

TYPES OF RESOURCE CONSENTS

Under this plan there are two basic types of activities:

- (1) Land use activities; and
- (2) Subdivision of land.

Resource consents are required for subdivision under all circumstances and for land uses where they do not meet the relevant conditions for a permitted activity, as listed in the rules tables. Where a resource consent is required, the manner in which that consent is treated depends on:

- The category of activity; and
- Whether the application needs to be notified or not.

Categories of activities

Permitted activities

These are activities that can be carried out “as of right”. They do not require a resource consent.

To be a permitted activity under this plan your activity must meet the “conditions – permitted” for all the parameters relevant to your activity. If your proposal involves more than one activity (e.g. subdividing land and erecting a BUILDING), all the relevant parameters for each activity must be met. Where there are no relevant parameters your activity is permitted.

If one of the parameters relevant to your proposal has “n/a” in the permitted column, your activity will require a resource consent.

A permitted activity can be carried out as of right. Where there are no relevant parameters your activity is permitted.

Controlled activities

A controlled activity can only be carried out if a resource consent is obtained for that activity. The COUNCIL must grant the resource consent (unless it has insufficient information to determine whether or not the activity is a controlled activity) but may impose conditions relating to the “matters over which control is reserved”.

To be a controlled activity under this plan your activity must meet the “standards and terms – controlled” for all the parameters relevant to your activity. If your proposal involves more than one activity (e.g. subdividing land and erecting a BUILDING), all the relevant parameters for each activity must be met.

Where an activity is not provided for as a controlled activity (indicated by “n/a” in the “standards and terms - controlled“ column), or you are unable to meet the relevant standards and terms, a resource consent for a discretionary or non-complying activity will be required.

A controlled activity can only be carried out if a resource consent is obtained for that activity. The COUNCIL may place conditions on it.

Discretionary activities

A discretionary activity can only be carried out if a resource consent is obtained for that activity. The COUNCIL may decide to refuse an application or grant it with or without conditions.

To be a discretionary activity you must meet the “standards and terms – discretionary” for all the parameters relevant to your activity. If your proposal involves more than one activity (e.g. subdividing land and erecting a BUILDING), all the relevant parameters for each activity must be met.

The “Assessment Criteria” or “Matters to be considered” are used, in conjunction with the relevant objectives and policies, to decide whether or not to grant the resource consent. They provide a guide to APPLICANTS and decision-makers as to what practical matters will generally be considered.

The COUNCIL has sometimes restricted the exercise of its discretion for land use and subdivision consents **only**. This means that in deciding whether to grant or refuse an application for a discretionary activity that is restricted, the COUNCIL will only consider those matters in the “Assessment Criteria” or “Matters to be considered” column and, where consent is granted, place conditions on the consent accordingly. If the activity also has some parameters that are “controlled”, the COUNCIL cannot turn down the consent on the basis of those controlled parameters but can place conditions on consent as specified in the “Matters over which control is reserved”.

Consents for subdivision remain fully discretionary unless otherwise specified and some consents for land use are also fully discretionary. In assessing a fully discretionary activity, the COUNCIL must take into account all of the matters mentioned in section 104 of the ACT in addition to those in the “Assessment Criteria” or “Matters to be considered” column.

Where an activity is not provided for as discretionary activity (indicated by “n/a” in the “standards and terms - discretionary” column), or you are unable to meet the relevant standards and terms, a resource consent for a non-complying activity will be required.

A discretionary activity can only be carried out if a resource consent is obtained for that activity. The COUNCIL may decide to refuse an application or grant it with or without conditions.

Non-complying activities

Where an activity does not meet the conditions for a permitted activity nor the standards and terms for a controlled or discretionary activity, or where “n/a” appears in each of these columns, the activity is treated as non-complying.

A non-complying activity is only allowed if a resource consent has been obtained. The COUNCIL may decide to refuse an application or grant it with or without

conditions. A resource consent will not be granted unless the COUNCIL is “satisfied that:

- i) *the adverse effects on the environment (other than any effect to which section 104(3)(b) applies) will be minor; or*
- ii) *the application is for an activity that will not be contrary to the objectives and policies of the ... plan”*

as per section 104D of the ACT.

A non-complying activity can only be carried out if a resource consent is obtained for that activity. The COUNCIL may decide to refuse an application or grant it with conditions.

Prohibited activities

Prohibit an activity from occurring. There are no prohibited activities within this plan.

A full description of how to use the rules is given at the beginning of the rules section to assist you to work out which rules apply and what kind of resource consent (if any) you require.

The conditions for permitted activities and the standards and terms and conditions of consent for controlled, discretionary or non-complying activities are ongoing requirements that must continue to be met. Failure to comply with these requirements means that the activity is in breach of the rule or consent and enforcement action could be taken as a result.

HOW TO APPLY FOR A RESOURCE CONSENT



Form of application

Section 88 of the ACT requires that applications for resource consent are in a prescribed form. Form 9 in the Regulations of the ACT details the information required:

- Names and addresses of all applicants and owners and occupiers of the land.
- Address or location of the SITE and its legal description.
- The type of resource consent required, whether any other consents are required and whether they have been applied for.
- A description of the activity.
- An assessment of effects on the environment; and
- Any other information required by this plan or by regulations.

It is important that all relevant parts of the form be completed.

Copies of the prescribed form are available from the COUNCIL.

Information to be provided

Applications for resource consent should provide the following information (as relevant):

Description of the SITE

- (a) Topography.
- (b) Any natural features such as vegetation, RIVERS or other WATERCOURSES, etc.

