

Statutory Context

Resource Management Act 1991

The District Plan is part of a group of interrelated statutory documents that together seek to achieve integrated and sustainable management of natural and physical resources under the RMA. The Plan must give effect to, take into account, or not be inconsistent with these documents.

The District Council must have a district plan at all times (Section 73 of the RMA). The key provisions of the RMA are contained in Part 2 (sections 5, 6, 7 and 8) and sections 31, 72, 73, 74 and 75. Section 5 sets out the overriding purpose of the RMA, which is to promote the sustainable management of natural and physical resources. Section 6 identifies the matters of national importance, Section 7 lists other matters for consideration, and Section 8 requires all persons exercising functions and powers under the RMA to take into account the principles of the Treaty of Waitangi.

Sections 74 and 75 list matters which the District Council must consider in preparing a district plan, including what it must give effect to. The District Plan must give effect to or observe the relevant national policy statements and environmental standards. Under section 75(3) a district plan must also give effect to a national planning standard. This District Plan has been prepared in accordance with National Planning Standards, which were introduced by the Resource Legislation Amendment Act 2017 to make plans and policy statements more usable and easier to prepare. The following documents are of particular relevance:

Canterbury Regional Policy Statement	The District Plan must give effect to the relevant RPS. The RPS enables the Regional Council to provide broad direction and a framework for resource management within its region, which includes the District. An RPS must give effect to or observe relevant national policy statements and environmental standards.
Canterbury Regional Plans	Regional plans focus on particular issues or areas to assist the Regional Council to carry out its functions under the RMA. A regional council must prepare a regional coastal plan (applying below the MHWS) and other regional plans are optional (subject to any directions in a national policy statement). Regional plans must give effect to or observe relevant national policy statements and environmental standards and the regional policy statement. The District Plan must not be inconsistent with relevant regional plans, including the Canterbury Land and Water Regional Plan and the Canterbury Regional Coastal Plan.
The Mahaanui Iwi Management Plan	The Mahaanui Iwi Management Plan (2013) is a mana whenua planning document that provides a policy framework for achieving outcomes that provide for the relationship of Ngāi Tahu to natural resources, including the protection of wāhi tapu and wāhi taonga. The issues, objectives and

	<p>policies set out in the Plan enable mana whenua to express kaitiakitanga, in respect of all elements of the natural environment and a wide range of resource use and development. The policies also inform appropriate protection of taonga and the need for engagement to inform and be part of decision-making. The District Plan must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the District (section 74(2)(a) of the RMA).</p>
Conservation Management Strategy	<p>The Canterbury Conservation Management Strategy (2016) and conservation management plans are documents prepared under the Conservation Act 1987 and apply to natural and historic resources managed by the Department of Conservation. The District Plan must have regard to these plans, to the extent that their content has a bearing on resource management issues of the District (section 74(2)(b)(i) of the RMA).</p>
Reserve Management Plans	<p>Reserve management plans are in place for reserves within the District as provided for in the Reserves Act 1977. Under this Act, the Department of Conservation and the District Council prepare reserve management plans which manage use, maintenance and access of the public land. The District Plan must have regard to these plans, to the extent that their content has a bearing on resource management issues of the District (section 74(2)(b)(i) of the RMA).</p>
New Zealand Heritage List Rārangī Kōrero	<p>The New Zealand Heritage List Rārangī Kōrero is required by the Heritage New Zealand Pouhere Taonga Act 2014. It lists all buildings, places and sites that are of social or outstanding historical or cultural significance or value and is administered by the HNZPT. The District Plan must have regard to this list, to the extent that its content has a bearing on resource management issues of the District (section 74(2)(b)(iia) of the RMA).</p>

Other relevant strategies, plans and policies

The WDDS provides a high-level thirty year strategic and spatial development guide for the District. The WDDS sets out an urban development framework to identify areas for future growth and a vision to protect agricultural land and natural and culturally significant landscapes from inappropriate subdivision and development. The WDDS is important as it informs other strategic planning processes such as the District LTP and Infrastructure Strategy.

The Development Contributions Policy focuses on development contributions required under the

Local Government Act 2002. These contributions are paid by developers to fund new infrastructure, and can be important in relation to infrastructure required by the District Plan. [Financial contributions may be imposed for the purpose of promoting the sustainable management of natural and physical resources. In general terms, financial contributions are required to cover the proportioned cost of the provision of infrastructure and/or to offset adverse effects of development that cannot be otherwise avoided, remedied or mitigated.](#)

The ECOP sets out infrastructure standards designed to ensure that infrastructure will remain fit for purpose over its 'life'. The ECOP sets out guidelines that can assist with District Plan, bylaw, policy and resource consent compliance.

Structure Plans have been developed for Kaiapoi and Rangiora. These contain a framework for development and are incorporated in the District Plan in Part 3 – Development Areas, as an Outline Development Plan. These describe the key issues and expected outcomes for development and provide for co-ordinated development. They set out the vision for the layout of residential development and any commercial development, supporting infrastructure and open spaces in Rangiora and Kaiapoi.

Town Centre Plans are in place for Rangiora, Kaiapoi, Oxford and Woodend which address issues including growth, access and character. Individual implementation projects or actions are identified within these town centre plans. Projects or actions that are subject to the District Plan have been provided for in the relevant District Plan provisions.

The RRDS provides the locations and criteria for the future provision of land zoned for 'rural residential' purposes. The RRDS responds to the relevant provisions of the RPS and identifies locations for development to meet projected demand and to add to the choice of living opportunities within the District. The locations identified by the RRDS are implemented by the District Plan through the Large Lot Residential Zone provisions within various Residential Zones and Rural Zones.

