



PLAN CHANGE 76
FLOODABLE AREAS AND
COASTAL INUNDATION
AREAS - VARIOUS

DECISION REPORT

The Western Bay Way



*Western Bay of Plenty
District Council*

April 2017



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1.0 Introduction

- 1.1** This report shows the decisions made on the topics in the Planning Report and then shows the whole of the Plan Change i.e. how the full notified Plan Change and subsequent decisions on topics are proposed to change the District Plan First Review.
- 1.2** For topics, any changes to rules are shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and any changes resulting from decisions in blue.
- 1.3** For the whole of the Plan Change, any changes to rules are shown as follows; existing District Plan text in black, and changes (being the culmination of the notified Plan Change and subsequent decisions) in red.

2.0 Topic 1: Reference to s73 of the Building Act in permitted activity Rule 8.3.1(c)(iii) for uninhabited farm buildings

2.1 Decision

That Rule 8.3.1(c)(iii) be retained as notified (Option 1), with a minor amendment as shown below:

(iii) *Uninhabited farm buildings including, but not limited to, pump sheds, implement sheds and storage sheds, provided ~~that~~ an appropriate notice under s73 of the Building Act has been attached to the title the property owner(s) enter into an agreement with the Council confirming that they:*

- a. acknowledge the property building is subject to the risk of inundation from flooding;*
- b. accept the risks of any damage to the building and/or its contents arising from that hazard; and*
- c. undertake not to take any action (legal or otherwise) against the Council in relation to any damage to the building and/or its contents as a result of the location of the building within the Floodable Area.*

The following submission is therefore:

Accepted in Part

Submission	Point Number	Name
20	1	Bay of Plenty Regional Council

2.2 Reasons for Decision

The purpose of this plan change is to amend Rule 8.3.1(c)(iii) to ensure that the correct mechanisms are used to limit Council's risk against damage to buildings located in areas subject to flood hazard, where the owner is willing to accept that risk.

An assessment of whether or not a building is 'functionally compromised' is likely to result in additional financial costs and, as a result, reference to this concept is not accepted at this time.

The proposed plan change is considered a minor technical change that does not warrant risk assessment in accordance with the natural hazard provisions of the Bay of Plenty Regional Policy Statement. This is only required through a district plan review, as part of any change to a district plan that provides opportunity for land use change or intensification, or for resource consent proposals involving an urban site of 5 hectares or more. The natural hazard provisions also do not require tweaks to existing rules within existing natural hazard areas associated with minor ancillary activities, such as buildings accessory to farming activities.

The proposed change does not give rise to an obligation to give effect to the natural hazard provisions of the Bay of Plenty Regional Policy Statement.

3.0 Topic 2: Non-habitable buildings within Floodable Areas & Coastal Inundation Areas

3.1 Decision

That the explanatory note to Rule 8.5.1.2(b)(iii) be retained as notified (Option 1), with minor amendments as follows:

- (b) *The appropriate minimum finished floor level of the proposed building/structure.*

Explanatory Notes:

This is the combination of the flood level plus an additional freeboard height as stipulated in Council's Development Code.

Council will consider granting consent for sheds and garages (used for non-habitable purposes) without meeting minimum finished floor levels provided the ~~property~~ owner of the property and building enters into an agreement with the Council confirming the owner:

- acknowledges that the ~~property~~ building is subject to the risk of inundation from flooding or coastal inundation;*
- accepts the risks of any damage to the building and/or its contents arising from that hazard; and*

- undertakes not to take any action (legal or otherwise) against the Council in relation to the issue of a resource consent without imposing the required minimum finished floor levels.

Council can provide specific flood levels for all Coastal Inundation Areas and for some but not all of the Floodable Areas. Where specific flood levels are unknown, applicants may be required to engage a suitably qualified engineer to undertake a flood level assessment for the property.

For Waihi Beach Floodable Areas (Planning Maps A03 and U01-U04) this shall be based on the 2% AEP (inclusive of climate change).

The following submission is therefore:

Accepted in Part

Submission	Point Number	Name
20	2	Bay of Plenty Regional Council

3.2 Reasons for Decision

The purpose of this plan change is to amend an existing explanatory note in the matters of assessment for Rule 8.5.1.2(b) to state that Council will consider granting resource consent for non-habitable buildings without the required minimum finished floor level if the property owner enters into an agreement with the Council confirming they accept the risks associated with inundation.

An assessment of whether or not a building is 'functionally compromised' is likely to result in additional financial costs and, as a result, reference to this concept is not accepted at this time.

The proposed plan change is considered minor and does not warrant risk assessment in accordance with the natural hazard provisions of the Bay of Plenty Regional Policy Statement. This is only required through a district plan review, as part of any change to a district plan that provides opportunity for land use change or intensification, or for resource consent proposals involving an urban site of 5 hectares or more. The natural hazard provisions also do not require tweaks to existing rules within existing natural hazard areas associated with minor ancillary activities, such as buildings accessory to farming activities.

