

41. COUNCIL SUBMISSION ON THE PROPOSED CANTERBURY REGIONAL POLICY STATEMENT

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PURPOSE OF REPORT

1. The purpose of this report is to recommend that Council lodge a submission (**Attachment 1**) on Environment Canterbury's (ECan) Proposed Canterbury Regional Policy Statement (RPS). This is a statutory process under the Resource Management Act 1991 (RMA).
2. Council can adopt the submission in whole or in part, or can decide not to lodge a submission.

EXECUTIVE SUMMARY

3. The RPS provides an overview of the resource management issues for the Canterbury region and sets policies and methods to achieve integrated management of the natural and physical resources.
4. ECan started a review of the RPS in 2006 culminating with the notification of the RPS on 18 June 2011. The Council has been actively involved in the review since 2006 through regular reports to the Regulatory and Planning Committee and will continue to participate through the further submissions and hearing processes.
5. Overall, council staff are satisfied with the progress made by ECan to date on the development and review of the RPS and the fair recognition given to a wide variety of matters raised by the Council.
6. The key policy matters addressed in the submission (**Attachment 1**) are:
 - Chapter 5: Land-use and infrastructure - definitions and terminology, and landuse and transport integration.
 - Chapter 7: Freshwater - definitions and terminology, community water supplies, and stormwater management.
 - Chapter 8: The coastal environment - definitions and terminology, recognition of unique indigenous plants, jurisdictional boundary matters, sea-level rise and tsunami, non-statutory coastal strategies, development in the coastal environment, and general preservation, protection and enhancement of the coastal environment.
 - Chapter 9: Ecosystems and indigenous biodiversity - definitions and terminology, indigenous vegetation, and ecological enhancement and restoration.
 - Chapter 10: Beds of rivers and their riparian zones - definitions and terminology, biodiversity, local authority responsibilities, and river maintenance.
 - Chapter 11: Natural hazards - definitions and terminology, hazard management responsibilities, mitigation options, hazard zonation generally, and risk management approach.
 - Chapter 13: Historic heritage - definitions and terminology, and categories of significance.
 - Chapter 14: Air quality - research into low emission fuel burning devices and vehicles.
 - Chapter 15: Soils - preservation of 'natural soils', and 're-instating' production soils.
 - Chapter 17: Contaminated land - exchange of information and resourcing, and national standards.
 - Chapter 18: Hazardous substances - consistent and accepted approach.
 - Chapter 19: Waste minimisation and management - hazardous waste management and minimisation.
 - Glossary and definitions - suggested changes and additions.
7. This report recommends that Council endorse the submission on the proposed RPS.

FINANCIAL IMPLICATIONS

8. The RPS could result in additional resources being required to amend planning documents in order to give effect to the provisions it contains. Giving effect to the RPS will be achieved through a variety of mechanisms including the Christchurch City Plan review and the Long Term Plan. The extent and timing of any resources required is unclear at this stage and will need to be considered in subsequent LTP or Annual Plan processes.
9. The cost of preparing and participating in the RPS review is covered by existing budgets. Further submissions on the RPS and preparation of evidence and attendance at hearings will also be covered by proposed budgets.

LEGAL CONSIDERATIONS

10. The RMA requires regional councils to prepare Regional Policy Statements and review them every 10 years (sections 60 and 79(1) of the RMA). The process includes: notification of the proposed RPS; time for submissions; a notified summary of submissions and an opportunity to lodge further submissions in support or opposition to other submissions; followed by a hearing.
11. Any submission must be "on" the proposed RPS (clause 6 of the First Schedule of the RMA) – that is, it cannot seek changes that are beyond the scope of the proposed RPS. The hearing will be "into" the submissions, and the decision will be "on" the matters raised in submissions (cl. 8(b) and 10). That means that the Council cannot at the hearing raise new matters that were not included in its submissions.
12. The Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 (section 66) provides that no submitter can appeal to the Environment Court on the merits of a decision on the proposed RPS. Appeals are solely to the High Court on points of law. The proposed RPS will be operative when any appeals to the High Court on a point of law have been resolved.