Other relevant legislation and plans

The NTCSA enshrines in law the agreements of the Deed of Settlement between the Crown and Ngāi Tahu. It records the Crown's apology and acknowledges the injustices suffered by Ngāi Tahu. The NTCSA recognises Ngāi Tahu as holding rangatiratanga within the Ngāi Tahu takiwā and creates Statutory Acknowledgements as legal instruments to recognise the cultural, spiritual, historical and traditional associations of Ngāi Tahu to specified areas. The NTCSA requires the District Council to have regard to Statutory Acknowledgements within its district when considering who may be adversely affected by a resource consent. The District Council has established protocols to require engagement with Te Rūnanga o Ngāi Tahu in such circumstances.

Section 4 of the LGA states: *"In order to recognise and respect the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi and to maintain and improve opportunities for Māori to contribute to local government decision-making processes, Parts 2 and 6 provide principles and requirements for local authorities that are intended to facilitate participation by Māori in local authority decision-making processes."*

The LGA requires the District Council to consult with their local communities to identify public goods and services that need to be provided. The District Council is required every three years to prepare a LTP that covers the next 10 year period. It also describes what the District Council is planning on doing and why, how much it will cost, and how it will be funded. A LTP does not override a district plan, nor is there any requirement that a district plan comply with the requirement of a LTP. However, because the LTP records outcomes identified by the community and describes how the District Council will contribute to these, there is an expectation that other plans and strategies will

take these into account.

Every year the District Council is required to prepare an Annual Plan. The Annual Plan contains the proposed annual budget and provides opportunities for public participation in decision-making on costs and funding of Council activities. Like the LTP, an Annual Plan does not override the District Plan.

The 2010-2011 Canterbury earthquakes caused unprecedented damage. In Kaiapoi, the Pines Beach and Kairaki, about 100 hectares, over a fifth of the total residential area, was classified as 'residential red zone'. The CGRA supports the regeneration of greater Christchurch. The District Council was directed, under the CGRA, by the Minister supporting Greater Christchurch Regeneration to prepare the WRRZRP. The WRRZRP sets out the agreed long-term land uses for the five residential red zone areas in the District. These land uses include mixed use business, open space, rural, coastal park and infrastructure. The District Plan must not be inconsistent with the WRRZRP, and includes provisions to enable the identified land uses.

The Building Act 2004 sets the framework for regulating building work and performance standards for buildings, amongst other matters. Compliance with this Act will be required in many instances, in addition to any requirements of the District Plan.

Compliance, enforcement and monitoring

The RMA sets out that no person may use land in a manner that contravenes a rule in a District Plan, unless they have existing use rights or a resource consent granted by Council. This also applies to the subdivision of land unless expressly allowed by a rule in the District Plan, an NES or a resource consent. In terms of an existing use right (sections 10 and 10A), the RMA provides for the existing and continued use of land and the surface of water in a manner which contravenes a rule in the District Plan, subject to a number of matters. The Waimakariri District Council website provides further information on existing use rights and how to apply for an existing use right certificate.

Enforcement is provided for under Part 12 of the RMA. Provisions within Part 12 enable Council to require a person to cease or not commence an activity under certain circumstances, as specified in the RMA.

The Council is responsible for gathering information, monitoring and maintaining records on resource management matters. This includes gathering information on the state of the environment within the District, the efficiency and effectiveness of District Plan provisions, and the exercise of resource consents granted by Council that have effect in the District. This monitoring allows Council to consider changes to the District Plan and enable the community to be informed about how the provisions are performing.

Legal effect of rules

Under the RMA, all objectives and policies are relevant from the time a proposed district plan is publicly notified. A rule in a proposed plan generally has legal effect once a decision on submissions relating to the rule has been made by a council and publicly notified. There are however a number of circumstances where a rule may have legal effect otherwise:


1. A rule is treated as operative where:
 - a. no submissions in opposition have been made or no appeals have been lodged; or
 - b. all submissions in opposition and appeals have been determined; or
 - c. all submissions in opposition have been withdrawn and all appeals withdrawn or dismissed;
2. A rule in a proposed plan has immediate legal effect if the rule:


a. protects or relates to water, air, or soil (for soil conservation); or
b. protects areas of significant indigenous vegetation, significant habitats of indigenous fauna, or historic heritage; or
c. provides for or relates to aquaculture activities;

3. The Environment Court can order that a rule will have legal effect from a different date;

4. A local authority can resolve that a rule has legal effect only once the plan becomes operative.

Rules that are given immediate legal effect from when a proposed plan is publicly notified must be clearly identified in the proposed plan. A rule that has immediate legal effect must be complied with immediately. In the proposed District Plan, some rules have immediate legal effect because they relate to the subjects described in s86B(3) of the RMA and they relate to the following: historic heritage; notable trees; sites and areas of significance to Māori; ecosystems and indigenous biodiversity; natural character of freshwater body setbacks; places adjoining the coastal marine area. Council has endeavoured to identify all such rules using a red gavel icon

 . The rules relating to these matters that have legal effect are found in various chapters throughout the proposed District Plan. A red gavel icon

 identifies a particular rule or a particular rule activity standard that has immediate legal effect. The gavel also identifies particular district wide standards and it applies to all items in a schedule where that schedule is identified by a gavel.

The proposed District Plan also includes rules that have immediate legal effect because of a Court Order under s86D. These rules are GRUZ-R41, GRUZ-R42 and SUB-R10 (and associated definitions "minor residential unit", "residential unit"). These rules are also identified with a red gavel icon



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