

Minor change required to Chapters 1 and 3 of the Proposed Natural Resources Regional Plan to correct errors and ensure consistency

The following minor change is to be made to the (Proposed) Natural Resources Regional Plan Chapters 1 and 3, including Variations 15 and 16 and Plan Change 1, pursuant to Clause 16(2) and 20A of Schedule 1 of the Resource Management Act 1991.

Clause 16(2) states:

“A local authority may make an amendment, without further formality, to its proposed policy statement or plan to alter any information, where such an alteration is of minor effect, or may correct any minor error”

Clause 20A states

“A local authority may amend, without using the process in this Schedule, an operative policy statement or plan to correct any minor errors”

Issue

1. To ensure that Chapters 1 and 3 are accurate a number of general minor change have been identified which are required to parts of these chapters including amendments from Decisions on Variations 15 and 16, and Plan Change 1. Some rules used the heading “standards and terms”, however for consistency throughout NRRP and with s104 of the RMA, the accurate heading is “conditions”. General formatting of rules, such as moving matters for control or discretion to sit below conditions, for consistency with Chapters 4 to 7 will also improve readability of the NRRP. These general minor changes should be made where they do not change the intent of the plan or decision amendments. Some objectives and policies have headings above and within the objective/policy, the headings above the provision should be removed for consistency and to avoid confusion where wording between headings differ. In Variation 15, 16 and Plan Change 1, headings were added within Table 3-2 Summary of Rules to sit above the new or amended rules. However the headings are either inconsistent with the rule or repeat a heading already in Table 3-2, and therefore should not be added.
2. In Chapter 3, 3.1 Introduction the first two lines of text relate to drafting of Chapter 3 and no longer make sense. These sentences can therefore be removed.
3. In Table AQL3-2 Summary of Rules, Variation 15 adds a description for new Rules AQL29A and AQL29B. The descriptions as worded include the activity status of the rule. The activity status should be removed from the description as this is a repeat of the status identified under the Activity Status column.
4. A minor change is required to amend the wording in Figure AQL3-3 Regional rules. This figure shows the generalised relationship between rules and resource consents. For clarity the reference to Prohibited Activity should be phrased as a question consistent with the questions stated for other activity classifications. A minor change is required to remove the incorrect use of the term “limited discretionary activity” in chapter 3. Figure AQL3-3 Regional rules show the generalised relationship between rules and resource consents which provides a process to identify which rule type is appropriate. The term “limited discretionary activity” has been used incorrectly in place of the activity type “restricted discretionary activity” as specified under s77A(2) of the RMA. Correcting this term would be consistent with the use of “restricted discretionary activity” in the rules in each chapter.
5. Variation 15 and 16 and Plan Change 1 added a page number reference into the Cross Ref column of some rules. However, as existing rules which include cross references refer to specific policies, the page number reference is confusing and unclear. For clarity, and to avoid confusion where formatting may change page numbers, all references under the Cross Ref column in rules should be changed to refer to the specific policies relevant to the rule. For consistency with Rule formatting in NRRP Chapters 4 to 7, the Cross Ref column should be moved so that it becomes a row at the bottom of the rule. Where the Cross Ref column is not used it should be removed completely.
6. In Rule AQL26A Condition 1(b) refers to the “the Lyttelton Port Zone identified on the Proposed Banks Peninsula Planning Maps”. This reference is unclear as it does not identify where to find these maps. The relevant maps are Maps S1, S2 and S3, included in Schedule AQL7. These maps were sourced from the Banks Peninsula District Council’s Proposed District Plan. Rule AQL42C Activity provides an example of a clear reference to these maps, and similar wording can be used in Rule AQL26A for consistency. A

Note added under these rules stating where to find the Lyttelton Port Zone will also provide certainty and reduce the referencing needed within the rules themselves.

7. Environment Court consent order, 29 May 2009 (New Zealand Pork Industry), changed the title of Rule AQL65, however a consequential change to the title of Rule AQL65 in Table 3.2 Summary of Rules was not made. This inconsistency can be corrected by amending the title of Rule AQL65 in Table 3.2 Summary of Rules consistent with the change made in the consent order.

8. In Appendix AQL2 the format numbering does not match the reference in the Advisory notes, paragraph two. The reference refers to “steps 1 to 3 above”, however the numbering above is 1, (a) to (g). It is clear that all the steps should be referred to as they all contribute to avoiding adverse effects. The numbering used is does not appear to be accurate and can be corrected as “1, (a), (b), 2, (a), (b), 3, 4, 5, 6”, the reference will also need correcting to read “steps 1 to 6 above”.

9. At the time that Chapter 3 was notified and made operative in part, the Resource Management Act included a general requirement (s. 93(1)) that resource consent applications must be publicly notified unless either:

- the application was for a controlled activity, or
- the consent authority determined that the adverse effects of the activity would not be more than minor.

In both of these cases, the consent authority was still required to serve notice of the application on persons that it identified who might be adversely affected (s. 94(1)). However, the notification and service requirements for restricted discretionary activities, and the service requirements for controlled activities, could be dispensed with if there was a rule in the relevant plan allowing this (s. 94D). ECan received legal advice on how it could ensure it retained discretion not to notify applications, and this advice resulted in the “Notification and Service” clause included in many rules in the NRRP.

