

Section 7:

SPECIFIC AND DISTRICT WIDE MATTERS

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7.1 OVERVIEW OF WATER SUPPLY CATCHMENTS, FLOOD MANAGEMENT & RIVER CONTROL AND COASTAL INUNDATION CONTROL

7.1.1 BACKGROUND

- (1) As described in Section 3 : “Significant Resource Management Issues & Role of the District Plan”, the management of water within and through the Hauraki District is a critical matter to be addressed in the District Plan, particularly having regard to the effects of climate change. The provisions to address this matter are located throughout this District Plan and the purpose of Section 7.1.1 is to set out a summary of each provision and the linkages between them. It needs to be noted that each of the provisions may be applicable to more than one of the aspects of water management.

WATER SUPPLY CATCHMENTS

- (2) An adequate and quality water supply is one of the **fundamental** (185.43) resource requirements for the social, economic and cultural wellbeing and health and safety of the people and communities of the District. In addition, it is recognised that water has a specific cultural and spiritual importance for tangata whenua.
- (3) A major part of the Hauraki District is a water catchment, as the water supplies for some of the urban areas come from water sources that have large parts of the District as their water catchment (eg Waihou, Waitakaruru and Waitawheta Rivers). With respect to the Waihou, Waitakaruru and Waitawheta Rivers those water catchments also extend outside the District boundaries.
- (4) The quality of the separate water supplies is directly related to the contaminants that are introduced into the catchment and the inherent characteristics/ability of the catchment to purify the water. There are parts of the District that contain vegetation and mineralised rocks which give unique qualities to the water filtering through them. This water has been bottled in the past (eg to make Lemon & Paeroa).
- (5) The control and management of water quality is not specifically a responsibility of the District Council, however there are a number of matters under the District Council’s control and management of land use activities that can influence the effect that activities have on water quality. The specific responsibility with water quality and quantity rests with Environment Waikato.
- (6) The following provisions assist in the maintenance and enhancement of water quality in general and water supply catchments in particular:
- Conservation (Indigenous Forest) Zone (Section 5.2);
 - Karangahake Gorge Zone (Section 5.5);
 - Indigenous Biodiversity and Significant Natural Areas (Section 6.2);
 - Landscape Protection Areas (Rural Zone – Rule 5.1.4.3 RD3); and
 - Earthworks rules (refer to Section 7.8).

FLOOD MANAGEMENT & RIVER CONTROL

- (7) The Ohinemuri, Waihou, Piako and Waitakaruru river systems & Maukoro Canal traverse the Hauraki District and historically had a complex interrelationship between them. The river systems have largely been separated by the construction of the river control scheme stopbanks, including the foreshore system. The Ohinemuri River feeds into the Waihou River downstream of Paeroa and in combination with flood water from the catchment east of Paeroa can generate flooding risks to Paeroa town and the downstream surrounding rural area. Further upstream in the District, the Waihou and Piako river systems are separated by the Kopuatai Peat Dome and it is the presence of this dome that assists in the management of floodwaters from the Piako River.
- (8) On the lower lying areas of the Hauraki Plains, an integrated system of stopbanks, drains, floodgates and pumps are designed and managed by the Waikato Regional Council and the Hauraki District Council. This is for the purpose of controlling the flow of water from the Ohinemuri, Waihou, Piako and Waitakaruru Rivers through to the Firth of Thames in a manner that minimises flooding, but does not accelerate the process of peat oxidation. The latter is to avoid the acceleration of the lowering of ground levels. The control of flooding assists in enabling farming to be carried out and protects residents living in the District. In particular, the setting of minimum floor levels and setbacks from river control structures protects residential buildings from the adverse effects of flooding in those areas where flooding is part of the flood management system, especially in the Piako Flood Ponding area.
- (9) The following provisions assist both the Waikato Regional and Hauraki District Councils in carrying out flood management and river control activities:
- Paeroa Flood Ponding Zone (Section 5.13);
 - Land “Subject to Inundation” (Rural Zone Rule 5.1.4.3 RD2, Residential Zone Rule 5.7.4.3 RD2 & Industrial Zone Rule 5.12.4.3 RD2);
 - Conservation (Wetland) Zone (Section 5.3);
 - Reserve (Passive) Zone (Section 5.16);
 - Piako Flood Ponding Area (Rural Zone Rules 5.1.4.3(RD4) & 5.1.4.3(NC1));
 - Riparian Margins & Esplanades (Section 7.3);
 - Designations for River Control and Drainage Works (Section 7.5);
 - Excavation and Placement of Fill (Rule 7.8)
 - Setback From Public Drains, Lakes, Rivers, Streams, Floodways, Spillways, and Flood Protection Works (Rule 8.2.1); and
 - Floor Levels (Rule 8.2.2).