- (c) Any OVERLAYS that are shown on the planning maps, such as those relating to:
 - (i) Amenity (URBAN VIEWSHAFTS, DEFINED RETAIL FRONTAGE, New Plymouth entrance corridors);
 - (ii) Health and Safety (gas and PETROLEUM pipelines, high voltage transmission LINES);
 - (iii) Hazards (COASTAL HAZARD AREA, flood hazard area, VOLCANIC HAZARD AREA, FAULT LINES);
 - (iv) Heritage (heritage BUILDINGS and items, WAAHI TAONGA/ SITES OF SIGNIFICANCE TO MAORI and ARCHAEOLOGICAL SITES and NOTABLE TREES);
 - (v) Natural Values (COASTAL POLICY AREA, SIGNIFICANT COASTAL AREAS, preferred esplanade reserves and strips, PRIORITY WATERBODIES, SIGNIFICANT NATURAL AREAS, OUTSTANDING and REGIONALLY SIGNIFICANT LANDSCAPES);
 - (vi) Traffic and Transport (AIRPORT FLIGHT PATH SURFACES, INDICATIVE ROADS, DEFINED RETAIL FRONTAGE); and
 - (vii) Designations.
- (d) Whether the SITE is likely to be subject to any other actual or potential natural hazard, including flooding or inundation, erosion, landslip, subsidence or land instability of any kind.
- (e) The location of any FILL on the SITE.
- (f) Whether the SITE is a CONTAMINATED SITE.
- (g) The location of any railway crossing near the SITE, or ROAD from which the SITE will gain access and its classification (as per the ROADING HIERARCHY) and posted speed limit.

Description of the proposal

- (a) The type of activities involved:
 - (i) ERECTION, alteration, RELOCATION or demolition of STRUCTURES, including BUILDINGS, NETWORK UTILITIES, SIGNS or any other type of STRUCTURE;
 - (ii) Earthworks (EXCAVATION and FILLING);
 - (iii) Use, storage or disposal of HAZARDOUS SUBSTANCES;
 - (iv) OUTDOOR STORAGE of materials;
 - (v) Sale of liquor;
 - (vi) Generation of stock truck effluent; and
 - (vii) Planting, trimming or removing vegetation.
- (b) The area of the SITE covered by BUILDINGS, and their use.
- (c) Maximum gauge pressure of pipelines.
- (d) Maximum electromagnetic field strengths of LINES and radiofrequency emissions from COMMUNICATION FACILITIES measured at any boundary of the SITE.
- (e) Volume of earthworks, area covered and composition of FILL.
- (f) Type, quantity, concentration and methods used to manufacture, store, dispose of or use HAZARDOUS SUBSTANCES on the SITE.
- (g) Type and quantity of non-hazardous materials to be stored outdoors on the SITE and the method and location of storage.
- (h) For SITES where liquor is to be sold for on-SITE consumption, hours of operation and any additional entertainment activities planned.
- (i) Frequency of stock truck movement to the SITE, estimated quantity of effluent and proposed methods for its disposal.
- (j) Where planting, maintaining, or removing vegetation, location, size, species type and the works proposed.
- (k) The extent to which the proposed activity may give rise to emissions of noise, LIGHT OVERSPILL or GLARE.

- (l) Level of traffic generated by the proposal (per day, per week average and peak hour) to and from the SITE, and the types of VEHICLES accessing the SITE.
- (m) How and where access will be provided to the SITE, including the design, gradient, and construction of any DRIVEWAY, RIGHT OF WAY or ROAD.
- (n) Number, design and construction of any parking, LOADING or STANDING SPACE, including MANOEUVRING and QUEUING SPACE, and traffic circulation.
- (o) Time frame over which the development is likely to occur. If staging of the works is proposed, an indication of the number and extent of the stages and duration of the work required for completion of each stage should also be provided.
- (p) Operational requirements of the proposal including the days and hours of operation.
- (q) Number of people employed, visiting and/or accommodated on the SITE.
- (r) Proposed methods for the servicing, treatment and/or disposal of water, effluent, stormwater, and any other potential contaminant produced by the activity, and evidence to demonstrate that those services can outfall or connect to existing reticulations (including catchment details as necessary).

Locality or SITE plans showing:

- (a) Legal boundaries of the property including property dimensions, the area of the SITE, its relationship to adjoining road reserves and north point.
- (b) Any topographical or other SITE features of relevance such as vegetation, RIVERS, or other WATERCOURSES.
- (c) The location of any OVERLAYS, natural hazards, areas of contamination, railway crossings or roads.
- (d) The location (with distances to SITE boundaries) and area of all existing and proposed BUILDINGS and other STRUCTURES, including common or party walls and retaining walls, and their uses.

- (e) The location of all other proposed uses of the SITE including earthworks, use of HAZARDOUS SUBSTANCES, OUTDOOR STORAGE of materials, or planting, trimming or removal of vegetation.
- (f) The existing and proposed location of parking and LOADING or STANDING SPACES, VEHICLE ACCESS POINTS, manoeuvring areas or QUEUING SPACES, road markings and proposed traffic circulation within the SITE.
- (g) The location, type and dimension of any existing landscaping and TREES (including the areas occupied by their driplines).

Construction plans showing:

- (a) Dimensions for all STRUCTURES.
- (b) Elevations of each BUILDING to an appropriate scale showing:
 - (i) external appearance of BUILDINGS including doors and windows;
 - (ii) BUILDING HEIGHT, and HEIGHT in relation to boundary, illustrating degree of compliance or non-compliance; and
 - (iii) original GROUND LEVELS along boundaries. Actual levels may be required with reference to a datum.
- (c) A floor plan of each BUILDING at an appropriate scale showing the intended use of each area.
- (d) Floor levels of all BUILDINGS expressed in terms of the datum used.
- (e) The formation widths and grades of proposed ROADS or other VEHICLE access including VEHICLE crossings and their surfacing, i.e. whether it is to be SEALED, metalled, etc.