The Resource Management (Streamlining and Simplifying) Amendment Act passed in 2009 removed the notification presumption in the RMA, replacing this with a discretion for the consent authority to decide whether to notify any application (s. 95A). In effect, this amendment has built into the RMA the intent of the “Notification and Service” and “Notification” clauses in the NRRP rules. This means that the clause is no longer necessary. In addition the wording refers to sections of the RMA that have been repealed. These words can be removed as a minor change as it will not change the effect of the rule and to avoid misleading plan users.

10. In Chapter 3, the explanation for Objective AQL3 states that “The Christchurch Clean Air Zones 1 and 2 are identified on Maps AQL(A) and Maps AQL1 and AQL2”. However, there is no Map AQL(A) in Chapter 3. It appears that the intent may have been to refer to the Index map for maps AQL1 to AQL2, however it is unclear. For clarity the reference to Map AQL(A) should be removed.

Solution

The changes identified below are listed as general changes because they may be required in multiple locations and it is not practical to list all occurrences.

1. General changes

- (a) Delete, where appropriate, references to the “proposed” in relation to NRRP or other plans where this term is no longer correct.
- (b) Correct any spelling, punctuation, grammar and formatting where it does not change the meaning of the plan.
- (c) Correct any page or provision numbering wherever it is incorrect
- (d) Apply abbreviations and SI units of measurement consistently throughout all chapters
- (e) Correct any numbering errors, for example where there is duplication or gaps in numbering.
- (f) Add “AQL” to provision numbering where this is missing.
- (g) Change references to “this/the Plan” to “NRRP”.
- (h) Change references to “ECan” to “Environment Canterbury”
- (i) Remove the “Cross Ref” column from rules where it is not used.
- (j) In Chapter 3 rules, move any columns for “control” or “restriction of discretion” to become rows beneath “Conditions” and use the heading “Matters for control”, or “Restriction of discretion” as appropriate.
- (k) In Chapter 3 rules, remove any columns for “Discretion” where it states it is “unlimited”.
- (l) In Chapter 3 rules, change headings for “standards/terms” to “Conditions”

- (m) In Chapter 3 rules (excluding Prohibited activity rules), ensure that there is a heading for "Conditions" regardless of whether the rule activity includes conditions.
 - (n) In Chapter 3 rules, where a rule includes the heading "Conditions", but there are no conditions listed, add the word "none" where conditions would normally be listed.
 - (o) In Chapter 3 rules, centre all headings in the rule table (e.g. "Activity", "Conditions" etc).
 - (p) In Chapter 3 delete duplicate (or similar) headings above Objectives AQL4, AQL5 and AQL6, Polices AQL22 to AQL47.
 - (q) In Table 2-3 remove the headings added by Variation 15, 16 and Plan Change 1 which sit above rules AQL6A, AQL29A and AQL81A.
2. In Chapter 3, delete the first two lines of text under 3.1 Introduction.
 3. In Chapter 3 Table AQL2-3 Summary of Rules, under the Description column, in relation to Rules AQL29A and AQL29B, delete the words "non complying activity" and "permitted activity" respectively.
 4. Amendments to Chapter 3 Figure AQL3-3
 - (a) Amend the 2nd rectangle text box, beneath the diamond-shaped text box that now says, 'Is it a restricted discretionary activity?' to read:

"Environment Canterbury's discretion...or impose conditions is restricted to those matters listed in the rule."
 - (b) Amend Figure AQL3-3 the diamond-shaped text box on the far right of the figure to read:

"Is it a prohibited activity?"
 - (c) Amend Figure AQL3-3 by replacing the text "Is it a limited discretionary activity?" with "Is it a restricted discretionary activity?"
 5. In Chapter 3 rules, change all "Cross Ref." column references from page numbers to refer to the applicable policies. Move the Cross Ref column to become a row at the bottom of the rule box, starting with the words "Cross reference:..."
 6. Amend Chapter 3 to clarify references to the Lyttelton Port Zone maps as follows:
 - (a) Amend condition 1(b) in Rule AQL26A as follows: "(b) within the Lyttelton Port Zone shown as "LP" on Maps S1, S2 and S3 in Schedule AQL7:"
 - (b) Add a Note below Rules 26A and 42C as follows: Note: The Lyttelton Port Zone is shown as "LP" on Maps S1, S2 and S3, from the Banks Peninsular District Council Proposed District Plan, in Schedule AQL7:"
 7. In Chapter 3, Table 3.2 Summary of Rules, amend the title of Rule AQL65 by deleting the words "other than provided for in Regional Rules AQL63"
 8. Change the numbering in Chapter 3 Appendix AQL2 to: "1, (a), (b), 2, (a), (b), 3, 4, 5, 6". Under Advisory Notes in paragraph 2, change the reference to "steps 1 to 3" to read "steps 1 to 6 above".
 9. In Chapter 3 rules, delete the text relating to "Notification and Service" and "Notification".
 10. In Chapter 3, delete the words "Maps AQL(A) and" from the first sentence of the Explanation for Objective AQL3.

These changes are considered to be minor changes under Clause 16 and 20 of the RMA and have been approved by Environment Canterbury. These changes should be considered as having been made to the NRRP as of the date below.

Delegated Authority: Don Rule, Director Resource Planning & Consents

Signature:



Date:

