

Coastal Hazards plan change

CCRU Submission

(Ref [plan change doc](#))

After consultation with our group, CCRU find that they are not in a position to support the CCC draft proposed plan change as it has currently been drafted.

General

Firstly there are good aspects in this draft and we appreciate the time staff have taken to engage with us on this.

Overall we feel there is a conflict in the objectives between wanting to avoid increased risk and enabling development. The former we think will become the blanket result if the policies and rules are not changed or clarified. We are concerned that development that would reduce risk might even be blocked under the current rules.

Issues like this happened with the last plan change leading to difficulties for both CCC staff and property owners alike, we would not like to see this happen again.

There have been times where additional restrictions, not intended at the time of drafting, have been read into rules. We are concerned this disconnect is about to be repeated in the current draft plan.

- a) In our view we think the enabling rules are orphaned by the objectives and higher level rules. It seems any application would have a predetermined outcome based on the overriding Risk Avoidance statements.
 - a. **5.2.2.5.2. Avoid increasing risk** from Coastal Hazards
 - b. 5.2.2.5.3. Managing subdivision, development and land use in Coastal Hazards areas
 - i. **Subject to policy 5.2.2.5.2**, any subdivision, development and land use within coastal hazards areas
- b) We believe the objective as it stands has divergent goals that will be difficult to balance
- c) We are not confident that the rules will function in a fair and reasonable manner when weighed against policy 5.2.2.5.2 which is about 'avoidance'
- d) A clear definition/understanding of what avoidance means is required. Past experience in Christchurch has shown it to be read as prohibition.
- e) We believe the policies and rules are overly complex and should be simplified. An improved and clarified 5.2.2.5.2 might mean subsequent policies are not necessary.

- f) The RUO should not be disposed of and instead should be extended. It was arrived at through a rigorous process and is working well.
- g) The concept that risk is not increased until the hazard itself has reached a certain trigger point needs to be integrated into the rules.
- h) The plan change does not seem to address area-wide mitigation to enable works that will protect communities from coastal hazards.

Objectives

Objective 5.2.1.2 shows an internal inconsistency in the sense that "not increased" and "managed to an acceptable level" can be interpreted as pointing to different outcomes. It is not clear to CCRU how the CCC will manage this dichotomy fairly and consistently

Objective 5.2.1.2 – Coastal Hazards.

- a. *Development, subdivision and land use **does not increase the risk** of coastal inundation, coastal erosion, rising groundwater or tsunami causing physical, social, economic or environmental harm.*
- b. *Existing communities potentially affected by coastal hazards are able to continue to develop and use land, natural and physical resources where the **risk of adverse effects from coastal hazards is not increased** and the level of risk can be managed to an acceptable level.*

Policies

We feel the policies are too complex, there are over two pages of policies and we believe these could be simplified

5.2.2.5.2. Avoid increasing risk from Coastal Hazards Within areas of coastal hazards avoid development, subdivision and land use that would increase the risk of social, environmental and economic harm from coastal hazards unless:

- i. it is dependent on a coastal location, and*
- ii. there are no other reasonable alternatives available, and*
- iii. the benefits of the proposed development out-weigh the potential harm, and*
- iv. the adverse effects from coastal hazards and the development on people, property, infrastructure, the environment and cultural values are mitigated to the fullest extent practicable*

We see policy 5.2.2.5.2 above as being particularly problematic due to the following

- a) "Avoid increasing risk from Coastal Hazards" does not reflect the balance displayed in objective 5.2.1.2
- b) As policy 5.2.2.5.2 informs all subsequent rules, we are not confident that the policy in this format supports the perceived intent or outcome of the rules.
- c) We are concerned any application will have a predetermined outcome based on the overriding Risk Avoidance statements.
- d) We find "i) it is dependent on a coastal location, and ii) there are no other reasonable alternatives available" are vastly open to interpretation and could serve as a catch-all

clause. A planner assessing an application under this clause could say that there are many other sections to build on in CHC so we will not allow any development, at all in these areas

It could consequently lead to an application to build in a coastal area being rejected in favour of building anywhere else simply because it is possible.

e) 5.2.2.5.2 iv “ the adverse effects are mitigated to the fullest extent possible. Is up in the air.. Someone could read into this that the only way to achieve the “fullest extent possible ” is to not allow any development.

Rules

This includes restricted discretionary RD1-RD21. That has over 17 matters of discretion. We see this is needlessly excessive.

We are unsure how Adaptation will be applied as an assessment matter. Many communities do not have an adaptation plan, have not engaged in this conversation, and will not do so for a number of years. How will the lack of a plan or the inclusion of a plan be used in the assessment?

RUO

The draft plan change appears to propose removing the current RUO.

CCRU does not support the removal of the RUO.

At present the RUO is functioning well. It has allowed residents to build safe and site appropriate houses, within a set of fair and reasonable rules. It has restored vitality to the community. We believe the RUO works efficiently and fairly and should be extended to other high management areas.

We are concerned the current draft plan will not function in such a fair and efficient manner. As an example, a replacement residential unit in the high inundation zone (which at present equates to the RUO) is a RD activity. This plan indicates two aspects will be considered. (a) The very specific matters of discretion for RD and (b) that it must align with the policies and objectives which indicate **avoiding** an increase in risk.

