

# Overview Report on the Performance of the Tasman Resource Management Plan and Regional Policy Statement

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*NB For Draft: Further directions may come as we work through Councillor and iwi workshops, finalise s.35s, and receive community feedback.*

## Introduction

This report provides an overview of a series of evaluations of the Tasman Resource Management Plan (TRMP) and Tasman Regional Policy Statement (TRPS) – collectively referred to as the Plans. The evaluations consider the ‘efficiency and effectiveness’ of the Plans in accordance with s.35 of the Resource Management Act 1991 (RMA).

Broadly, the evaluations indicate whether the Plans have performed as they were intended – i.e. have they delivered intended outcomes. The results help inform policy development and decision-makers about what has worked, what hasn’t, and why. In turn, the evaluations help direct what needs to change in the Plans to better achieve environmental and community aspirations, and respond to changing legislative demands.

The results and recommendations from the reports will be used to develop the new plan – the Tasman Environment Plan (TEP). The reports provide robust evidence and a valuable basis for justifying changes to the planning framework.

A summary of the process used to undertake the evaluations is contained in Appendix 1.

## Background and Context

The history to the development of the Plans provides an important context for understanding their performance over time.

Tasman’s Plans were the first generation of plans developed under the newly-minted Resource Management Act in 1991. The Plans were prepared by the newly formed Tasman Unitary Authority<sup>1</sup>. New powers and duties under the RMA saw an expansion of responsibilities to manage broader environmental issues, alongside more traditional catchment-based or urban and rural issues. In conjunction with the expanded responsibilities, the new legislation also significantly increased opportunities for communities and iwi to submit and contribute to local decision-making.

In 1993 the Council decided to prepare a ‘combined plan’ – one that integrated district plan with regional plan duties, including the regional policy statement and plans for Land, Water, the Coast, Air, Discharges and Rivers, Lakes and Wetlands. The TRPS was designed to become redundant once the TRMP took effect. In the early years the Plans were designed to be flexible and enabling, with a focus on ‘effects-based’ management.

Tasman was not alone in adopting effects-based management. The RMA introduced effects-based management as an innovative approach to deliver ‘sustainable management’ of the environment. The legislation was a significant paradigm shift for planning<sup>2</sup>. Early research on the performance of councils in preparing plans, found that across New Zealand, communities and councils struggled to develop and implement the new RMA<sup>3</sup>. Unitary authorities in particular had the challenge of integrating planning functions and documents across the full range of policy documents.

The original TRMP was prepared over a relatively short timeframe and without consultation on a Draft Plan. Pressure to release the proposed Plan in 1996, meant that parts of it were not ready and subsequently only the Land, Coast and district plans were notified at that time.

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<sup>1</sup> Tasman Unitary Authority was formed following amalgamations in 1992. This followed an earlier amalgamation in 1989, which saw the Nelson Marlborough Catchment Board and Regional Water Board, and five borough and county councils replaced by the Nelson Tasman Regional Council.

<sup>2</sup> Ericksen N., *et al.*, 2003, *Planning for Sustainability*, University of Waikato

<sup>3</sup> Ericksen, N., *et al.* Refer reference above.

A turbulent reception by the community to aspects of the new TRMP resulted in substantial political changes within the Council, and a commitment to undertake a series of variations<sup>4</sup>. A number of appeals to the Environment Court by a range of submitters, and a small policy team meant the District Plan only became operative in 2008. The Coastal Plan, Water Plan and Discharges became operative in 2011, with the final Rivers and Lakes Plan becoming operative in 2014.

Subsequent decisions were taken very early on to apply a 'rolling review' approach to amending the District and Regional Plans— and this approach was endorsed by successive Councils. Despite there being no systematic programme for review, a large number of plan changes and variations have been made to the TRMP since 1996<sup>5</sup>. This meant the Plans have been able to respond to some of the community demands and local environmental issues, often to the detriment of keeping the plan up to date with various legislative amendments. Conversely, the significant number of changes over an extended timeframe also meant the Plans have become large, and in some cases disjointed and repetitive. Despite all the changes, substantial parts of the District and Regional plans, and the entire TRPS, have remained unaltered since first being proposed in 1996.