COASTAL INUNDATION CONTROL

- (10) There are two distinct coastal environments bordering the District that require two different approaches to the management of coastal inundation.
- (11) Along the Eastern Coastline, the coastal settlement of Whiritoa is the area where the potential adverse effects of coastal inundation require consideration. Whiritoa was one of the first coastal settlements in New Zealand to implement a “Beach Care” project designed to protect and manage the coastal sand dunes in order that through their functioning, the landward urban area would be protected.
- (12) The following provisions assist in coastal protection along the Eastern Coastline:
- Coastal Zone (Section 5.4);
 - Reserve (Passive) Zone (Section 5.16); and
 - Erosion Protection Setback Lines (Whiritoa Beach) (Rule 8.2.3)
- (13) Along the Firth of Thames, coastal inundation is interrelated with and is effectively an extension to the flood management and river control works along the Waihou, Piako and Waitakaruru Rivers as they near the Firth. The foreshore stopbanks have the function of providing a barrier to the inundation of the low lying Plains. The foreshore stopbank design levels extend upstream from the river mouth until the river flood profile becomes the dominant factor in determining stopbank levels.
- (14) The following provisions assist in coastal protection along the Firth of Thames:
- Coastal Zone (Section 5.4); and
 - Designations for River Control and Drainage Works (Section 7.5).

7.2 MANAGEMENT OF WATER SUPPLY CATCHMENTS

7.2.1 BACKGROUND

Refer to Section 7.1.1 above.

7.2.2 RESOURCE MANAGEMENT ISSUES

- (1) Maintenance and protection of existing and future water supply sources from adverse effects of land use and other activities.
- (2) The need to actively manage water catchments (eg planting, fencing, removal of weeds), especially where the water catchment is in private ownership and is actively being used by the landowner, and the cost and resources necessary to carry out that management.
- (3) The ecology of some water catchments is particularly vulnerable to the effects of disturbance.
- (4) The needs of future generations for water are not known and accordingly a cautious approach needs to be taken to its management, use and long term protection.
- (5) Some of the water catchments cross territorial boundaries and the management of the catchments needs to be coordinated between Councils.

7.2.3 OBJECTIVES AND POLICIES

(1) OBJECTIVE 1

To sustainably manage the water supply catchments to maintain or enhance the quality and quantity of water supplies to communities in the District.

(a) Policies

- (i) To ensure that the effects of activities do not degrade the quality or adversely affect the quantity of water available to service the existing and foreseeable future water supply needs of the communities in the District.
- (ii) To ensure subdivision, use or development located within a community water supply catchment, takes into account the sensitive nature of the catchment and the role it plays in serving the community.

(b) Reasons for Objective 1

- (i) There is a health and safety risk to the resident population of those communities serviced with a potable water supply if the supply is inadequate and cannot meet the reasonable existing and future needs of those communities.

7.2.4 ENVIRONMENTAL RESULTS

- (1) Adequate water quality and water quantity maintained or improved to meet the foreseeable needs of the communities in the District.

7.2.5 ACTIVITIES

- (1) There are no activities or *rules* associated with this section of the Plan. Rather, *rules* and activity status of activities in other parts of the Plan give effect to the objective and policies relating to the protection of water catchments. Refer in particular to SECTION 6.2 INDIGENOUS BIODIVERSITY AND *SIGNIFICANT NATURAL AREAS*, as the identified water supply catchments are also largely within identified areas of ecological significance.

7.3 RIPARIAN MARGINS & ESPLANADES

7.3.1 BACKGROUND

- (1) Amongst other matters of national importance, Section 6 of the RMA requires recognition of and provision for:

["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;" (s6(a))

“the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers” (s6(d))]