Landscaping plans (where landscaping is required) showing:

- (a) Location within the SITE and the dimensions of the areas to be landscaped and the relative location of any BUILDING, car park or access.
- (b) Location and type (identification by common and/or botanical name) of existing vegetation, including NOTABLE TREES, and whether these are to be retained.

- (c) Plant species to be used for landscaping including numbers, spacing, size at time of planting, and predicted HEIGHT and spread at maturity.
- (d) Identification of any areas to be grassed.
- (e) Any proposed changes in contour of the SITE for landscaping purposes.

Plans should be of an appropriate scale.

Additional information to be provided for subdivision consents

Plan of subdivision

In addition to the requirements of section 88 of the ACT, additional information needs to be supplied with an application for consent for subdivision. This takes the form of a plan of subdivision. The plan of subdivision should be drawn at an appropriate scale to clearly show all necessary details, and should include, in addition to the factors listed earlier, the following:

- (a) All legal boundaries of the land included in the certificate of title to be subdivided including all property dimensions, the area of the SITE and north point.

Note: Where a property, by ownership, is comprised of more than one certificate of title the COUNCIL may require the extent of the other relevant certificates of title to be shown on the plan of subdivision in order to gain a full understanding of the subdivision proposal.

- (b) In the case of amalgamation, the boundaries and certificate of title for all ALLOTMENTS.

- (c) The number, area and dimensions of all new ALLOTMENTS, and the position of all new boundaries.

Note: Areas of new ALLOTMENTS are not required for cross-leases, company leases or unit plans.

- (d) The location and areas of new reserves to be created, including any esplanade reserves to be set aside.

- (e) The location and area of esplanade strips to be created.
- (f) The location and areas of any existing esplanade reserves, esplanade strips or access strips.
- (g) The location and areas of land below the Mean High Water Springs mark of the sea or of any part of the bed of a RIVER or lake which is to be vested in the Crown or local authority.
- (h) The location and areas of land to be set aside as new ROAD.
- (i) The position of any existing or proposed easement (including sewer, stormwater, RIGHTS OF WAY, etc) and the position of any existing services and proposed extensions and connections (including water supply, stormwater, sewerage, gas, electricity, COMMUNICATION FACILITIES and fire hydrants).
- (j) For multiple residential units, a defined (exclusive use) area plan which shows the location and dimensions of the BUILDING platform, parking and common areas.
- (k) Existing and proposed contours and ground levels, in relation to the Department of Survey and Land Information Taranaki Datum 1970 or other described datum or reduced level.

Certificates of title

In some circumstances certificates of title may contain information that is relevant to a resource consent application. COUNCIL officers may request that an applicant supply a copy of relevant certificates of title.

The COUNCIL may also require copies of documents of other matters affecting the title of the land to be subdivided. This may include copies of documents relating to any encumbrances, RIGHT OF WAYS, BUILDING line restrictions, covenants, easements, leases or BUILDING line restrictions imposed on the land.

Note: Certificates of title now replaced by Computer Freehold Registers.

Reclamation

Where reclamation is proposed, information must be supplied in accordance with section 89(2) of the ACT to accurately show the area proposed to be reclaimed, including its size and location, and the portion of that area (if any) to be set apart as esplanade reserve. Reclamations may require a resource consent from Taranaki Regional Council under the Regional Coastal Plan for Taranaki (1997).

Assessment of effects on the environment

Purpose

An assessment of any actual or potential effects that an activity may have on the environment is required as part of any resource consent application, and should cover those matters outlined in the Fourth Schedule to the ACT.

An assessment of environmental effects not only assists the COUNCIL as decision-maker, but can also serve to inform affected parties, such as neighbouring property owners, of a resource consent proposal.

Scope

Any assessment of effects supplied with an application should provide sufficient information for any person to understand the actual or potential effects (as defined in section 3 of the ACT) of the proposed activity on the environment, and the ways the applicant proposes to mitigate any adverse effects. The degree of detail in the assessment should correspond with the scale and significance of the actual or potential effects that the proposal may have on the environment.

Where the consent being sought is for a controlled activity, the assessment of effects need only address those matters over which the COUNCIL has retained control.

Where the consent being sought is for a discretionary activity over which the COUNCIL has restricted the right to exercise its discretion, the assessment of effects need only address those matters over which the COUNCIL has restricted its discretion.

For a resource consent application for a discretionary activity where the COUNCIL has not restricted its discretion, or for a non-complying activity, the assessment of effects should address all relevant matters relating to the actual or potential effects of the proposed activity on the environment. Such applications should also address any conditions, standards and terms in the plan that are unable to be met.

Applications for discretionary activities, whether restricted in discretion or not, and non-complying activities should be able to demonstrate compliance with the policies and objectives for the ENVIRONMENT AREA in which they are to be located.

Content

- (a) Any effect on the amenity, health and safety of those in the neighbourhood and, where relevant, the wider community in terms of visual, spatial, noise, nuisance (consumption of liquor, shading, LIGHT OVERSPILL and GLARE, traffic generation or odour) or socio-economic effects or potential health effects.
- (b) Any risk to the neighbourhood, the wider community, or the environment through the storage, use, disposal or transportation of HAZARDOUS SUBSTANCES or from hazardous installations.
- (c) Any effects on cultural or heritage values.
- (d) Any risk to the neighbourhood, the wider community, or the environment through natural hazards.

Note: Where the land to be subdivided or developed is, or is likely to be, subject to material damage from natural hazards involving erosion, falling debris, subsidence, slippage or inundation from any source, the COUNCIL may require a geotechnical report to accompany the application. Such reports will need to be prepared by a suitably qualified person, and shall be provided by the APPLICANT at the APPLICANT'S expense.