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<sup>4</sup> Ericksen, N., *et al.*

<sup>5</sup> The TRMP lists more than 70 plan changes and variations since the TRMP was first notified.

## Overview of Key Evaluation Results

1. The Plans continue to be a powerful tool for shaping and delivering community and environmental expectations, and remain the primary legislative mechanism for managing and allocating natural and physical resources within our Region.
2. Many of the issues raised in 1996 continue to be contested issues today. Tension around managing landuse activities, resource allocation, public interests, iwi interests and environmental protection continue. “New” issues, pressures and changing priorities, such as climate change, sustained population growth, demographic changes, biodiversity decline and housing affordability have emerged since 1996, and in some cases are accentuating existing issues. These new issues are only addressed to a limited extent in the Plans.
3. Pressure to change the TRMP has come from changes in legislation, national directions, community interests or as a consequence of environmental trends. While there have been continuous changes to the TRMP over the years, some community expectations, and legislative requirements are still to be actioned. Limited resources to undertake plan changes means Council has for some years adopted a ‘priority programme’ for plan changes – meaning some changes have had to wait for extended periods before being addressed.
4. National Planning Instruments and definitive case law has seen an elevation of the role of Regional Policy Statements, and a much more deliberate approach to plan making. Councils are under greater scrutiny to deliver national objectives, and have a clear hierarchy of planning documents. For Tasman, the changes will require a reconsideration of the role of the TRPS. A key role for the TRPS may now be to guide strategic planning and provide a rationale for prioritised decision-making, alongside its statutory obligations on integrated management.
5. The policy–logic mapping<sup>6</sup> analysis of the TRMP showed that while the majority of objectives and policies have a moderate-to-strong relationships with rules, there are inconsistencies and gaps. “Best practice” in plan making has evolved as a consequence of cases such as *King Salmon vs EDS*<sup>7</sup>, with a pivotal change away from the previous “overall broad judgement” approach, to recognising that environmental bottom lines may be set to protect particular environments from adverse effects. Best practice also highlights a need to focus on words meaning what they say; and a need to link objectives and policies carefully to the rules and methods in plans. The TEP will need to make sure those policies with directive and specific words have corresponding weight in the rules, and that they are prioritised over those that are less directive and more general.
6. The TRPS sets out a limited number of issues affecting iwi/maori, and these have not been clearly carried through into objectives and policies. The 1996 approach focused on relationships and processes. Now, the TEP will need to incorporate significant changes to the legislated roles of iwi in resource management, new treaty settlement legislation, and new Iwi Environmental Management Plans.
7. Part 2 of the TRMP, alone, contains a total of 493 objectives and policies covering ten large topic areas. In some chapters there is an excessive amount of repetition, elevating the risk of contradiction and confusion for plan users. The evaluation reports recommend a large number of policies could be removed, and replaced with a more compact policy framework that retains the original intent and

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<sup>6</sup> This process investigates the ‘line-of-sight’ and strength of linkages between issues, objectives, policies, and the methods and rules that implement them.

<sup>7</sup> *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38

concepts. Where specific outcomes are sought, stronger policy directives could be applied rather than the less directive 'avoid, remedy, or mitigate' policies that are common within the plan.

8. The TRMP has been effective in achieving many of the intended outcomes, or is on track to achieve them. In particular, many of the objectives have been achieved for settlement development, amenity, natural hazards, and infrastructure planning. Settlement planning for the smaller rural settlements however is due for review, as most of them have not had an opportunity for full strategic review since 1996 (excluding growth considerations through the Future Development Strategy). Other objectives of the TRMP have not been satisfactorily achieved. Poor outcomes for biodiversity; margins of rivers and wetlands; and the management of land disturbance are highlighted through the evaluations.
9. Outdated and incomplete work has hindered efficient application and implementation of some aspects of the Plans. For example, the lack of identification of Outstanding Natural Landscapes, or outdated data on archaeological sites is impeding efficient decision-making for these highly-valued places.
10. The rolling review process has seen substantial changes to some sections of the TRMP, most notably in Richmond, Motueka, and the Rural zones, including Coastal Tasman. In some cases, the implementation of these changes is still underway and it is difficult to determine if the intended outcomes are being achieved. In other locations, like the Rural 3 zone some positive outcomes have been observed, but not all of the intended outcomes have come to fruition. The Rural 3 zone has not delivered the quantity of housing anticipated, but continues to serve as an important location for the supply of rural residential-style living opportunities.
11. Over time, misalignment between RMA objectives and council funding decisions through the Local Government Act has meant some objectives have not been effectively achieved. This is particularly occurring where the TRPS or TRMP anticipated non-regulatory methods would be used to achieve outcomes instead of rules.
12. Administration of the Plan and decision-making processes can be inefficient due to the complexity and scale of the provisions within the Plans. Issues with the 'useability' of the Plans continue to frustrate plan users, with a lack of clarity, excessive cross referencing, and overly complex provisions being common complaints. The large number of rules, inconsistent approaches and long lists of assessment matters are further examples of how the Plan is difficult to use and administer.
13. Many TRPS and TRMP objectives and policies seek to enhance environmental outcomes. However, the activities that trigger rules in the TRMP typically have, at best, a neutral effect on the environment, but often a negative one (which is why a consent is needed). An activity to discharge contaminants to air or water, for example, is likely to have an adverse effect on the receiving environment, however minor. Implementation of the plan is therefore largely concerned with avoiding or minimising the adverse effects of activities rather than promoting environmental enhancements. More opportunities could be identified in plan provisions to provide leverage for achieving environmental enhancements through the resource consent process, as well as ensuring funding for non-regulatory activities identified in the Plans that aim to achieve environmental improvements (see point 10 above). With the evaluations showing that many environmental metrics (e.g. water quality, riparian planting, marine biodiversity) have declined over the life of the plan, it may be appropriate to move from a "maintenance" approach to an "enhancement" approach.
14. More effective integrated management of resources and the effects of subdivision, use and development on resources could be achieved, particularly in relation to land use effects on water quality and quantity,

and the interaction of activities and their effects across the land and coastal marine area boundary. Relevant issues include sedimentation of waterways and coastal waters as a consequence of land disturbance 'upstream', and contamination of surface and groundwater resulting from intensification of agricultural and urban land use.

## **Preliminary Directions for the TEP:**

Following the evaluations and recent feedback from the community on the Future Development Strategy and Te Tau Ihu Strategy, a set of preliminary directions are recommended. These directions could be applied to the development of the TEP in order to respond to:

- community expectations
- environmental trends
- better achieve intended outcomes
- avoid problems observed in the TRMP.

More detailed topic-specific recommendations are contained in the associated evaluation reports. Implementation of the various national planning instruments have not been specified, as they are mandatory.

### ***Strategic***

1. Prioritise outcomes where a clear ‘public good’ including positive environmental outcomes can be identified.
2. Enable the development of new -and protect the operation of existing- strategic infrastructure
3. Link the TEP to Council’s Active Transport Strategy and Regional Land Transport Plan to improve transportation planning for our region – including active and public transport options in urban areas.
4. Continue to align planning work with Nelson City Council to provide a level of consistency and joined-up approaches to wider regional issues (e.g. housing rules, transport, infrastructure, business development).