PURPOSE AND EFFECT OF A REGIONAL POLICY STATEMENT

13. The purpose of a Regional Policy Statement is "*to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region*" (section 59 RMA). The contents of the Regional Policy Statement are prescribed by the RMA. The main points are that the RPS must state issues that are significant for the region, the objectives for addressing those issues, the policies for those issues and objectives, methods (excluding rules) for achieving them, the principal reasons for that framework, and the anticipated environmental results (section 62 RMA).
14. The RMA requires a hierarchical order of policy statements and plans. When the RPS becomes operative, the Natural Resources Regional Plan (NRRP), City Plan and Proposed Banks Peninsula District Plan are required to "give effect to" the RPS (sections 67(3)(c) and 75(3)(c) of the RMA).
15. The Proposed Banks Peninsula District Plan and the City Plan must be changed if they do not "give effect to" the operative RPS, either as soon as reasonably practicable if there is no timeframe set, or within the time specified in the RPS (section 73(4) and (5)). The same requirement applies to the NRRP.
16. Overall, the requirement to "give effect to" a regional policy statement requires district plans to implement their provisions in relatively strict adherence, particularly where the regional policy statement contains mandatory and directive provisions. Where a regional policy statement contains a measure of flexibility, there will as a natural consequence, be a similar measure of flexibility for territorial authorities in giving effect to the RPS through their district plans. The flexibility of methods and approaches in the RPS for territorial local authorities to achieve particular outcomes, includes a variety of methods including identifying opportunities to "advocate and promote", "recognise and provide for" and "undertake or fund projects".

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ALIGNMENT WITH STRATEGIES

17. The proposed Council submissions support the Council's Biodiversity Strategy 2008-2035 (2008), Water Supply Strategy 2009-2039 (2009), Surface Water Strategy 2009-2035 (2009), Climate Smart Strategy 2010-2025 (2010), and the Public Open Space Strategy 2010-2040 (2010). The submission is also consistent with the objectives of the UDS.

CONSULTATION FULFILMENT

18. Extensive internal consultation, with technical experts, has been carried out throughout the review and submission preparation process. A presentation on the RPS was made to council staff and community boards on 27 May 2011 and 10 June 2011 respectively. The purpose of the presentations was to provide a background to the review process, to highlight the key changes to the RPS as a result of the public consultation phase and to outline the formal submission process.
19. Earlier drafts of individual chapters, prepared between 2006 and mid-2008 were presented to Council's Regulatory and Planning Committee for their comment during the document's development with formal feedback approved by Council.

STAFF RECOMMENDATION

It is recommended that:

The Council endorse the submission on the Proposed Canterbury Regional Policy Statement as set out in **Attachment 1** to this report.

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BACKGROUND

21. The RPS provides an overview of the resource management issues for the Canterbury region and sets policies and methods to achieve integrated management of the natural and physical resources. The RPS is prepared under section 60 of the RMA. The policies it contains affect the way the Council manages its District Plan, as Council is required to give effect to the RPS (section 75 of the RMA). The RPS also impacts on Council's operational matters, and sets the policy direction for the NRRP.
22. The current RPS became operative in 1998 and is required to be reviewed within ten years of becoming operative. ECan started a review of this document in 2006. The proposed RPS consists of 19 chapters, which discuss a wide range of regional issues, including water, land-use and infrastructure, natural hazards, landscapes, heritage, energy, soils and hazardous substances.
23. The Council has been actively involved in the review process since 2006. It will continue to be involved through formal submission processes and will prepare evidence and attend hearings as required. Due to legislative requirements under the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010, any appeals on the final decision can only be made on points of law to the High Court. In essence, the Council will not be able to appeal the decision on its merits, which is the principal basis of most appeals to the Environment Court. Appeals can only be made where the decision has erred in law.
24. Since 2006, ECan consulted with Canterbury's territorial authority staff on the review process, issues and options papers, and draft chapters. Discussions have also taken place through workshops and meetings with staff and at councillor level through Council meetings, committee meetings and seminars.
25. Between October 2008 and April 2010, council staff presented five reports to the Council detailing progress with the review and development of various RPS chapters. The reports presented on the following dates were:
 - 30 October 2008 - waste minimisation and management, contaminated land, and hazardous substances
 - 27 November 2008 - energy, historic heritage, and air
 - 23 July 2009 - soils, and beds of rivers and lakes and their riparian zones
 - 26 November 2009 - landscape, ecosystems and indigenous biodiversity, and coastal environment
 - 16 April 2010 - water.

These reports gave the Council an overview of the issues, as identified by council staff, arising in the various draft chapters being reviewed by ECan at that time. Overall, councillors have been supportive of the report recommendations and approved them for submission to ECan.

26. During August and September 2010, council staff took part in a workshop review of the RPS with ECan and other Canterbury territorial authority staff. This was undertaken over a seven week period (16 days) and involved an intensive 'chapter by chapter' review, resulting in a greatly improved document, both in terms of technical content and readability. The workshop was chaired by an independent facilitator who provided valuable objective advice and direction.
27. Following the August - September 2010 review workshop, comprehensive discussions were had with ECan, regarding landscape, historic heritage, transport, and natural hazard matters, areas in which the Council has significant experience and expertise. These discussions were successful in ensuring ECan had a significantly improved understanding of these matters, and the implication of the CRPS policies on Council roles, responsibilities and functions. In December 2010, the Council, as part of ECan's public consultation phase, provided detailed review comments on the draft document.
28. The proposed RPS was publicly notified on 18 June 2011.

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29. The submissions of council staff, incorporating feedback from three community boards (Akaroa/Wairewa, Lyttelton/Mt Herbert, and Shirley/Papanui), in **Attachment 1**, are consistent with and support previous review comments provided. The submissions are also consistent with decisions of the Council (October 2008 to April 2010) based on recommendations of the Regulation and Planning Committee, concerning chapters from previous draft versions.
30. Many of the comments and suggestions made by the Council during the review process have been adopted by ECan. Despite the RPS being a lengthy document (230 pages), council staff believe that it has been thoroughly prepared, is comprehensive, and provides the Council and other Canterbury territorial local authorities with clear and practicable policy direction on regional resource management matters.
31. The current review of the PCRPS is a separate process to the preparation of Proposed Change No. 1 (PC1), which will eventually form Chapter 6 - *Development of Greater Christchurch*, of the RPS. PC1 addresses land use and urban growth management in Greater Christchurch for the next 35 years and provides statutory backing for the Greater Christchurch Urban Development Strategy. This document was notified in 2007 and decisions were released in 2009. Appeals are underway in the Environment Court.
32. In parallel to the review of the RPS, ECan developed and completed in July 2010, the Canterbury Water Management Strategy (CWMS). The CWMS has been developed to foster a collaborative approach to managing water within the Canterbury region. The CWMS is not prepared under the RMA and it cannot override the provisions of the RMA or statutory policy statements and plans prepared under the Act. However, many of the fundamental concepts of the CWMS outcomes are integral to promoting the sustainable management of water under the Act and as such have been incorporated into the objectives and policies of Chapter 7 - Fresh Water of the PCRPS.
33. ECan has recently prepared the NRRP, which is now operative. Since the NRRP must give effect to the RPS, it will need to be reviewed in the near future to ensure it complies. It is expected that the Council will participate in the review process.
34. **Attachment 1** to this report provides submissions on 12 of the 19 chapters. Some of the Council's comments are very specific, while others are more general in nature. It is expected that ECan will request the council staff to further discuss, and if possible resolve, some of the Council's submission and those of other submitters, prior to any hearings.
35. The key matters addressed in the submissions (**Attachment 1**) are:
 - Chapter 5: *Land-use and infrastructure*. For easier comprehension, the submission asks for clearer definitions and terminology across several key issues, objectives and policies. The submission supports the overall intent of the chapter and in particular reference to the need to ensure development is appropriately served for the collection of stormwater to reduce the potential for localised flooding. The need for a new method that requires development proposals to be subject to an integrated transport assessment is also included in the submission.
 - Chapter 7: *Freshwater*. For easier comprehension, the submission asks for clearer definitions and terminology in several key issues and policies. In addition to identifying the need to broaden discussion on the potential effects of landuse intensification, the submission asks that there is an increased emphasis on the importance of community water supplies consistent with Canterbury Water Management Strategy objectives. Ensuring high quality and reliable community water supply remains a critical matter for the Council.

