</li> <li>▪ Valuing of unproductive coastal land influenced by private property rights and economic growth</li> <li>▪ Lack of acknowledgement that council and wider community are affected parties</li> <li>▪ Lack of common agreement about what sustainability is and how decisions should be coordinated and made to achieve it</li> </ul>
<b>Planning Practice</b>
<ul style="list-style-type: none"> <li>▪ Aversion to considering relevant policy from council documents other than those developed under the RMA</li> <li>▪ Reliance on the rules of the District Plans even if the activity is discretionary and/or inconsistent with the rules</li> <li>▪ Lack of consultation with other functions of council, e.g. CDEM, transport planning, waste management</li> <li>▪ Reliance on applicant and submitters to raise issues and promote sustainable techniques and ideas</li> <li>▪ Assessing applications narrowly and short term</li> <li>▪ Lack of encouragement by council for enhancing and promoting values, instead focusing on mitigation</li> </ul>

### Planning Documents

- RMA planning documents are generally too out of date to deal with current issues, thinking, and new technology
- Lack of integration generally between relevant documents including non-RMA
- Integration between issues and policies within district and regional RMA planning documents is weak
- Lack of logical flow from objectives, policies, and rules/methods in some areas
- Lack of support in policies and rules in District Plans to enable promotion and enhancement of the values consistent with Part 2 of the RMA
- Use of zoning is restricting consideration of other relevant policy guidance in RMA planning documents
- Use of overlays, such as coastal, should add more value to decisions

#### 7.3.1 Planning Practice

As identified through the case studies relevant policy guidance from the RMA documents and other council policies, plans and strategies was largely ignored. A number of reasons for this were identified through the case studies. The issue this raises for alignment and integration of the LGA and RMA is that even if policy guidance was more integrated there is a high probability that it would not be used to help inform deliberations or strategically achieve a desired outcome. This is because there is already an aversion to using much of the guidance currently in RMA documents. The following section discusses some of the reasons why policy guidance is not being used to inform decisions.

One of the reasons identified through the case studies and interviews was that the officers' assessments and the decision-makers' deliberations were very narrowly focused on mitigating the adverse effects of the subdivision on the development site. They were also relatively fixed in time concentrating on the immediate change in landuse and the construction phase of the development with few conditions managing the long-term effects of residential activities or enhancement of rural coastal environment.

The application assessments undertaken by the councils were mainly focused on mitigating the adverse effects of the development. The result is that little encouragement is given to actions and consent conditions that promote enhancement of values in line policy direction in RMA planning documents (particularly regional and national) and the Part 2 of the RMA. Although Section 104 of the RMA (Consideration of Applications) requires consideration of the effects of an activity it does not restrict decision-makers to just considering adverse effects. In addition, Section 104 (1) (a) and Schedule 4 (Section 1 (d)



and Section 2) of the RMA require an assessment of actual and potential effects and are not specific as to whether they are positive or negative. This is also supported by section 3 of the RMA which provides a definition of 'effect' and includes positive and negative effects. Enhancement of values is also reflected in other parts of the Act, such as the functions of regional councils (section 30) where water quality and ecosystems should be maintained and enhanced. The "mitigation mentality", as this approach is referred to by Peart (2007, p 5), will likely be a barrier to enhancing the four well-beings towards sustainability as it favours the status quo or encourages cumulative adverse effects (Peart, 2007). The mitigation approach is likely to be related to the interpretation of the RMA, in particular, the emphasis on mitigating the effects of activities in Section 5 (2) (c), and Section 17 and the strong focus in the Act on adverse effects (e.g. Section 5 (2) (c), Section 17, and Schedule 4 (Section 1 (b) (d)). The 'mitigation of adverse effects' approach to development is also emphasised in the wording of the District Plan rules in both case studies and to a lesser degree in the regional planning documents. Because the current practice of assessing applications emphasises mitigating adverse effects of a proposal, largely on the development site, there is little likelihood that the opportunities which the RMA consenting process affords will be taken to address the wider effects of coastal development and promote the four well-beings.

Another reason for not considering policy guidance identified through the research (in particular the interviews) was that the officers based most of their assessment on the rules of the underlying rural zoning of the site in the District Plans. This was even though both applications were discretionary and within a coastal overlay which required assessment against the objectives and policies of RMA planning documents and Section 104. When asked why this was the officers in both case studies considered that the implementation of the plans was through zoning and the developments did not trigger other parts of the plan. This approach to planning was reiterated when the interviewees were questioned why the cumulative effects of the development were not considered. Therefore, although there was relevant policy direction elsewhere in the District Plans and in other RMA planning documents it was often not considered. As a result of this approach to planning practice the District Plans policies which supports things like energy and resource efficiency, avoiding cumulative effects of subdivision, consolidating development in existing residential areas, and considering the overall impacts of infrastructure like transport networks, it is not taken into account when assessing applications. When officers were

questioned further about their approach, they felt that they could place little weight on these factors if there were no rules in the District Plan which were linked to the underlying zoning. This is the same for coastal overlays where policy direction was given but generally few rules.

Through the case studies it was also apparent that there were political positions from both the officers and elected members that influenced the policy guidance selected to assess the application and ultimately the decision outcome. In addition, it was evident in one of the case studies that policies or parts of policies were selected to support a specific outcome, even though the outcome would have likely been contrary to the intent of the full policy. The case studies, in particular the interviews, identified that in some instances there is political pressure to support a specific outcome and that some of the wider societal and environmental effects are not yet politically acceptable to address on a case by case basis through the resource consent process in spite of policy direction on issues.

### **7.3.2 Weaknesses in Planning Documents**

Apart from the approach to assessing applications and the reliance on the zoning and rules in the District Plan, the analyses also identified that there were areas where the planning documents were deficient. These included areas in planning documents where the policies did not promote the associated objectives, and where cross referencing of chapters, and zoning overlays and other policy documents were not well integrated. In addition, the officers appeared to rely heavily on the rules and place less emphasis on the policy direction. Therefore, if the policies do not have associated rules they are less likely to be achieved. This finding was confirmed in interviews where it was commented that in some instances it was felt that there were policies which were unable to be applied because there were either no rules, or there were restrictions because of the underlying zoning sections of the District Plan.

Another weakness identified with the RMA planning documents is that interviewees felt that the documents were out of date. It was acknowledge that they did provide some useful guidance but that generally they should be updated to reflect current issues and thinking on how to address them. Because the current approach to RMA decisions is so reliant on RMA planning documents, it is important that they are able to support

sustainable decisions into the future. It is evident from this research and other research that RMA documents, in particular District Plans, have structural and content weaknesses which need to be innovatively addressed in second generation documents if they are to remain useful in their purpose of helping decision-makers achieve sustainability.

### **7.3.3 Coastal Land Not Valued**

In both case studies, coastal land that is of low rural production seemed to have limited value.. As a consequence, there was a perception that residential development will enhance the natural values of the sites. This approach to valuing coastal land, would allow unrestricted coastal development resulting in unwanted cumulative effects, especially as much of New Zealand's coastal land falls within the same category as the case studies. In addition to raising questions about the sustainability of more intensive subdivision as a means to enhance the environment, this situation also raises questions about private property rights and the elevation of economic growth over the other community well-being i.e. whether a landowner on marginally or unproductive rural land should have an unrestricted right to subdivide the land for residential purposes. It is clear that a method with less cumulative effects is required.

### **7.3.4 Political Commitment**

From the policy documents both councils promoted commitment and leadership to addressing and supporting specific issues. Local government legislation also gives councils a lead role in communities to ensure sustainable use of natural and physical resources under the RMA and taking a sustainable development approach under the LGA. Despite these often public pledges the case studies show that, even though the resource consent process outcomes can influence the achievement of a council and community's goals, the effects of the consent outcomes on wider council commitments (such as pedestrian and cyclists safety) are not being considered and the opportunities are not being taken. As a result, there is little evidence of council taking ownership of the policies they adopted.

Although both councils could have promoted a more sustainable outcome, particularly in resource and energy efficiency, there was little political commitment in encouraging developers to utilise best practice techniques for managing stormwater, and energy and

resource reduction (including promoting renewable energy). What this indicates is that new more sustainable initiatives are unlikely to be readily adopted in new subdivisions unless promoted by the applicant, taking a volunteer approach. In addition, although there are policies in the RMA planning documents that support these types of initiatives, often the rules in the District Plans prescribe the older 'hard engineering' techniques or there are no rules. Therefore, councils will unlikely require developers to adopt new sustainable techniques, instead relying on developers to be proactively focused on sustainability.

The lack of political commitment in implementing sustainable development methods identified through this and other research (as discussed in Chapter 2) will continue to restrict the advancement towards to a more sustainable society. This is because it favours older non-sustainable methods, reducing the likelihood of the adoption of new techniques, although they are often promoted in council's non-RMA documents. This lack of political support not only reduces the ability of councils to achieve their mandate under the RMA of sustainable management but is also likely to be widening the gap between the RMA and LGA practitioners, decision making processes, and desired sustainability outcomes. This is because the LGA decision-making and consultation processes not only allow a faster outcome, but are also influenced more by the public's input. An example in New Zealand of where the LGA is being encouraged to be used instead of the RMA is to fast-track sustainable technology and methods for stormwater and low impact urban design and urban development (LIUDD) (Winefeild and Heslop, 2007).

It is likely that public pressure will increasingly encourage the RMA processes to be side-stepped if political commitment, plans, and decisions through the consent process do not implement the use of the best available and practical sustainable solutions and integrate with the sustainability vision which is increasingly being strengthened in LGA documents, particularly the LTCCP. Therefore, there is a risk that the RMA will be left behind as a tool for sustainable development.

### **7.3.5 Local Government's Role Not Well Understood**

The interviews indicated that generally those persons that work mainly under RMA legislation, such as the planning practitioners and elected members who deal mostly with consents, have limited or no knowledge of the LGA. The LGA was seen by three interviewees as a completely separate piece of legislation that had no place in the RMA

context. This view towards the LGA is also demonstrated in the case studies where there was no reference to the LGA or the LTCCP, except in one case study where the development contributions policy was referred to. It is also worth noting that no other legislation or documents developed under other acts were referred to either. One of the interviewees, however, had a very good understanding of both acts and thought that the two needed to work closely together to promote a truly sustainable outcome.

The general lack of understanding about the LGA in RMA practise will be a barrier for not only the uptake of the LGA but also any other statutes that are likely to need to interact with the RMA. This is because there appears to be a very strong silo approach to RMA planning in councils which is also likely to be supported by the staff structure.

### **7.3.6 Different Understandings of Sustainability**

The interviewees had different views about what sustainable management was, with two distinct views being expressed. One view was that sustainable management was a balancing of all four well-beings and the other view was that there was an environmental bottom line that should not be compromised. In both case studies the officer and elected member had opposing views. These two views of sustainable management are not compatible and can lead to very different outcomes. A consistent interpretation of sustainable management is needed so that all participants are aiming towards the same goal. Ideally this should come from central government but a council could include their interpretation of sustainable management in its RMA planning documents and LTCCP so that there is no misinterpretation and all participants are aware of the common goal.

## **7.4 Conclusion**

The case studies and interviews provided insight into local government coastal decision-making. The research found that alignment and integration of the LGA in RMA subdivision consent decisions is non-existent or minimal at best. It also found that RMA planning documents and a council's other plans, policies, and strategies generally have the same policy direction and are not inconsistent. However, many of councils' non RMA documents provide additional policy direction and wider contextual information useful in RMA decisions. Much of the policy direction in both the RMA planning documents and a

councils' other documents identified as relevant in the case studies was not considered or implemented by the officers or decision-makers. Although the RMA promotes integrated management there appears to be an aversion by officers and decision-makers to use local government policy documents which have been developed under legislation besides the RMA (such as the LGA, Land Transport Management Act 2003, Civil Defence and Emergency Management Act 2002, and Reserves Act 1977) that may provide guidance to RMA decisions. This approach to decision making is likely to be limiting the effectiveness of not only the RMA but also other local government legislation.

This research identified a number of likely reasons why policy was not considered even though it could have produced a more sustainable outcome for the case studies. Arguably, the limitations identified in Table 7.1 which reduce the effectiveness of RMA planning are also likely to impede the integration and alignment of the RMA and LGA.

# Chapter 8

## Conclusion

### 8.1 Conclusion

The objective of this research was to investigate how the different mandates of the RMA and LGA are reflected in council decisions on coastal development. In addition, policy direction in council documents, other than RMA documents, were investigated to determine if they would add value to RMA consent decisions, promoting a more sustainable outcome. Possible barriers to integration and alignment of the LGA and RMA in resource management decision-making were also investigated.

Two councils' resource consent assessments of an application for coastal subdivision were used as case studies to address the research questions. In a document analysis, the Officer's Report and the Decision Report from each council were analysed against relevant criteria from both RMA and the council's other policy documents, including the LTCCP. Interviews were also undertaken to investigate in-depth the decision-making at both the political and officer level.

The findings showed that integration and alignment of the RMA and LGA is very limited at best as there was no reference to the use of policy direction found in council non-RMA documents in the Officer Reports or Decision Reports. The only exception was reference to the costs associated with the Development Contributions Policy. This finding was also supported by the interviews. The research also identified that council policies, plans, and strategies (other than RMA documents) can provide relevant, up to date, contextual policy direction to RMA decisions which could be used to promote a more sustainable outcome. Unfortunately, the weaknesses identified in Table 7.1, including political and organisational, are proving barriers to the up take of not only councils' non-RMA policy direction but also much of the direction in RMA planning documents.

In summary the key findings from this research are: 1) councils' policies, plans, and strategies other than RMA documents, especially the LTCCP, can provide good up to date information and policy direction for RMA decisions, 2) political leadership, support, and active encouragement to achieve sustainability and community well-being in consent

decisions is weak, 3) integration and alignment of the RMA and LGA in policy documents and consent decisions is limited, 4) the planning practice in assessing resource consent applications is narrowly focused on mitigation of effects on the site with little attention paid to wider cumulative effects (including community) and opportunities to enhance and promote values, and 5) political leadership and supporting policy documents are not integrated to give a common sustainable direction.

It is recognised that that the case studies selected are unlikely to be atypical. Instead they are a reflection of the implementation of decision-making processes used by councils to achieve sustainability. There may be councils that have made a conscious effort to align and integrate their responsibilities and direction under the RMA and LGA.

There are a number of areas where future research and guidance could be developed to improve integration and alignment of the RMA and LGA and more importantly achieve better sustainable outcomes for the environment and communities. One area is LGA training for RMA practitioners and decision-makers and vice-versa, where LGA education includes training on the RMA and how it can be used to enhance the four well-beings. Further research is needed into techniques for new generation RMA policy documents so that they can be more integrated within themselves and also between other policy documents, including non-RMA documents. The techniques also need to be able to react to new information and changing solutions and ideas, so that they remain current and continue to provide useful policy direction to help inform decisions.

Overall there needs to be a change in RMA planning practice if integrated sustainability is to be achieved. Officers and politicians need to understand and embrace their wider sustainability mandate in an integrated way and lead the community forward. They also need to bring this wider mandate, along with their local knowledge, to RMA decision-making to ensure more sustainable outcomes are achieved. In particular, RMA practitioners need to be more open to using information from outside RMA planning documents, particularly where it can promote a more a sustainable outcome. As Upton (1997) encouraged “neither they nor their plans are the sole source of possible solutions...Flexibility and open-mindedness rather than rigidity needs to colour the psyche of planners” (p 5).



The RMA is the main means in which the private sector is guided towards sustainability, therefore sustainability should be the goal of developers when designing subdivisions, and the RMA process, including documents, should be focused on guiding them towards achieving this outcome. The LGA and RMA together provide the tools to balance development with the wider social, economic, cultural, and environmental costs and benefits. The challenge is to understand and work out how to apply these mandates towards achieving integrated sustainable outcomes in decisions.

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## **Appendix 1: Legislation**

Selected excerpts from the LGA and RMA referred to in this research. The text is from the Parliamentary Counsel Office (2009).

### **Resource Management Act 1991 (as at October 2008)**

#### **Section 2 Interpretation**

Environment includes—

- (a) Ecosystems and their constituent parts, including people and communities; and
- (b) All natural and physical resources; and
- (c) Amenity values; and
- (d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters:

#### **Section 3 Meaning of effect**

In this Act, unless the context otherwise requires, the term effect includes—

- (a) Any positive or adverse effect; and
- (b) Any temporary or permanent effect; and
- (c) Any past, present, or future effect; and
- (d) Any cumulative effect which arises over time or in combination with other effects—  
regardless of the scale, intensity, duration, or frequency of the effect, and also includes—
- (e) Any potential effect of high probability; and
- (f) Any potential effect of low probability which has a high potential impact.

## **Part 2 Purpose and Principles (sections 5, 6, 7 and 8)**

### **Section 5 Purpose**

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
- (2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

## **Section 6 Matters of National Importance**

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
- (f) The protection of historic heritage from inappropriate subdivision, use, and development.
- (g) The protection of recognised customary activities.

## **Section 7 Other Matters**

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) Kaitiakitanga:
  - (aa) The ethic of stewardship:
- (b) The efficient use and development of natural and physical resources:
  - (ba) the efficiency of the end use of energy:
- (c) The maintenance and enhancement of amenity values:

- (d) Intrinsic values of ecosystems:
- (e) [Repealed]
- (f) Maintenance and enhancement of the quality of the environment:
- (g) Any finite characteristics of natural and physical resources:
- (h) The protection of the habitat of trout and salmon:
- (i) the effects of climate change:
- (j) the benefits to be derived from the use and development of renewable energy.

## **Section 8 Treaty of Waitangi**

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

## **Section 17 Duty to avoid, remedy, or mitigate adverse effects**

- (1) Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of that person, whether or not the activity is in accordance with a rule in a plan, a resource consent, a designation, section , section 10A, or section 20A
- (2) The duty referred to in subsection (1) is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty.
- (3) Notwithstanding subsection (2), an enforcement order or abatement notice may be made or served under Part 12 to—
  - (a) Require a person to cease, or prohibit a person from commencing, anything that, in the opinion of the Environment Court or an enforcement officer, is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment; or
  - (b) Require a person to do something that, in the opinion of the Environment Court or an enforcement officer, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect on the environment caused by, or on behalf of, that person.
- (4) Subsection (3) is subject to section 319(2) (which specifies when an Environment Court shall not make an enforcement order).

## **Section 88 Making an application**

- (1) A person may apply to the relevant local authority for a resource consent.
- (2) An application must—
  - (a) be made in the prescribed form and manner; and
  - (b) include, in accordance with Schedule 4, an assessment of environmental effects in such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.
- (3) If an application does not include an adequate assessment of environmental effects or the information required by regulations, a local authority may, within 5 working days after the application was first lodged, determine that the application is incomplete and return the application, with written reasons for the determination, to the applicant.
- (4) If, after an application has been returned as incomplete, that application is lodged again with the relevant local authority, that application is to be treated as a new application.
- (5) Sections 357 to 358 apply to a determination that an application is incomplete.

#### **Section 104 Consideration of Applications**

- (1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—
  - (a) any actual and potential effects on the environment of allowing the activity; and
  - (b) any relevant provisions of—
    - (i) a national policy statement:
    - (ii) a New Zealand coastal policy statement:
    - (iii) a regional policy statement or proposed regional policy statement:
    - (iv) a plan or proposed plan; and
  - (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.
- (2) When forming an opinion for the purposes of subsection (1) (a), a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.
- (2A) When considering an application affected by section 124, the consent authority must have regard to the value of the investment of the existing consent holder.
- (3) A consent authority must not—
  - (a) have regard to trade competition when considering an application:
  - (b) when considering an application, have regard to any effect on a person who has given written approval to the application:
  - (c) grant a resource consent contrary to—

- (i) section 107, 107A, 107E, or 217:
  - (ii) an Order in Council in force under section 152:
  - (iii) any regulations:
  - (iv) a *Gazette* notice referred to in section 26(1), (2), and (5) of the Foreshore and Seabed Act 2004:
- (d) grant a resource consent if the application should have been publicly notified and was not.
- (4) Subsection (3)(b) does not apply if a person has given written approval in accordance with that paragraph but, before the date of the hearing (if a hearing is held) or otherwise before the determination of the application, that person gives notice in writing to the consent authority that the approval is withdrawn.
- (5) A consent authority may grant a resource consent on the basis that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity, regardless of what type of activity the application was expressed to be for.

#### **Schedule 4 Assessment of Effects on the Environment**

##### **Section 1 Matters that should be included in an assessment effects on the environment**

Subject to the provisions of any policy statement or plan, an assessment of effects on the environment for the purposes of section 88 should include—

- (a) A description of the proposal:
- (b) Where it is likely that an activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity:
- (c) [Repealed]
- (d) An assessment of the actual or potential effect on the environment of the proposed activity:
- (e) Where the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment which are likely to arise from such use:
- (f) Where the activity includes the discharge of any contaminant, a description of—
  - (i) The nature of the discharge and the sensitivity of the proposed receiving environment to adverse effects; and
  - (ii) Any possible alternative methods of discharge, including discharge into any other receiving environment:



(g) A description of the mitigation measures (safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect:

(h) Identification of the persons affected by the proposal, the consultation undertaken, if any, and any response to the views of any person consulted:

(i) Where the scale or significance of the activity's effect are such that monitoring is required, a description of how, once the proposal is approved, effects will be monitored and by whom.

### **Section 1AA**

To avoid doubt, clause 1(h) obliges an applicant to report as to the persons identified as being affected by the proposal, but does not—

(a) oblige the applicant to consult with any person; or

(b) create any ground for expecting that the applicant will consult with any person.

### **Section 1A Matters that must be included in an assessment of effects on the environment**

An assessment of effects on the environment for the purposes of section 88 must include, in a case where a recognised customary activity is, or is likely to be, adversely affected, a description of possible alternative locations or methods for the proposed activity (unless written approval for that activity is given by the holder of the customary rights order).

### **Section 2 Matters that should be considered when preparing an assessment of effects on the environment**

Subject to the provisions of any policy statement or plan, any person preparing an assessment of the effects on the environment should consider the following matters:

(a) Any effect on those in the neighbourhood and, where relevant, the wider community including any socio-economic and cultural effects:

(b) Any physical effect on the locality, including any landscape and visual effects:

(c) Any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:

(d) Any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural, or other special value for present or future generations:

(e) Any discharge of contaminants into the environment, including any unreasonable emission of noise and options for the treatment and disposal of contaminants:

(f) Any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations.

## **Local Government Act 2002 (as at November 2008)**

### **Section 3 Purpose**

The purpose of this Act is to provide for democratic and effective local government that recognises the diversity of New Zealand communities; and, to that end, this Act—

- (a) states the purpose of local government; and
- (b) provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them; and
- (c) promotes the accountability of local authorities to their communities; and
- (d) provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach.

### **Section 10 Purpose of Local Government**

The purpose of local government is—

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.

### **Section 13 Performance of Functions under other Enactments**

Sections 10 and 12(2) apply to a local authority performing a function under another enactment to the extent that the application of those provisions is not inconsistent with the other enactment.

### **Section 14 Principles Relating to Local Authorities**

(1) In performing its role, a local authority must act in accordance with the following principles:

- (a) a local authority should—

- (i) conduct its business in an open, transparent, and democratically accountable manner; and
  - (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner:
- (b) a local authority should make itself aware of, and should have regard to, the views of all of its communities; and
- (c) when making a decision, a local authority should take account of—
- (i) the diversity of the community, and the community's interests, within its district or region; and
  - (ii) the interests of future as well as current communities; and
  - (iii) the likely impact of any decision on each aspect of well-being referred to in section 10:
- (d) a local authority should provide opportunities for Maori to contribute to its decision-making processes:
- (e) a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources; and
- (f) a local authority should undertake any commercial transactions in accordance with sound business practices; and
- (g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and
- (h) in taking a sustainable development approach, a local authority should take into account—
- (i) the social, economic, and cultural well-being of people and communities; and
  - (ii) the need to maintain and enhance the quality of the environment; and
  - (iii) the reasonably foreseeable needs of future generations.

(2) If any of these principles, or any aspects of well-being referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).

## **Section 76 Decision-making**

(1) Every decision made by a local authority must be made in accordance with such of the provisions of sections 77, 78, 80, 81, and 82 as are applicable.

(2) Subsection (1) is subject, in relation to compliance with sections 77 and 78, to the judgments made by the local authority under section 79.

(3) A local authority—

(a) must ensure that, subject to subsection (2), its decision-making processes promote compliance with subsection (1); and

(b) in the case of a significant decision, must ensure, before the decision is made, that subsection (1) has been appropriately observed.

(4) For the avoidance of doubt, it is declared that, subject to subsection (2), subsection (1) applies to every decision made by or on behalf of a local authority, including a decision not to take any action.

(5) Where a local authority is authorised or required to make a decision in the exercise of any power, authority, or jurisdiction given to it by this Act or any other enactment or by any bylaws, the provisions of subsections (1) to (4) and the provisions applied by those subsections, unless inconsistent with specific requirements of the Act, enactment, or bylaws under which the decision is to be made, apply in relation to the making of the decision.

(6) This section and the sections applied by this section do not limit any duty or obligation imposed on a local authority by any other enactment.

## **Section 77 Requirements in relation to decisions**

(1) A local authority must, in the course of the decision-making process,—

(a) seek to identify all reasonably practicable options for the achievement of the objective of a decision; and

(b) assess those options by considering—

(i) the benefits and costs of each option in terms of the present and future social, economic, environmental, and cultural well-being of the district or region; and

(ii) the extent to which community outcomes would be promoted or achieved in an integrated and efficient manner by each option; and

(iii) the impact of each option on the local authority's capacity to meet present and future needs in relation to any statutory responsibility of the local authority; and

(iv) any other matters that, in the opinion of the local authority, are relevant; and

(c) if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Maori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.

(2) This section is subject to section 79.

## **Schedule 10 Council Plans and Reports**

### **Section 2 Group of Activities**

(1) A long-term council community plan must, in relation to each group of activities of the local authority,—

- (a) identify the activities within the group of activities:
- (b) identify the rationale for delivery of the group of activities (including the community outcomes to which the group of activities primarily contributes):
- (c) outline any significant negative effects that any activity within the group of activities may have on the social, economic, environmental, or cultural well-being of the local community:
- (d) identify the assets or groups of assets required by the group of activities and identify, in relation to those assets or groups of assets,—
  - (i) how the local authority will assess and manage the asset management implications of changes to—
    - (A) demand for, or consumption of, relevant services; and
    - (B) service provision levels and standards:
  - (ii) what additional asset capacity is estimated to be required in respect of changes to each of the matters described in subparagraph (i):
  - (iii) how the provision of additional asset capacity will be undertaken:
  - (iv) the estimated costs of the provision of additional asset capacity identified under subparagraph (ii), and the division of those costs between each of the matters in respect of which additional capacity is required:
  - (v) how the costs of the provision of additional asset capacity will be met:
  - (vi) how the maintenance, renewal, and replacement of assets will be undertaken:
  - (vii) how the costs of the maintenance, renewal, and replacement of assets will be met:
- (e) include the information specified in subclause (2)—
  - (i) in detail in relation to each of the first 3 financial years covered by the plan; and
  - (ii) in outline in relation to each of the subsequent financial years covered by the plan.

(2) The information referred to in subclause (1)(e) is—

- (a) a statement of the intended levels of service provision for the group of activities, including the performance targets and other measures by which actual levels of service provision may meaningfully be assessed:
- (b) the estimated expenses of achieving and maintaining the identified levels of service provision, including the estimated expenses associated with maintaining the service capacity and integrity of assets:
- (c) a statement of how the expenses are to be met:
- (d) a statement of the estimated revenue levels, the other sources of funds, and the rationale for their selection in terms of section 101(3).



## Appendix 2: Ethics



**Massey University**

22 November 2007

Angela Bell  
45 Korari Screscent  
MANGAKINO

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Dear Angela

**Re: Local Authority Decision-Making on Coastal Development**

Thank you for your Low Risk Notification which was received on 20 November 2007.

Your project has been recorded on the Low Risk Database which is reported in the Annual Report of the Massey University Human Ethics Committees.

Please notify me if situations subsequently occur which cause you to reconsider your initial ethical analysis that it is safe to proceed without approval by one of the University's Human Ethics Committees.

**A reminder to include the following statement on all public documents:**

*"This project has been evaluated by peer review and judged to be low risk. Consequently, it has not been reviewed by one of the University's Human Ethics Committees. The researcher(s) named above are responsible for the ethical conduct of this research.*

*If you have any concerns about the conduct of this research that you wish to raise with someone other than the researcher(s), please contact Professor Sylvia Rumball, Assistant to the Vice-Chancellor (Ethics & Equity), telephone 06 350 5249, e-mail humanethics@massey.ac.nz".*

Please note that if a sponsoring organisation, funding authority or a journal in which you wish to publish requires evidence of committee approval (with an approval number), you will have to provide a full application to one of the University's Human Ethics Committees. You should also note that such an approval can only be provided prior to the commencement of the research.

Yours sincerely

Sylvia V Rumball (Professor)  
**Chair, Human Ethics Chairs' Committee and  
Assistant to the Vice-Chancellor (Research Ethics)**

cc Dr Christine Cheyne  
School of People, Environment and  
Planning  
PN402

Dr Henry Barnard, HoS  
School of People, Environment and  
Planning  
PN402



# Coastal Development and Local Authority Decision-making

## INFORMATION SHEET

Integration of the sustainable management purpose of the Resource Management Act 1991 and the sustainable development purpose of the Local Government Act 2002 presents challenges for local authority planners and decision-makers. As part of a Masters thesis in Resource and Environmental Planning through Massey University, I am carrying out research into local authority decision-making to understand how these two mandates shape decisions on coastal development.

The research involves case studies on four coastal developments and incorporates (i) analysis of the consent planner's recommendation report on a subdivision and the council's final decision report; and (ii) interviews with council officers and decision-makers involved in the consent.

I would like to interview you as part of this research. If you agree to be interviewed:

- you will participate in an interview of no more than 1 hour,
- at a time and place that is convenient for you,
- the interview will be summarised and the summary returned to you for verification,
- you can decline to answer any particular question,
- you can withdraw from the research at any time,
- you will receive a summary of the findings.

I will be carrying out this research over the coming month. If you have any questions please don't hesitate to contact myself or my supervisor, Dr Christine Cheyne at Massey University.

**Researcher:**

Angela Bell

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Mangakino

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a\_bell@clear.net.nz

**Supervisor:**

Dr Christine Cheyne

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*"This project has been evaluated by peer review and judged to be low risk. Consequently, it has not been reviewed by one of the University's Human Ethics Committees. The researcher(s) named above are responsible for ethical conduct of this research.*

*If you have any concerns about the conduct of this research that you wish to raise with someone other than the researcher(s), please contact Professor Sylvia Rumball, Assistant to the Vice – Chancellor (Ethics & Equity), telephone 06 350 5249, e-mail humanethics@massey.ac.nz."*

# Council coastal development decision making

## Participant Consent Form

This form will be held for 5 years

I have read the information sheet and have had the details of the study explained to me.

My questions have been answered to my satisfaction, and I understand that I may ask further questions at any time.

I understand that the interview will be audio-taped but that information that identifies individuals will not be used.

I am happy to participate in this study under the conditions set out in the Information Sheet.

<p><b>Signature:</b>.....</p> <p><b>Full Name:</b>.....</p> <p><b>Address:</b>..... ..... .....</p> <p><b>Phone Number(s):</b>.....</p> <p><b>Email:</b>.....</p> <p><b>Date:</b>.....</p>
--

*"This project has been evaluated by peer review and judged to be low risk. Consequently, it has not been reviewed by one of the University's Human Ethics Committees. The researcher(s) named above are responsible for ethical conduct of this research.*

*If you have any concerns about the conduct of this research that you wish to raise with someone other than the researcher(s), please contact Professor Sylvia Rumball, Assistant to the Vice –Chancellor (Ethics & Equity), telephone 06 350 5249, e-mail [humanethics@massey.ac.nz](mailto:humanethics@massey.ac.nz)."*



## Appendix 3: Case Study Tables

The following tables are referred to in Chapters 4 and 5, the case study analyses. The columns headed Officer Objective/Policy were objectives and policies referred to in the Officer's Report for that particular case study. The columns headed Objective and Policy are criteria considered relevant to the case study as explained in Chapter 2 (Methodology).