### ***Housing and Urban Development***

#### ***General urban development***

5. *Urban land supply to align with Future Development Strategy and roll out in conjunction with Council funding and infrastructure programmes.*
6. *Update planning for 19 settlements focusing on smaller rural settlements - as some not reviewed for over 20 years and others only from growth perspective.*

#### ***Business development***

7. *Ensure business land, including industrial land, is provided in right locations to support regional economic development over next 30 years.*

#### ***Residential development***

8. *Simplify standards and approval processes for housing:*
  - *this may include allowing for increased density and reducing parking standards, but retaining bulk, location and amenity standards.*
9. *Enable more affordable housing options by:*

- *encouraging a greater variety of housing types (e.g. permit two dwellings / housekeeping units per site in specified urban areas*
- *encouraging / requiring (?) higher density in identified locations*
- *enabling more subdivision in existing or 'new' unserviced rural residential zones.*

10. *Apply stronger requirements for good quality urban design where housing intensification enabled:*

- *including linking development to Council plans for reserves and infrastructure.*

### ***Natural Hazards and Climate Change***

11. Continue to enable development in areas subject to natural hazards, relative to the extent of risk.
12. Provide clear provisions for mitigation and adaption to the impacts of climate change – including, implementing Council's Climate Change Action Plan (e.g. centres-based planning and active transport networks; minimum ground and floor level requirements; and subdivision limitations).
13. Provide a clear approach to housing and development around our coast to reduce uncertainty about the impacts of sea level rise for landowners; and to limit risks to Council and communities.
14. Provide space for natural coastal processes and inland migration of ecosystems at the coastal margin, including coastal plants and wildlife, as a result of sea level rise.
15. Increase provisions for private resilience to manage the impacts of climate change – which may include requirements for water harvesting and storage and associated simplified approval process (e.g. rainwater tanks, ponds, water harvesting, etc).
16. Take a more strategic approach to wildfire management, recognising the significant predicted increase in risk.

### ***Rural***

17. Continue to protect our highest quality land for productive use, including retaining the recent changes to the Tasman Resource Management Plan (PC 60). Avoid urban development on highly productive land where other feasible options exist for locating urban growth.
18. Continue protection for rural character and rural landscapes.

### ***Amenity Values***

19. Continue to protect the amenity values of places where people live, work and play.
20. Refine and improve the rules around activities that can cause a significant reduction in amenity values (e.g. signs, light pollution)
21. Develop a comprehensive policy framework for addressing the effects of noise to provide decision-making guidance.
22. Review and improve the provisions that relate to health and safety, including for hazardous substances.

### ***Landscape and Biodiversity***

23. Encourage environmental and ecological restoration by removing red-tape ( e.g. remove resource consent requirements for fish passage structures in water ways).
24. Manage risks to our important landscapes – this may include provisions relating to inappropriate activities in our outstanding landscapes, special local landscapes and cultural landscapes.



25. Elevate the protection and enhancement of biodiversity to reverse the trends of biodiversity loss—particularly for high value locations such as wetlands; and riparian and coastal margins.

### ***Land disturbance***

23. Refine the land disturbance areas in TEP maps and associated policy to better differentiate the risks. Propose refined provisions for residential areas, the Moutere clay, Karst and Separation Point Granite geologies
24. Policy sets should be expanded to include provisions for land instability effects and exacerbation of natural hazards, including coastal risks; soil health effects, including soil loss and soil damage; damage to plant and animal habitats and ecosystem values; damage to cultural and archaeological sites and landscape features; visual and amenity effects (including dust generation); onsite and offsite sedimentation effects on water and waterbodies, including riparian and aquatic habitats (including karst) and coastal receiving environments.
25. Investigate opportunities to utilise the NES-PF Regulation 6(1) and (3) to provide for more stringent rules for plantation forestry activities in the Separation Point Granite geology. Specifically, enable input from communities with an interest in the Separation Point Granite area (LD2) exposed to the issues generated by the combination of cyclone Gita, Plantation forestry activity, land cover and steep land forms.