The proposed change does not give rise to an obligation to give effect to the natural hazard provisions of the Bay of Plenty Regional Policy Statement.

4.0 Topic 3: Lack of Matters to Guide Assessment of Discretionary Activity Subdivisions in Floodable Areas and Coastal Inundation Areas

4.1 Decision

That the matters of assessment proposed for Rule 8.5.2(c) be retained as notified (Option 1) and as follows:

8.5.2 Discretionary / Non Complying Activities

The matters in 8.4.1 and 8.5.1 and the following matters shall be used as a guide for assessing Discretionary Activities and Non-Complying Activities:

...

(c) Floodable Areas & Coastal Inundation Areas

- (i) The effect of the proposed subdivision (including, but not limited to any building site, building/structure, or earthworks) on the capacity of ponding areas and function of overland flow paths.*
- (ii) The provision of finished site levels to mitigate adverse effects associated with inundation. For Waihi Beach (Planning Maps A03 and U01-U04) the flood level shall be based on the 2% AEP (inclusive of climate change).*
- (iii) In the case of Floodable Areas, any verifiable new information which demonstrates that the subject site is not in fact under threat from flooding.*

The following submission is therefore:

Rejected

Submission	Point Number	Name
20	3	Bay of Plenty Regional Council

4.2 Reasons for Decision

This plan change seeks to include matters of assessment for resource consent applications for discretionary activity subdivisions within Floodable Areas and Coastal Inundations Areas.

The explanation included within the proposed matter of assessment (i.e. that flood levels for Waihi Beach are based on the 2% AEP) is consistent with other similar provisions in the District Plan and any amendment to reflect the 1% and 0.2% Annual Exceedence Probability events is considered premature given Western Bay of Plenty District Council is yet to undertake a broader review of the District Plan to specifically reflect the requirements of the natural hazard provisions of the RPS. Also, Council is not yet capable of setting floor levels that ensure low risk based on 1% and 0.2% AEPs given only the 2% AEP has been assessed to date.

The proposed change does not give rise to an obligation to give effect to the natural hazard provisions of the Bay of Plenty Regional Policy Statement.

5.0 Plan Change 76 – Changes to the District Plan First Review

5.1 Amend Rule 8.3.1(c)(iii) as follows:

(iii) *Uninhabited farm buildings including, but not limited to, pump sheds, implement sheds and storage sheds, provided ~~that an appropriate notice under s73 of the Building Act has been attached to the title~~ the property owner(s) enter into an agreement with the Council confirming that they:*

- *acknowledge the building is subject to the risk of inundation from flooding;*
- *accept the risks of any damage to the building and/or its contents arising from that hazard; and*
- *undertake not to take any action (legal or otherwise) against the Council in relation to any damage to the building and/or its contents as a result of the location of the building within the Floodable Area.*

5.2 Amend the explanatory note to the matter of discretion for Rule 8.5.1.2(b) as follows:

(b) *The appropriate minimum finished floor level of the proposed building/structure.*

Explanatory Notes:

This is the combination of the flood level plus an additional freeboard height as stipulated in Council's Development Code.

Council will consider granting consent for sheds and garages (used for non-habitable purposes) without meeting minimum finished floor levels provided the owner of the property and building enters into an agreement with the Council confirming the owner:

- *acknowledges that the building is subject to the risk of inundation from flooding or coastal inundation;*
- *accepts the risks of any damage to the building and/or its contents arising from that hazard; and*
- *undertakes not to take any action (legal or otherwise) against the Council in relation to the issue of a resource consent without imposing the required minimum finished floor levels.*

Council can provide specific flood levels for all Coastal Inundation Areas and for some but not all of the Floodable Areas. Where specific flood levels are unknown, applicants may be required to engage a suitably qualified engineer to undertake a flood level assessment for the property.

For Waihi Beach Floodable Areas (Planning Maps A03 and U01-U04) this shall be based on the 2% AEP (inclusive of climate change).

5.3 Include matters of assessment for discretionary and non-complying activities within floodable areas and coastal inundation areas (Rule 8.5.2(c)) as follows:

8.5.2 Discretionary / Non Complying Activities

The matters in 8.4.1 and 8.5.1 and the following matters shall be used as a guide for assessing Discretionary Activities and Non-Complying Activities:

...

(c) Floodable Areas & Coastal Inundation Areas

- (i) The effect of the proposed subdivision (including, but not limited to any building site, building/structure, or earthworks) on the capacity of ponding areas and function of overland flow paths.*
- (ii) The provision of finished site levels to mitigate adverse effects associated with inundation. For Waihi Beach (Planning Maps A03 and U01-U04) the flood level shall be based on the 2% AEP (inclusive of climate change).*
- (iii) In the case of Floodable Areas, any verifiable new information which demonstrates that the subject site is not in fact under threat from flooding.*