- (e) Any effect on natural values, including the natural character of coastal environment, wetlands, lakes and RIVERS and their margins; OUTSTANDING and REGIONALLY SIGNIFICANT LANDSCAPES; OUTSTANDING NATURAL FEATURES; SIGNIFICANT NATURAL

AREAS and ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity.

- (f) Any effects on WAAHI TAPU or the cultural or spiritual values of significance to TANGATA WHENUA.
- (g) Any effects on the safe and efficient functioning of the ROAD TRANSPORTATION NETWORK, or air traffic at New Plymouth Airport.
- (h) Any increased demands on the INFRASTRUCTURE and COMMUNITY FACILITIES of the New Plymouth District.
- (i) Any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual or cultural, or other special value for present or future generations.
- (j) Any discharge of contaminants into the environment (including any unreasonable emission of noise) and options for the treatment and disposal of contaminants.

Consultation undertaken

Consultation with other parties may be required if relevant to the application. Parties that may need to be consulted include the following:

- The owner(s) and occupier(s) of the land on which the proposed activity is to be located.
- Persons likely to be directly affected by the proposed activity, such as adjoining property owners and occupiers.
- Relevant IWI or HAPU.
- Taranaki Regional Council.
- The Department of Conservation.
- Heritage New Zealand Pouhere Taonga.
- Transit New Zealand.
- Requiring authorities.

- Transpower New Zealand Limited (if it is proposed to erect a HABITABLE BUILDING within 20m of a high voltage transmission LINE).
- Other authorities or organisations (e.g. Royal Forest and Bird Protection Society, Civil Aviation Authority, etc).

The application should state who consultation has been undertaken with, the level of consultation, the response, and any ways the results of the consultation have been incorporated into the proposal.

Mitigation measures proposed

- (a) A description of the mitigation measures (including safeguards and contingency plans where relevant) proposed to prevent or reduce any of the identified actual or potential adverse effects of the activity on the environment.

For example:

- Landscaping.
 - Materials.
 - Location/construction of development.
 - Timing of events/hours of operation/management.
 - Soundproofing.
 - Setbacks.
 - Screening through fencing.
 - Types of activities undertaken, e.g. karaoke.
- (b) Where it is likely that an activity will result in any significant adverse effects on the environment, a description of any possible alternative locations or methods for undertaking the activity.
- (c) Where the scale or significance of the effects of the activity are such that monitoring is required, a description of how the effects will be monitored and by whom.

Request for further information

The ACT requires the COUNCIL, as a consent authority, to be satisfied as to the effects that any proposal may have on the environment.

Where an application for consent does not, in the COUNCIL'S view, contain sufficient information the COUNCIL may ask for additional details under section 92 of the ACT. This provision enables the COUNCIL to be satisfied that it has a full and accurate understanding of an application and the likely actual and potential effects a proposal may have on the environment.

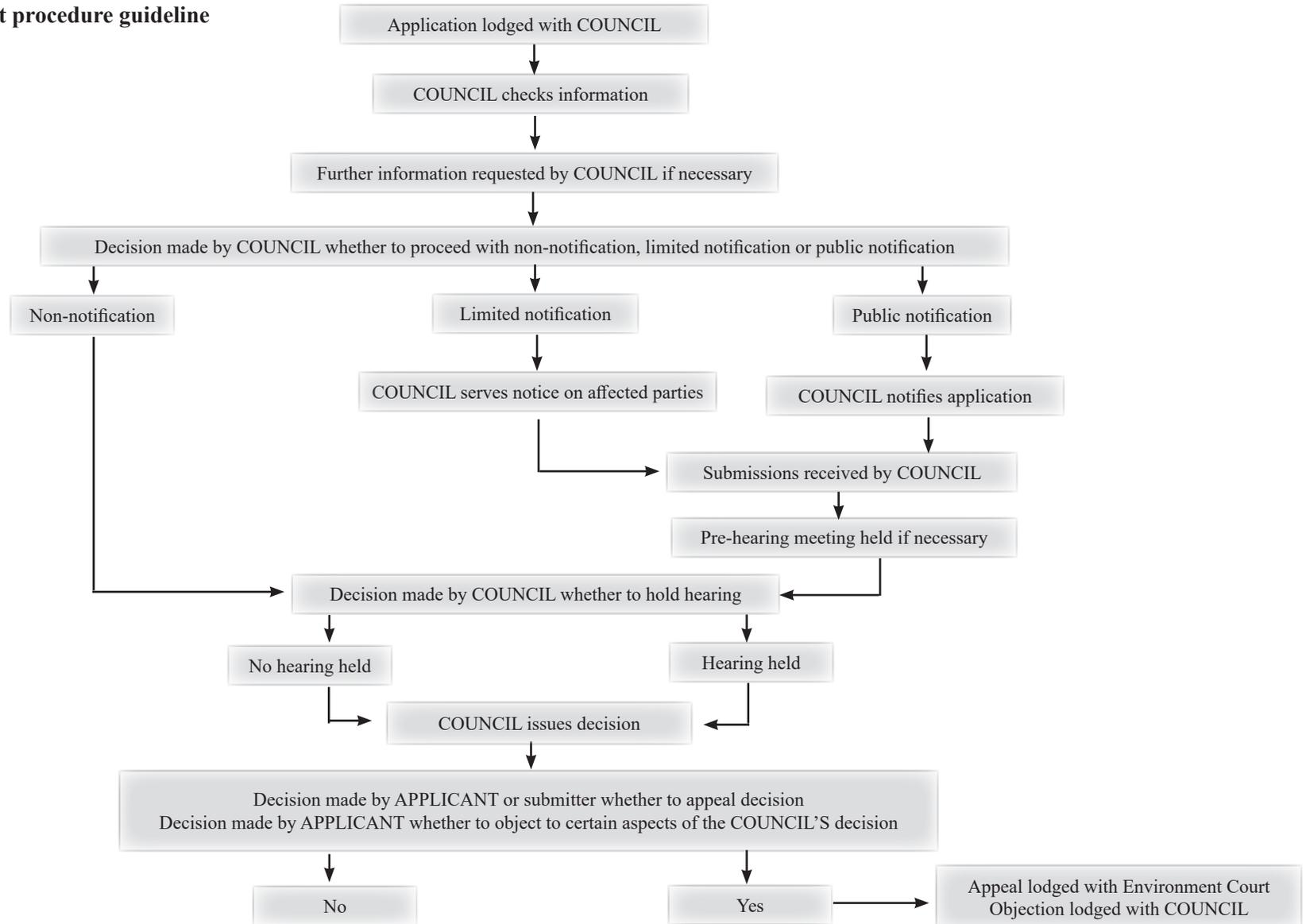
The circumstances under which the COUNCIL may request further information to be provided are:

- (a) The prescribed application forms have not been accurately, fully or legibly completed.
- (b) A full and accurate description of the proposal and its location has not been provided.
- (c) The application does not specify, or inaccurately specifies, other consents that may be needed to undertake the activity.
- (d) The assessment of effects is not sufficient to gain a full understanding of, or is inaccurate as to, the effects the proposal will have on the environment.
- (e) The assessment of effects does not provide sufficient information with regard to the measures that are to be undertaken to avoid, remedy or mitigate any effects on the environment that the proposal is likely to give rise to.
- (f) An application, or an assessment of effects, does not include information or does not sufficiently address those matters in the plan over which the COUNCIL has reserved its control or discretion, or which are included in assessment criteria to be referred to by the COUNCIL in the consideration of a consent.
- (g) Where, in the COUNCIL'S view, there are persons interested in or affected by the proposal who have not been consulted.

- (h) The assessment of effects does not provide sufficient information with regard to the timing for implementation of the proposal.
- (i) There is uncertainty regarding the need for or purpose of the consent.
- (j) There are reasonable grounds to suggest there are possible alternative locations and/or methods for undertaking the activity that may be feasible and would have less adverse effects on the environment.
- (k) A report is required to be commissioned to fully assess the effects of a proposal on the environment or to audit any information provided by an APPLICANT.

HOW A RESOURCE CONSENT IS PROCESSED

Figure 6: Resource consent procedure guideline



NOTIFICATION OF APPLICATIONS



Sections 93 and 94 of the ACT provide for the COUNCIL to determine the circumstances under which applications for consent may be notified or when they may not be required to be notified.

Notification and non-notification of applications

For the purposes of this plan the following will apply:

LAND USE CONSENTS

Controlled activities

Controlled activities need not be publicly notified, and written approval from affected persons will not be required.

Discretionary activities

Applications will not be notified where:

- The activity is not located in an OVERLAY; and
- Written approval from affected persons is provided; and
- The effects of the activity are minor.

Non-complying

Applications for non-complying activities will generally be notified.

SUBDIVISION CONSENTS

Controlled activities

Controlled activities need not be publicly notified, and written consents will not be required.

Discretionary activities

Applications will not be notified if the written consents of affected persons are submitted and the effects on the environment will be minor.

Non-complying

Applications for non-complying activities will generally be notified.

Notwithstanding the above, under section 94C of the ACT, the COUNCIL retains the ability to notify any application.

Notification and non-notification requirements

The ACT presumes that an application must be notified unless the application comes within the terms of sections 93 and 94 of the ACT. It should be noted that the COUNCIL reserves the right where special circumstances exist to notify an application even though this plan states that an application need not be notified. The COUNCIL still retains the ability under section 94 of the ACT to treat an application as non-notified. In applying the exceptions of the ACT, the COUNCIL will take into account:

Written approvals of adversely affected persons

In determining those persons that may be adversely affected by the granting of a resource consent, the COUNCIL will consider the plan's objectives and policies and reasons for the rules, and (where appropriate) the effect on:

- (a) Those persons living in residential properties adjacent to or near the application SITE.
- (b) Those persons who own, occupy or lease land that is adjacent or near to any application and whose use of that land/resource could be detrimentally affected by the application.

- (d) Those persons or organisations whose enjoyment of an area/resource could be adversely affected by an application.
- (e) Any adjacent regional council or territorial authority.
- (f) Any Minister of the Crown with statutory responsibilities in respect of the application SITE or any adjacent area.
- (g) Any other person the COUNCIL considers relevant in the circumstances.

It should be noted that where the application is for a discretionary land use consent, the COUNCIL has restricted the exercise of its discretion. Therefore, in determining who may be adversely affected by a proposal, the COUNCIL will only consider who may be adversely affected by those parameters where the activity falls into the discretionary column. Where the activity meets the conditions for a permitted activity or the standards and terms for a controlled activity, the COUNCIL will not take those parameters into account.

Adverse effects on the environment

In determining whether there is more than a minor adverse effect on the environment from the granting of a resource consent, the COUNCIL will consider the plan's objectives, policies and reasons for the rules and (where appropriate):

- (a) The degree of any non-compliance with any rule in the plan and the environmental outcome sought by that rule.
- (b) The cumulative nature of any effect over time or in combination with other effects.
- (c) The frequency of any effect.
- (d) The duration of any effect.
- (e) The timing of any effect.
- (f) The sensitivity of the environment and surrounding uses to that effect.
- (g) Any other aspect of the effect considered relevant in a particular circumstance.