We are concerned that avoidance policy 5.2.2.5.2 of which the rules are subordinate to, will inform rules in such a way that development may appear possible on the face of it but will be stalled by avoiding risk. This is what occurred pre RUO. Staff were provided legal advice at the time that instructed an avoidance policy.

The issues impacting on the properties and communities in residentially zoned land which may be affected by sea level rise were clearly identified and addressed by the IHP.

The IHP considered there was nothing in the CRPS which warranted non-complying activity status and accordingly introduced the restricted discretionary activity status to limited activities in the RUO (204). *“In our view, the risk here is one to property, not to people. We accept that wellbeing can be affected by flooding, even if safety is not.”* (205)

The IHP said, *“Relevant to these two issues is another matter: the source of the risk. Where the risk is one which could occur suddenly, such as a breach of a river or similar, clearly the*

risk to life and people is greater. Conversely, where the source is more gradual, as is the case here, the risk is primarily to property.

In our view the draft is in effect a role back to the pre-RUO time, where risk and avoidance was used to stall any level of development.

If you want to see what an ineffective policy looks like and its effect on a community, look no further than Southshore. The Southshore experience is one that should be considered and learning followed. This led to an erosion of the well-being levels, so concerning that it was raised at council level. Several residents were financially affected, and their health was of concern to their friends and families. This is what happens when communities are over regulated, and a district plan fails to function fairly and reasonably. Communities were smothered.

A return to this type of policy application is in our view not acceptable and is most likely to have similar results.

We do not want a repeat performance of the pre RUO fiasco and we see nothing in the policy that would prevent such a repeat.

Risk

We find there is no clear definition of risk. What does avoid risk mean? There is a time element to risk. Is this policy concerned about avoiding current risk or future risk? This is not clearly specified, and it appears this policy supports applying future risk prematurely

We see no opportunity or provision to acknowledge a reduction of risk in the plan. What if a remodel of a property reduces risk?

For example, an old house that is ground level (high risk/ less resilient) should be encouraged to build new. The new build should be viewed as reducing risk (higher, safer, eco). Residents need to be able to adapt to family needs and improve the housing stock.

Avoidance

Avoidance is a central term in this plan change but its meaning is not clear. To date it seems to have been read as prohibited. It needs to be clarified along with how it will be applied in this circumstance.

Foundational Data

The CCC have indicated in submission feedback that comments and feedback on the Jacobs report are welcome during the process for the plan change. This is appreciated as all aspects should be open to questions and feedback in a good process.

CCRU make the following comments

- An independent comprehensive review would be valuable and help to build community trust.
- We are unsure how the High hazard erosion line has come about.

- Mapped flood levels appear not to correlate with actual flooding that is currently happening in the example 100 and 200 year events.

The new policy should be road tested

We have stated that we are concerned and do not have confidence that the policies and rules will be able to be applied in a manner the planners are portraying or perhaps expecting.

For this reason, we believe it is important that the CCC either via internal or external sources undertake work on applying the rules to real life examples.

CCRU believe it is the council's obligation to test a policy thoroughly before it is implemented. CCRU request suggest that the CCC road test the plan using 15 real-life examples across the areas of control and discretion and in the different zones. We would like to see how the plan works and what outcomes can be expected.

This road-testing would best occur before the plan change is formally notified.

It is CCRUs view that this would be of benefit to both the public and the planners to see how the rules work in practice.

We see that it can only be a win win. If the outcome shows the plan does not respond as expected, then modification can occur before further hearings. If the plan does function fairly and consistently it will give residents a transparent pathway to better understand how the plan functions and the confidence to better support the plan change in the processes moving forward.

Additionally, we see that publicly available road tested examples support the intent of the rules into the future by keeping a consistent and transparent pathway. We believe this will assist both planners and homeowners alike.

Adaptive vs Risk based approach

The plan change has taken a 'risk based' approach based on models. We think a better and safer approach would be adaptive management.

Policy Clause 5.2.2.5.3 states that subdivision development and land use within coastal hazard areas shall be located in the **lowest risk category possible**. If this clause remains, we will not be allowed to subdivide, develop or even live in any area outside of the lowest risk areas. Is this what is intended? We hope not.

Clause E in the same policy relies on risk based trigger points. What is the definition of this?

Who makes this call and based on what information. It seems very arbitrary and open to the particular bias of individual council officers.

Clause F in the same policy sounds as though the council has already made its decision that there will be "removal relocation or sensation of activity" perhaps the words if deemed required could be added here and softened so that it reads to be less of a requirement and endgame policy

5.2.2.5.5. Innovative forms of development and design within Coastal Hazards areas

We very much support solutions that enable people to safely build in areas that are 'likely' to be affected by natural hazards however as the Plan is currently drafted, it would appear these would still be subject to the restrictions noted in 5.2.2.5.3.

5.2.2.5.4 would also be subject to such restrictions as it is clearly noted in the policy.

Area wide Mitigation

The plan change does not seem to address area-wide mitigation to enable works that will protect communities from natural hazards. The ability to be able to build flood and erosion protection is an important part of adaptive planning but to have these options they need to be enabled in the plan.