

## 12. PLAN CHANGE 2 TO THE REGIONAL COASTAL ENVIRONMENT PLAN



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### PURPOSE OF REPORT

1. The purpose of this report is to seek adoption by the Council of the attached submission on Plan Change 2 to the Regional Coastal Environment Plan (RCEP).

### EXECUTIVE SUMMARY

2. Environment Canterbury notified Plan Change 2 to the RCEP on Saturday 23 June 2007. This Plan Change:
  - Makes the occupation of the coastal marine area by any Lawfully Established Structure (including swing moorings outside the swing mooring areas) a permitted activity subject to certain conditions;
  - Provides for owners of boatsheds in boatshed areas to have the explicit right to exclude other persons from the boatshed interior;
  - Defines Lawfully Established Structures and redefines Authorised Structures (i.e. as Lawfully Established Structures which also have occupancy rights).

The submission period closes at 5 pm on Friday 17 August 2007.

3. The main impact of the Plan Change for CCC is to provide a definition for Lawfully Established Structures (to include structures erected prior to the RCEP) and to make the occupation of the Coastal Marine Area (CMA) by such structures a permitted activity. It is estimated that there are 300 structures affected, which would otherwise require consents. Approximately 75 of these are owned or managed by CCC. Should resource consents be required for all these structures, the preparation of applications and processing of consents would be costly and time-consuming, with few, if any, environmental benefits. Many of these structures have been in place for a long time and the effects, if any, have been established for many years.
4. The attached submission reflects officers' concerns that providing proof or evidence that an existing structure was lawfully established can be problematic and in some cases is simply not possible. The main difficulty is that many structures at issue are very old. For many of these structures the record documenting the authorisations that enabled their construction is very poor. The Regional Council is now the local authority responsible for controlling activities in the coastal marine area that was previously controlled by other authorities, including harbour boards, under statutes such as the Harbours Act 1950. The Regional Council's records are not as complete as they could be. For this reason, the proposed amendment to rule 8.23 would place the burden on the Council as the owner of structures to prove a structure was lawfully established. This may be a very involved exercise, or simply not possible, if Regional Council records and other records are not complete.
5. For this reason, the submission suggests an amendment to the rule to make it less arduous on the City Council and other owners of structures to prove that a structure was lawfully established.
6. The coastal boundary can move as a result of accretion (gradual building up of the coastline) and erosion, both of which can occur naturally. Sea level rise will also affect coastal processes and result in further changes to the coastline. It is therefore reasonable to expect that over time some structures, which when initially built were outside the Coastal Marine Area, may as a result of erosion be judged to be within it at some later date. The present definition of Lawfully Established Structure does not take this scenario into account.

7. The submission seeks to extend the definition of Lawfully Established Structures to include:

*"(e) a structure that at the time it was built either did not require, or had obtained appropriate permission, licence, permit, authority or resource consent because it was outside the Coastal Marine Area as defined by the current legislation operative at that time."*

#### **FINANCIAL IMPLICATIONS**

8. While there is no guarantee that the submissions will be accepted, if successful the amendments sought would significantly reduce compliance costs associated with proving permitted activity status for existing structures within the CMA.

#### **Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?**

9. The cost of preparing and presenting submissions is covered by existing unit budgets.

#### **LEGAL CONSIDERATIONS**

10. The RMA (First Schedule, Part 1 (6)) allows Council to make submissions on changes to a Regional Plan.

#### **Have you considered the legal implications of the issue under consideration?**

11. A legal review of the submission has been carried out.

#### **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

12. Page 123 of the LTCCP (Parks, open space and waterways) includes management of coastal parks. In addition there are a number of structures associated with transport routes and wastewater disposal, covered by other sections of the LTCCP.

#### **Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?**

13. As above.

#### **ALIGNMENT WITH STRATEGIES**

14. Not applicable.

#### **Do the recommendations align with the Council's strategies?**

15. As above.

#### **CONSULTATION FULFILMENT**

16. Not applicable.

#### **STAFF RECOMMENDATION**

It is recommended that the Council adopt the attached submission on Plan Change 2 to the Regional Coastal Environment Plan.