Particular points to note are:

- (a) It is essential to provide sufficient information with the resource consent application.
- (b) If an application does not provide sufficient information the COUNCIL may, within 5 working days after the application was first lodged, determine that the application is incomplete and return the application, with written reasons for the determination, to the APPLICANT.
- (c) There are fees for all resource consent applications.
- (d) The COUNCIL is obliged under the Resource Management Act 1991 to:
 - (i) process non-notified applications within 20 working days;
 - (ii) process notified applications to the hearing stage in 55 working days (There are provisions within the ACT to allow the extension of any time limits specified. The COUNCIL does however have a duty to avoid unreasonable delays).
- (e) Any additional information that is requested for an application will suspend the applicable time frames.
- (f) Any APPLICANT dissatisfied with a decision can lodge an objection to the COUNCIL in accordance with section 357 of the ACT.
- (g) Decisions of the COUNCIL can be appealed to the Environment Court.

CONSULTATION - GOOD PRACTICE

General

Consultation does not necessarily involve negotiation towards an agreement; it does however involve meaningful discussion. Implicit in the concept is a requirement that the party consulted will be adequately informed so as to be able to make intelligent and useful responses. It is also implicit that the party obliged to consult must keep its mind open and be ready to change and even start afresh.

The consultation process is to provide:

- Information to affected parties and the wider community on the nature, scale and possible areas/activities affected by the proposed activity.
- Opportunities for affected parties/community to discuss possible effects and proposed mitigation with the COUNCIL and/or applicant.
- An appropriate forum and time frame for the wider community to express its views.
- Feedback from the consultation process so that the project can be modified as far as practical to address concerns raised.

The common elements for 'Good Practice' in the consultation process can be summarised as²¹:

- Communicate effectively, be prepared to listen and participate.
- Have a clear purpose, but remain open minded.
- Involve people early.
- Involve everyone who needs to be involved.
- Meet information requirements.
- Use a process and timing that meets the needs of the task and those involved.
- Be prepared to change a stance or position at any point in the process.
- Have a clear completion to your process and evaluate it for next time.

Consultation with TANGATA WHENUA

It is the practice of planning staff to encourage the APPLICANT to consult directly with TANGATA WHENUA where the COUNCIL has obtained the prior agreement of the relevant IWI or HAPU. APPLICANTS are advised as to which IWI/HAPU should be consulted and given contact details of the relevant IWI or HAPU. Where the APPLICANT does not wish to undertake consultation, the staff will carry this out in accord with the COUNCIL'S obligation under the ACT.

Starting from the position that APPLICANTS will undertake their own consultation the following consultation model is suggested:

²¹ Rush, Michelle (March 1997). Adapted from: [NZPI Conference Workshop Notes: Effective Rural Participation in Resource Management](#)

Consultation process model

Step	Action	Explanation
1	APPLICANT consults directly with TANGATA WHENUA group where the prior agreement of the relevant IWI or HAPU has been obtained by the COUNCIL.	<ul style="list-style-type: none"> • Allow sufficient time. • Provide sufficient information. • Genuine consideration.
2	APPLICANT prepares Assessment of Environmental Effects (AEE).	APPLICANT to include the following information: <ul style="list-style-type: none"> • IWI/HAPU consulted. • Views of IWI/HAPU to proposal. • APPLICANT'S response to IWI/HAPU views.
3	APPLICANT verifies AEE with IWI/HAPU.	This step could be considered optional. However it would be good practice for APPLICANT to provide a copy of AEE to IWI/HAPU and confirm that the assessment is a fair reflection of consultation.
4	Resource consent application lodged with the COUNCIL.	
5	The COUNCIL verifies AEE.	Planning staff will contact/meet with IWI/HAPU to verify information in AEE.
6	Application processed.	Application is processed if the COUNCIL staff are satisfied that IWI/HAPU views have been adequately recognised and provided for.
7	If the COUNCIL staff are not satisfied that IWI/HAPU views have been adequately taken into account the APPLICANT has two options: <ol style="list-style-type: none"> To consult further with IWI/HAPU; or The COUNCIL staff will consult direct with IWI/HAPU and, where appropriate, involve APPLICANT in consultation process. 	

Note: If from the outset the APPLICANT and/or the IWI do not want to undertake consultation then planning staff will undertake this as per Step 7 (ii) above.

DESIGNATIONS

Background

Any Minister of the Crown or a local authority with financial responsibility for a public work, or a NETWORK UTILITY operator that has been approved as a requiring authority under section 167 of the ACT, may require land to be designated within the District Plan.

The majority of designations incorporated in the District Plan have been “carried forward” under Clause 4 of the First Schedule of the ACT in an unmodified form from the previous designations in the Transitional District Plan, as provided for in section 184 of the ACT. In addition there are a small number of completely new designations. Designations incorporated into this plan that have not been given effect to will lapse after five years from the date the District Plan becomes operative.

Each designation has been allocated a specific code and number, for example C23. The code represents (C) for Ministers of the Crown, (L) for local authority and (N) for NETWORK UTILITY Operators. All of the designations are contained within a schedule (Appendix 4) and they are also shown on the relevant planning maps.

The following list includes the requiring authorities as defined or approved under Section 166 of the ACT that have requested designations for this District Plan.

Ministers of the Crown

- Department of Corrections.
- Department for Courts.
- Minister of Defence.
- Minister of Education.
- Minister of Police.
- Maori Land Court.

Local Authorities

- New Plymouth District Council.
- Taranaki Regional Council.

NETWORK UTILITY Operators

- Broadcast Communications Ltd.
- Metrological Services of New Zealand Ltd.
- Natural Gas Corporation of New Zealand.
- Powerco Ltd.
- Radio New Zealand Ltd.
- The Radio Network Ltd.
- Telecom New Zealand Ltd.
- Transpower New Zealand Ltd.
- Transit New Zealand.
- Toll Rail.

Effect of a designation

Under section 176 of the ACT, where a designation is included in the District Plan, the requiring authority responsible for the designation may do anything in accordance with the purpose of the designation. Within this plan the general purpose of each designation is set out in the designations schedule (refer to Volume II, Appendix 4).

The ACT states that “*No person may, without the prior written consent of that requiring authority, do anything in relation to the land that is subject to the designation that would prevent or hinder a public work or project or work to which the designation relates including:*”

- (i) Undertaking any use of the land described in section 9(4); and
- (ii) Subdividing the land; and
- (iii) Changing the character, intensity, or scale of the use of the land—

The zoning of land that is designated is indicated by the underlying ENVIRONMENT AREA. Where a proposed activity on designated land is not in accordance with the designated purpose it will be assessed in accordance with the relevant rules for the underlying ENVIRONMENT AREA.

Outline plans

Section 176A of the ACT requires a requiring authority to submit an outline plan of the public work, project, or work to be undertaken on designated land to the COUNCIL. The purpose of an outline plan is to provide greater flexibility to requiring authorities and to ensure adequate environmental protection. An outline plan enables the COUNCIL to assess the effects of the proposed works and to seek changes before the proposed work is commenced if it considers that the works will result in adverse effects on the environment.

Section 176A states the matters that an outline plan must include:

- “(3)(a) *The height, shape, and bulk of the public work, project, or work; and*
- (b) The location on the site of the public work, project, or work; and*
- (c) The likely finished contour of the site; and*
- (d) The vehicular access, circulation, and the provision for parking; and*
- (e) The landscaping proposed; and*
- (f) Any other matters to avoid, remedy, or mitigate any adverse effects on the environment.”*

An outline plan shall be in sufficient detail to enable the COUNCIL, by reference to the provisions of the District Plan, to ascertain the likely effects of the work or project and whether any change is required to avoid, remedy or mitigate adverse effects on the environment.

Circumstances under which an outline plan is not required

Section 176A of the Act provides criteria for the circumstances under which an outline plan need not be submitted:

- “(2)(a) *The proposed public work, project, or work has been otherwise approved under this Act; or*
- (b) The details of the proposed public work, project, or work, as referred to in subsection (3), are incorporated into the designation; or*
- (c) The territorial authority waives the requirement for an outline plan.”*

This means that if the proposed public work, project or work:

- Has been approved by a resource consent, or
- Is an emergency work undertaken in accordance with section 330 of the ACT, or
- Is an activity permitted under existing use rights in accordance with section 10 of the ACT, or
- Is a permitted activity under the plan, or
- The details of the proposal (such HEIGHT, shape, bulk, location, finished contour of the site, vehicular access, circulation, and the provision for parking and the landscaping proposed) are incorporated into the designation

then there is no requirement for an outline plan.

It should be noted that, while the general purpose of each designation is stated in the designations schedule in this plan, it is the COUNCIL’S view that the information relating to the majority of the scheduled designations are without the necessary detail to satisfy the requirements of section 176A (2)(b).

In regards to section 176A (2)(c), the COUNCIL will waive the requirement for an outline plan where it is satisfied that the proposed works are minor in nature and that no adverse effects on the environment will result. In determining whether the proposed works are minor and that no adverse effects will result, sufficient information will need to be supplied to the COUNCIL to enable an environmental assessment to be undertaken.

CROSS BOUNDARY PROCESSES

Introduction

Section 75 (2) (f) of the ACT requires the District Plan to state the processes the COUNCIL will use to deal with issues that cross territorial boundaries.

The New Plymouth District has four neighbouring territorial local authorities. These are the Waitomo District, Ruapehu District, Stratford District and South Taranaki district. In addition the New Plymouth District lies within the administrative boundaries of Taranaki Regional Council.

Issues

The issues that could affect, or otherwise involve the neighbouring district and regional authorities can be considered under three broad headings, namely;

- (1) Issues arising from the consistency of the management strategy proposed in this plan with the resource management plans of the neighbouring district and regional councils.

An example could be the differences of approach to the promotion of the sustainable management of INDIGENOUS VEGETATION.

- (2) Issues arising from the implementation of this plan.

Examples include the degree of consistency of the resource management approach by authorities in dealing with the effects of activities (such as noise) that go beyond territorial boundaries or where an application for consent straddles a common territorial boundary (such as linear NETWORK UTILITIES).

- (3) Issues arising from the differing functions and responsibilities of the COUNCIL and Taranaki Regional Council, and the need to clarify or transfer these where circumstances require.

Processes

The processes to be used to deal with cross boundary issues efficiently and effectively are founded on good communication between the respective authorities.

The processes that the COUNCIL will use to resolve any issues that cross territorial boundaries include:

- (a) With reference to section 75 (4) of the ACT, having regard to the need for this plan (and any changes or review) to not be inconsistent with the regional policy statement and any regional plans.
- (b) To consult with the regional council and neighbouring territorial authorities, as appropriate, when any changes to, or a review of, this plan is undertaken.
- (c) To maintain an ongoing dialogue with the regional council and neighbouring territorial authorities to help ensure the ongoing development of the efficient and effective and integrated management of resource management issues at a district and regional level.
- (d) Making submissions, where appropriate, in respect of resource management documents prepared by the regional council and neighbouring territorial authorities.
- (e) Liaising with the neighbouring district councils where the effects of activities cross territorial boundaries with a view to determining and agreeing as to the most appropriate methods, under the circumstances, to manage and achieve successful integrated resource management outcomes.
- (f) To seek to determine, at the time a resource consent application is lodged with the COUNCIL, whether an APPLICANT is required to seek any other resource consent for the proposal.

- (g) To encourage APPLICANTS, where activities might have effects beyond the boundaries of the district, or which might give rise to effects that are not within the COUNCIL'S resource management functions, to consult with the affected district or regional council.
- (h) To inform and consult with neighbouring territorial authorities or the regional council in respect of those consent applications where it is considered that an actual or potential cross boundary effect may occur.
- (i) To initiate and participate in joint hearings with the regional council and other neighbouring territorial authorities where appropriate.
- (j) To continue to identify, in conjunction with the regional council, opportunities for the transfer of functions between the two authorities where the particular circumstances indicate that a transfer of functions would result in more efficient, effective and integrated resource management.

MONITORING AND REVIEW PROCEDURES



Introduction

Section 75(2) requires the COUNCIL to include in the District Plan the procedures it will use to review the key components of the plan, these being:

- The stated resource management issues.
- The objectives, policies, methods of implementation (including any rules).
- The principal reasons for adopting the objectives, policies and methods of implementation.
- Information requirements.
- The environmental results anticipated; and
- The procedures to be used to deal with cross boundary processes.

In addition section 75(2) requires the plan to state the procedures that will be used to monitor the effectiveness of the plan as a means of achieving its objectives and policies.

Monitoring procedures

Requirement to monitor

Section 35 of the ACT requires the COUNCIL to gather information, monitor and keep records in the discharge of its responsibilities in resource management.

Section 35 (2) requires the COUNCIL to monitor the following specific matters:

- (a) The state of the whole or any part of the environment of the district to the extent appropriate to enable the COUNCIL to effectively carry out its functions under the ACT;
- (b) The suitability and effectiveness of the District Plan;

- (c) The exercise of any functions, powers, or duties delegated to or transferred by the COUNCIL; and

- (d) The exercise of the resource consents that have effect in the district.

As a consequence of monitoring the COUNCIL is also obliged to take appropriate action where shown to be necessary.

Section 75 of the Act requires the COUNCIL to state in its District Plan the procedures to be used to monitor the effectiveness of the plan as a means of achieving the plan's objectives and policies.

What will be monitored?

The indicators stated in the management strategy of this plan will be the primary tools for monitoring the effectiveness of the plan as a means of achieving its objectives and policies. The indicators chosen relate specifically to each of the 22 significant resource management issues that have been identified. The indicators will be used to focus on the environmental results anticipated in relation to each of the resource management issues.

The indicators have been selected to effectively measure change in the district environment. They will also provide valuable information on the state of the environment.

How will monitoring be carried out?

The following procedures will be adopted to give effect to the COUNCIL'S monitoring obligations under the ACT:

- (a) An environmental monitoring strategy will be developed and documented which will state the means by which the COUNCIL will carry out:
 - (i) initial baseline and ongoing monitoring of the district environment;
 - (ii) the monitoring of the suitability and effectiveness of the plan;

- (iii) the monitoring of the exercise of any functions, powers, or duties delegated to, or transferred by, the COUNCIL; and
 - (iv) the monitoring of the exercise of resource consents granted in the district.
- (b) The COUNCIL will monitor the implementation of the objectives and policies of the plan using the indicators stated in the management strategy.
 - (c) The COUNCIL will regularly gather information for each of the indicators from a range of sources and using a variety of means as stated for each of the indicators.
 - (d) As part of its monitoring action the COUNCIL will keep records of all resource consents, and all certificates of compliance applied for, granted or declined, transferred, lapsed, surrendered or enforced. The COUNCIL will also keep records of all complaints received, investigations undertaken in relation to complaints received, and any notices issued for the purposes of achieving compliance with the ACT.
 - (e) The COUNCIL will analyse information gathered for monitoring purposes, including the analysis indicated for specific indicators, and will make its findings available to the community. All monitoring records, analyses and reports will be kept.
 - (f) The COUNCIL will assess the suitability and effectiveness of the plan, with specific reference to the effectiveness of the plan as a means of achieving its objectives and policies, at three yearly intervals.
 - (g) At each three yearly assessment the COUNCIL will confirm the plan's performance indicators are adequate and appropriate in indicating the effectiveness of the plan and may amend its choice of indicators if shown to be necessary.

Review procedures

Section 79 of the ACT requires this plan to be fully reviewed no later than 10 years from the date on which it becomes operative. That review must include a full review of the plan and any changes made to it since becoming operative.

However there may be circumstances that will require a full or partial review of the plan to be carried out before the 10-year mandatory review period has elapsed.

The following procedures will be used to review this plan:

- (a) Should a new significant resource management issue arise, or the plan is found to contain inappropriate or unnecessary provisions, a review will be undertaken and a plan change will be initiated by the COUNCIL in accord with the requirements to be followed for plan changes as set out in the First Schedule of the ACT.
- (b) If it is shown from any three yearly assessment of the monitoring of the effectiveness of the plan that a plan change is either necessary or desirable a plan change will be initiated by the COUNCIL in accord with the requirements to be followed for plan changes as set out in the First Schedule of the ACT.

A full review will be carried out no later than 10 years after the date on which this plan becomes operative. The detail of the procedures to be followed will be determined at that time but will include as part of the full review procedure the following:

- (a) An assessment, by reference to the monitoring carried out over the planning period, of the effectiveness of the objectives and policies of the plan in achieving the stated anticipated environmental results.
- (b) By reference to the environmental monitoring information gathered by the COUNCIL over the planning period, an assessment of the current state of the district's environment by comparison to that which existed at the time this plan become operative.
- (c) Consultation with TANGATA WHENUA, the district community and relevant stakeholder groups to consider the effectiveness of the plan and to identify any new significant resource management issues and the options to be considered for the avoidance, remedying or mitigation of any adverse effects that may be likely to arise.