**Table 4.1:** Case Study 1-Waitarere. Criteria from the Horowhenua District Council District Plan (District Plan)

Section	Objective	Officer Objective	Policy	Officer Policy
1: Matters of Importance to Tangata Whenua	1 2 3 4	1 2 3	1.2 2.2, 2.3, 2.4, 2.5 3.1 4.1	1.2 2.3,2.4 3.1
2: Rural Environment	2 2	3	2.1, 2.2 3.1, 3.2, 3.3, 3.4, 3.5, 3.10, 3.12	3.3, 3.4, 3.5, 3.12
3: Natural Features and values	4.1 4.2 4.3 4.5	4.1 4.3	4.2, 4.3, 4.4, 4.5 4.7 4.12, 4.13, 4.14	4.2, 4.3, 4.4 4.12, 4.13, 4.14
4: Open Space & Access to Waterways	5		5.1, 5.2	
5: Coastal Environment	6 7	6	6.1, 6.3, 6.7, 6.4, 6.5, 6.9	6.3, 6.7
6: Urban Environment	8 9		8.3, 8.4, 8.5, 8.7 9.2,9.3, 9.5 U.5, U.6	
8: Natural Hazards	12 13		12.1,12.2,12.3 13.1	
9: Hazardous Substances	16		16.1	
10: Land Transport	17 18 19	17 19	18.1, 18.2 17.1, 17.2, 17.3, 17.4, 17.7, 17.9, 17.11 19.1, 19.2	17.1, 17.2, 17.3, 17.4, 17.7, 17.9, 17.11
11: water and the Surface of Water	20	20	20.1, 20.2	20.1, 20.2



**Table 4.2:** Case 1-Waitarere. Criteria from RMA documents, other than the District Plan.

Chapter/Section	Objective	Officer Objective	Policy	Officer Policy
<i>Regional Policy Statement</i>				
21: Land	5 6 7	5	5.1, 5.2 6.1	5.1, 5.2
22: Natural and Cultural Features	9			
23: Water	11 11A 13	11 11A	11.8 11A.1, 11A.2 13.1	11.8 11A.1, 11A.2
24: Lakes, Rivers and Wetlands	15 18	15	15.1,15.2 18.1	15.1,15.2
25: Air	19 19A		19.1,19.2	
26: The Coastal Environment	21 22	21 22	21.1, 22.2	21.1, 22.2
27: Natural Hazards	24		24.3	
28: Waste and Hazardous Substances	25		25.1, 25.2	
29: Energy	28		28.2, 28.3 methods 28.5,28.6	
30: Land Transport and Public Utility Networks	30		30.1, 30.2	
<i>New Zealand Coastal Policy Statement</i>				
1: National Priorities for the Preservation of the Natural Character of the Coastal Environment including Protection from Inappropriate Subdivision, Use and Development			1.1.1 1.1.2, 1.1.3, 1.1.4, 1.1.5	Parts of 1.1.1 1.1.5
3: Activities Involving the Subdivision, Use or Development of Areas of the Coastal Environment			3.2.2, 3.2.4, 3.2.5, 3.4.3, 3.4.5	3.2.2, 3.2.5
<i>Resource Management Act 2001(RMA)</i>				
			S.5, 6, 7, 8, 88, 104, 106, Schedule 4	S.5, 106



**Table 5.1:** Case Study 2-Tatapouri. Criteria from the Gisborne District Council Part Operative Combined Regional Land and District Plan (District Plan).

<b>Chapter</b>	<b>Objective</b>	<b>Officers Objective</b>	<b>Policy</b>	<b>Officer Policy</b>
1A: Tangata Whenua	1A3.1, 2		1A.4.2,3,4	
3: Cultural Heritage	3.3 3.5.2,3,4 3.7.5,6		3.4, 3.6.5 3.8.11,12	
4: Natural Heritage	4.3.1,2, 3		4.4.2, 3, 4, 6	4.4.6
5: Natural Hazards	5.3	5.3	5.4.1, 2, 3, 4, 5,6, 8 5.7.12 5.12.14 5.15.22	5.4.2, 4, 8
6: Soil Conservation	6.3.1		6.4.2	
8: Utilities	8.3.1		8.4.2, 3, 4, 6	
12: Subdivision	12.3.1, 2	12.3.1	12.4.1,2,3,6	12.4.1,3,6
13: Esplanade Reserves/Strips – Conservation Protection and Public Access	13.1,2,3	13.1,2,3	13.4.1,2,3,4,6	13.4.1,2,3,4
14: Financial Contributions, Works and Services	14.4.1 14.6		14.5.2, 3, 4, 5	
17: Residential Zone	17.3.1 17.5.2 17.9 17.13		17.4.1 17.6.2,3,4,5,6,8 17.10.12,13,14 17.14.15,16	
21: Rural Zone	21.3.1, 2	21.3.1, 2		21.4.1,2