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- Chapter 8: *The coastal environment*. For easier comprehension, the submission asks for clearer definitions and terminology across introductory explanations and several of the issues. A key submission point relates to the need for more explanation and cross-referencing to objectives and policies on sea level rise and tsunami inundation. This would provide a broader picture of coastal hazards. Various policies provide for the development of non-statutory coastal strategies. The submission supports these policies but asks for clarification on who should lead the implementation of the strategies. The implementation of the strategies has potential resourcing implications for the Council.
- Chapter 9: *Ecosystems and indigenous biodiversity*. For easier comprehension, the submission asks for clearer definitions and terminology in the introduction and in the policy on life-supporting capacity/mauri of ecosystems. The submission considers that public health matters need to be part of this policy. The dynamic nature of wetlands and their transience is not adequately recognised in the RPS. To achieve appropriate recognition, the submission requests an amendment to a policy on wetland protection and enhancement.
- Chapter 10: *Beds of rivers and their riparian zones*. For easier comprehension, the submission asks for clearer definitions and terminology in the introduction, and several issues and policies. The submission seeks that a policy on removal of vegetation and bed material from river beds is retained. These river maintenance activities are critical for the Council as a method for retaining the flood carrying capacity of water courses. The Council submission also recognises the need for a more conservative approach to vegetation removal in some parts of some watercourses.
- Chapter 11: *Natural hazards*. For easier comprehension, the submission asks for clearer definitions and terminology across three key issues and several policies. Responsibility for the control of land use to avoid or mitigate natural hazard is highlighted in the submission given the recent earthquakes and the current joint Council, Government and Canterbury Earthquake Recovery Authority responsibilities. The submission recognises this broader responsibility by requesting an additional clause. The Council submission also requests the addition of reference to Government best practice guidelines, the clear delineation of 'high hazard' areas, and the need to clearly explain existing use rights and how these rights may need to be extinguished to reduce future potential losses. The submission also requests that a risk management approach to hazard reduction forms part of the methods for local authorities. Risk management is a widely accepted and adopted approach to mitigating the potential adverse effects from natural hazards and other events. Overall the submission supports the intent of the policies and objectives.
- Chapter 13: *Historic heritage*. The Council submission supports the overall intent of the chapter but requests clearer definition and use of several key terms and phrases such as 'historic heritage', 'cultural heritage', 'historic cultural and landscape heritage', and 'heritage values'.
- Chapter 14: *Air quality*. The submission specifically supports the methods proposed in the RPS that reduce the adverse effect on ambient air quality from the use of solid and liquid based fuels. In particular the submission encourages research into the further development of low-emission fuel burning devices and vehicles.
- Chapter 15: *Soils*. The submission highlights the importance of the need to preserve 'natural soils' in undisturbed sites. These soils support some special types of vegetation and also provide the best opportunities for restoring natural vegetation. Clarification is sought in the submission on how subdivision and development can be carried out without foreclosing the ability to use productive soils.

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- Chapter 17: *Contaminated land*. The submission raises a notable omission in this chapter - reference to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health. This Standard is considered as a critical reference for the Council to carry out its relevant functions, roles and responsibilities. Overall, the submission supports the intent of the chapter and specifically requests that current provisions on identifying potentially contaminated land and collaborative access to and use of information between local authorities, is retained.
- Chapter 18: *Hazardous substances*. The submission states that the Council currently addresses issues on hazardous substances in the manner described in the RPS and supports the intent of the chapter. For these reasons the submission asks that the current provisions of the chapter are retained.
- Chapter 19: *Waste minimisation and management*. The Council's submission seeks rewording and/or a change to a policy to emphasise hazardous waste management and minimisation. This is the intent of the chapter and is supported by the Council's submission.
- *Glossary and definitions*. The requirement for the definition or clearer definition of various technical and non-technical words, terms and phrases is identified in the Council's submission. The use of specific and carefully defined words, terms and phrases is considered critical for 'readability', general comprehension, and uniform and consistent understanding and interpretation.