### ***Iwi***

26. Build partnerships with Te Tau Ihu iwi on the management of issues of significance to iwi, including iwi interests and relationships.
27. Increase the cultural connection between local resource management and places of significance.
28. Work with Te Tau Ihu iwi to ensure plan reflects treaty obligations, iwi aspirations and iwi environmental concepts, and enables kaitiakitanga.

### ***Freshwater and waterbodies***

29. Apply Te Mana O Te Wai by ensuring water allocation, rationing, water use, and waterbody management provides for water and waterbody health in the first instance, taking into account uncertainty of future climate change effects on waterbody resilience.
30. Ensure the values of Outstanding Freshwater Bodies or waterbodies with a Water Conservation Order are protected.
31. Take a consistent and integrated approach to protection and enhancement of all waterbodies types and their natural character, including integrated management of margins, water, water surface and beds of waterbodies.
32. Elevate the protection and enhancement of riparian vegetation to provide increased habitat and water body shading, to protect water quality and improve water body resilience to drought.
33. Encourage more efficient and resilient water use by simplifying approvals for water harvest and storage, water sharing, and non-consumptive use of water, particularly for hydro-electric power generation.
34. Provide greater certainty for the management of land use and impacts of diffuse discharges on water quality, including effects on groundwater and coastal waters.
35. Provide a balance between flood protection and ecological objectives by promoting river protection works that also enable the protection of habitats and ecosystems.
36. Review priorities and methods for provision of public access to waterbodies.

37. Retain existing non-regulatory methods for promoting and supporting catchment enhancement and review options and priority of other non-regulatory methods to help achieve freshwater objectives.

#### ***Air***

38. Identify how to best manage air quality effects from outdoor burning and enabling best practice burning as a land management tool, where this is assessed as the best practicable option.
39. Identify how to best manage air quality effects from domestic wood burners, while providing for efficient home heating.
40. Review the boundaries of the Fire Ban and Fire Sensitive areas to ensure they provide sufficient protection against air pollution and loss of amenity from smoke nuisance for urban settlements.
41. Provide greater clarity on the management of pesticide and fertiliser discharges.

#### ***Coastal and Marine***

42. Undertake strategic planning and definition for the coastal environment to provide greater certainty for activities, identifying areas where activities, subdivision, use and development are appropriate.
43. Ensure integrated management of activities across the coastal marine and land boundary, particularly with regard to recreation and marine facilities, natural hazard management and the functioning of natural coastal processes.
44. Update the Plan to include management of benthic and marine ecosystems.
45. Continue to provide public access to and along the coast, such as via esplanade reserves and strips.
46. Review options for addressing the effects of noise in the coastal environment, particularly effects on natural character and amenity values.
47. Continue to provide for aquaculture activities and review existing provisions against the outcomes from the adaptive management process and contemporary and emerging practices.
48. Review the provision of marine facilities within the district and ensure that adequate facilities are provided to avoid land and water contamination and minimise biosecurity risks.

## Structural and content principles for development of the TEP

1. **Eliminate policy repetition and reduce the total number of policies.** The high degree of policy repetition and very large number of policies has created inefficiencies, contradictions, confusion and unnecessary complexity for plan users.
2. **Reduce the number of bespoke zones, areas and associated rules and assessment matters.** The sheer number of rules and assessment criteria in each zone creates confusion for plan users. The large number of provisions means plan users find it difficult to clearly identify what rules apply; processes can be complicated, inconsistent and at times inefficient. Reducing the number of rules may mean the Plan does not contain as many 'bespoke' approaches to land parcels, zones, or areas. More generic rules will apply zone/area wide. Review the extent and need for the Rural 3 zone.
3. **Increase certainty for plan users** – Provide clear and simple pathways through the plan for 'common activities' and those activities that we want to encourage. Provide greater direction in frameworks for resource allocation and use to achieve environmental outcomes.
  - a. Increase use of "non-notification" provisions.
  - b. Reduce the use of 'Avoid, Remedy or Mitigate' for objectives and policies as these do not provide a clear indication of what policies are trying to achieve.
  - c. Look for ways to turn Controlled Activities to Permitted activities (with associated standards) where outcomes are to be encouraged or enabled.
  - d. Only use Restricted Discretionary Activity status where matters of discretion are few and clearly defined.
  - e. Increase use of Non-complying or Prohibited Activities where Council is certain that particular outcomes will not be supported.
4. **Clearly identify where effects are to be 'traded-off' in order to achieve particular outcomes.** This will likely involve identifying strategic outcomes through the RPS that have an element of 'public good' or achieve important community or environmental outcomes. Clearly identify and explain where outcomes are prioritised and provide explicit direction where there is a preference for that direction to increase certainty for plan users.
5. **Align outcomes across Council wide documents and processes.** Community objectives for managing environmental effects need to be achieved through multiple pathways. Better alignment is needed between the TEP, Long Term Plan, Infrastructure Strategy, Financial Strategy, Reserve Planning, and Environmental Information programmes.
6. **Simplify language and structure of rules.** Apply strict principles to activity status cascades with clear triggers for the change of activity status. Ensure definitions are clear and consistently applied, including for te ao Māori concepts.
7. **Retain the following:**
  - a. a mix of effects-based policies where outcomes may be flexible or uncertain; and activity-based rules which allow for certainty, where relevant.
  - b. reasons for policies and rules as they provide valuable context and can help clarify intended outcomes for decision-makers.
  - c. design guidance (with updates)
8. **Remove:**

- a. process or relationship policies. These are often 'best practice at the time' methods, or are delivered outside of RMA processes
- b. specific Record of Title (ex-CT) references in the Plan and apply spatial identification in the maps where sites need to be individually identified for special purposes.
- c. rules or standards that are covered by other legislation

**9. Increase use of mapping and diagrams to improve interpretation of rules**

## **Appendix 1: Explanation of the Plan Evaluation Process**

Broadly, the evaluation process has involved looking back at how the Plan has performed in relation to what it was trying to achieve.

The first stage was to consider if there was a clear relationship between what the plan was trying to achieve (Objectives) and the mechanisms for delivering those outcomes – e.g through policies and rules. This first stage is called policy logic mapping, and was useful for understanding where there are gaps across the Plans, and the ability of the Plans to shape outcomes (i.e. if there are objectives to avoid an outcomes, but the rules are permissive, there is a gap in the policy logic).

The second stage was to look at how the plan has been implemented and the efficiency of that implementation process. Evidence of implementation was found through multiple means, including consenting and compliance decisions, property data, and other council documents and decisions. This stage also involved drawing on the knowledge of expert plan users.

The last stage was to look at the effectiveness of the Plans in delivering ‘results on the ground’. The evaluation tested whether the actual observed outcomes where the same as what was intended in the Plan. Environmental trend data, consenting data, GIS data, compliance data, funding decisions and site visits were undertaken to understand changes since 1996. The evaluation process considers the relationship between the outcomes and the likely influence of the Plan on them. This stage also considers the impact of other factors that may be influencing outcomes – e.g. other legislation, national instruments or economic changes.

As a consequence of the evaluations the following reports have been produced:

- District and Regional Plan Policy Mapping reports (Sonya Leusink Sladen, April 2019 & December 2019)
- TRPS Policy Mapping Report (Greg Mason, 2019)
- TRPS Statutory Obligations Reports (Greg Mason, 2019)
- Efficiency and Effectiveness evaluations for the 11 district policy chapters of the TRMP (Mary Honey, Jeremy Butler, Pauline Webby, Diana Worthy, Maxine Day, Lisa McGlinchey and Rowena Cudby, 2019)
- Efficiency and Effectiveness evaluations for the 10 regional policy chapters of the TRMP (Greg Mason, 2020)
- Legal Report for Section 35 TRMP Review (Tasman Law, 2019)

Further input on the evaluations will include obtaining political, iwi, public and stakeholder input.