- (2) Riparian margins are the interface between land and water bodies. Their importance not only relates to their own intrinsic ecological functions and values, but also relates to the ability of the margins to avoid, remedy or mitigate the adverse effects of land based activities on the water quality and the aquatic environment.
- (3) Hauraki District contains coastal, river, stream, wetland and lake riparian margins. In addition, the Plains area of the District (in particular) is bisected by a number of artificial canals and drains, as well as the river control works of the Waihou and Piako Rivers. For these canals, drains and river control works, the potential for the preservation of the natural character of the margins has to be considered in light of the important economic and safety function that they perform for land drainage and flood protection. The development, use and maintenance of these margins for flood control purposes cannot be considered "inappropriate" in all circumstances.
- (4) The Act provides for the setting aside of esplanade reserves, esplanade strips and access strips as measures that can be taken to implement the above matters of national importance.
- (5) As a result of previous subdivisions, a number of esplanade reserves have been set aside within the District. There are also in existence a number of marginal strips, particularly along the eastern coastline, where these strips and esplanade reserves are contained within the Coastal Zone.
- (6) Streams and rivers within the Department of Conservation estate, have been zoned either Conservation (Indigenous Forest) or Conservation (Wetland). **These zonings, and the fact that the land is in public ownership, offer protection of the water margins without the need to secure public rights through easements. (168.132)**
- (7) Council has adopted a targeted approach to securing the protection of riparian margins which is as follows:
- (a) Esplanade reserves will be taken at all opportunities along the eastern coastline.
- (b) In the Karangahake Gorge Zone and eastwards to the eastern side of Waihi Town, esplanade reserves will be taken at every opportunity along the banks of the Waitawheta, Waitekauri and Ohinemuri Rivers. In addition, areas along a number of other key streams and rivers have been identified for the taking of Esplanade Reserves.

(c) On the margins of rivers that have been subject to flood control works and are under the control and management of the Waikato Regional Council, no esplanade reserves will be required. In those situations where public access is identified as being desirable, Council will either:

(i) Create an esplanade strip; or (168.133)

(ii) Endeavour to ensure that the lease agreements between the occupier and the Waikato Regional Council contain provision for public access to be provided, as long as it does not unduly interfere with farm operations.

In either case, it may also be necessary to negotiate an access strip(s) from roads and other public places across the balance of the property to get to the esplanade strip or lease land.

(d) In those areas along the Firth of Thames where either public access and/or conservation values are identified in the future as being of importance, either esplanade reserves or strips will be taken or access strips obtained by negotiation.

(e) Access strips will be obtained by negotiation in those situations where existing esplanade reserves are not linked to an adjoining public place.

(f) As one of the ways in which to take into account the principles of Te Tiriti o Waitangi, Council will not seek to obtain esplanade reserves over Maori Land. Instead, Council will seek to secure esplanade strips or access strips or other "easement" instruments in the case of Maori Land. Council accepts that the alienation of Maori Land is to be avoided.

(g) Council will use the statutory provisions of the Resource Management Act 1991, to take esplanade reserves on subdivisions and developments, (168.134) where such a reserve has been identified as being desirable on the Planning Maps.

(h) Negotiation, compensation, purchase and voluntary arrangements for reserves or strips will be undertaken in those situations where access is desirable.

7.3.2 RESOURCE MANAGEMENT ISSUES

(1) Maintenance and protection of existing flora and fauna associated with riparian margins. (183.300)

(2) The use of riparian margins for the protection of aquatic environments from the adverse effects of land use activities (eg sedimentation, water enrichment, bacterial contamination) and providing public access, without causing the destruction of the intrinsic values of the riparian margins themselves.

(3) Some water bodies have been realigned, modified or were created for and continue to serve an economic and safety function, and those functions must continue to be maintained. Riparian margins along these water bodies do not have "natural character". (163.30)

(4) The need to actively manage riparian margins (eg planting, fencing, removal of weeds, removal of wind throws), especially where the riparian margin is in private ownership and is actively being used by the landowner, and the cost and resources necessary (for the land owner) to carry out that management.

- (5) In securing esplanade reserves and strips, and access strips a balance must be achieved between:
- (a) The legislative requirement that specified environments be preserved;
 - (b) Community desires to have access to and use of those environments; and
 - (c) The property "rights and responsibilities" of landowners to use their land.

The cost of securing public access and development of esplanade reserves and strips should be borne equitably between the developer and the community.

7.3.3 OBJECTIVES AND POLICIES

(1) OBJECTIVE 1

To sustainably manage the margins of water bodies and coastal water to maintain or enhance natural character, indigenous biodiversity, water quality, and aquatic and adjoining terrestrial habitats.

(2) OBJECTIVE 2

To maintain and enhance public access to the margins of water bodies in a manner that is compatible with the preservation of conservation values and does not unreasonably interfere with the landowner's ability to use and "enjoy" the land. (87.131)

(a) Policies

Objectives 1 & 2 will be achieved by the implementation of the following policies:

- (i) Liaison with the Waikato Regional Council, lessees and landowners in those situations where stopbanks have been constructed and public access is desirable. The purpose is to include in the lease agreements, arrangements for public access and enjoyment of the river and coastal margins for recreation activities.
- (ii) Use the legislative opportunities in the Resource Management Act 1991, to secure esplanade reserves and strips on subdivision and developments. (168.135)(87.133)
- (iii) Liaison with statutory organisations (eg Department of Conservation) and community groups with an interest in the resource (eg fishing clubs, conservation groups, canoe clubs), to determine the locations where access, reserves and strips are needed for recreation purposes.
- (iv) Not taking esplanade reserves where the land is Maori Land. Rather, Council will seek to obtain voluntary agreements with the tangata whenua of the land where esplanade strips and access strips are necessary.
- (v) Where subdivision or development occurs and there is no "as of right" legislative ability to acquire esplanade reserves or strips without compensation, Council will negotiate to either have the land vested or set aside on a voluntary basis, without compensation. In the event that a voluntary agreement cannot be reached, Council will negotiate to purchase the land or secure an esplanade strip (and compensate the owner). (87.134)

- (vi) Use of a range of regulatory provisions (eg rules in the District and Regional Plan) and incentives (eg support for Whiritoa Beachcare) to manage riparian margins

(b) Reasons for All Objectives and Policies

- (i) There are a variety of ways in which esplanade reserves and strips, and access strips can be used to achieve the matters of national importance specified in Part 2 of the Resource Management Act
- (ii) A "targeted" approach is required to ensure that public funds are spent where they are most required to achieve the national planning policies. Further, any limitation to the landowner's use and enjoyment of the land should be implemented only where there are clearly defined reasons.
- (iii) Community responsibility for environmental enhancement can be encouraged by ensuring the community has a "stake" or interest in securing that outcome. Savings in Council funds can also result from community involvement.

7.3.4 ENVIRONMENTAL RESULTS

- (1) Water quality, aquatic habitat, aquatic biodiversity and life supporting capacity of water bodies maintained or improved.
- (2) Indigenous biodiversity and terrestrial habitats of riparian margins maintained or improved.
- (3) Appropriate public access to environments that the community use for recreation purposes, and which contribute to the community's social, economic, and cultural wellbeing and health.

7.3.5 RULES

- (1) **At the time of *subdivision* and/or *development*, an esplanade reserve of 20 metres width shall be surveyed and vest with the Hauraki District Council in the location and to the extent shown on the Planning Maps, in accordance with the esplanade reserve provisions of the Resource Management Act 1991. This is to apply irrespective of the size of the *allotments* in the *subdivision* or whether the *subdivision* is part of a *road* stopping procedure. (168.137)(87.136)(117.2)**
- (2) Where an esplanade reserve could be required under the provisions of the Resource Management Act 1991 or the Local Government Act 1974, but is not required under Rule 7.3.5(1) above, then no esplanade reserve is required (ie Section 230 of the Resource Management Act 1991 does not apply).
- (3) Where there are legal impediments (eg land tenure, existing encumbrances) to the land vesting as esplanade reserve, or *Council* is not financially in a position to pay for any additional land, *Council* will accept or seek to secure an esplanade strip instead. The strip is to be 20 metres wide and the contents and method of registration of the registered instrument are to be to the satisfaction of *Council*.
- (4) Any esplanade reserve or strip that *Council* wishes to secure that is in excess of that required in Rule 7.3.5(1) above (width, location or extent), may only be obtained by negotiation and agreement between the parties concerned.

- (5) An application for a reduction in or a waiver of a requirement for an esplanade reserve or strip is a *discretionary activity*.

7.3.6 DISCRETIONARY ACTIVITY ASSESSMENT CRITERIA

- (1) An application for a reduction in or a waiver of a requirement for an esplanade reserve or strip shall be assessed in relation to the following criteria:
- (a) The extent to which the natural functioning of the water body, water quality, and land and water based habitats will be affected by any reduction in the width, size or non provision of the reserve or strip.
 - (b) The extent to which the public's access and recreational enjoyment of the reserve or strip is reduced or removed.
 - (c) The degree of protection of the natural values associated with the reserve or strip that will remain.
 - (d) Whether the potential *natural hazard* effects from use of the water margin will compromise conservation values.
 - (e) The degree to which the purpose of the reserve or strip can be or is already achieved by other mechanisms (eg covenants, *rules* in the District or Regional Plans, *conditions* of resource consents).
 - (f) Whether the removal of the land required for the reserve or strip will severely restrict the landowner in carrying out a viable activity on the balance area.
 - (g) Whether the presence of the public will significantly interfere with the legitimate land use activities on the balance area, in terms of safety, security, animal wellbeing, *amenity* (particularly residential) in a manner that cannot be compensated by other actions.