

## Chapter 18: Introduction to Rules

### 18.1 Contents and Scope of Part 2

Part Two of the plan contains rules. Rules are a means of implementing the policies set out in Part One.

Rules describe activities (land uses and subdivisions) that are permitted or prohibited and those that may proceed if resource consent is first obtained. These terms are explained in this chapter. Note that resource consent from the regional council may also be necessary.

There is a chapter of rules for each zone. The zones are shown on the Planning Maps. The order of text in each chapter is:

- Introduction
- Prohibited Activities
- Other Activities
  - Land Use Activities rule table
  - Land Use Effects rule table
  - Land Use Building rule table
  - Subdivision rule table.

As well as zones, there are various policy areas and sites marked on the Planning Maps, for example, Landscape Policy Area, hazard areas, and heritage buildings. These are referred to where relevant in the rules in each zone chapter.

Principal reasons for rules are given in Chapter 29.

### 18.2 General Presumption

The general presumption of this plan is that every activity is permitted unless the activity is regulated or prohibited by the plan. This means that an activity, or effect of an activity, that is not mentioned in the plan is permitted.

### 18.3 Categories of Activities

Rules determine whether resource consent is required for a particular activity. The Resource Management Act provides categories of permitted, controlled, restricted discretionary, discretionary, non-complying or prohibited activities for every land use or subdivision. Table 18A (next page) shows the order and summarises the meaning of these categories.

**Table 18A: Regulated activity classes under the Resource Management Act.**

Consent?	Activity class	Rule	Comments
No consent required	Permitted	Activity is permitted if it is not mentioned in rules, or if it complies with the conditions in the permitted column of the rule table.	No resource consent is required, however consents may be required under other legislation, for example a building consent under the Building Act.
Consent required	Controlled	Activity is controlled if the activity complies with conditions specified in rule table.	Consent must be given in most cases, but may be refused where the consent would contravene a Resource Management Act requirement. Consent conditions may be imposed on matters over which control is reserved in the rules.
	Restricted discretionary	Activity is restricted discretionary if rule table states it is restricted discretionary, and the activity complies with any conditions specified.	The Council may grant or refuse consent. Assessment restricted to matters to which discretion is restricted in the rule. (s104 RMA)
	Discretionary	Activity is discretionary if rule table states it is discretionary, and the activity complies with any conditions specified.	The Council may grant or refuse consent. May be granted with conditions. Assessed on full range of assessment matters referred to in the Resource Management Act. (s104 RMA)
	Non-complying	Activity is non-complying if stated in rule table.	The Council may grant or refuse consent. The application must be refused unless effects of activity are minor, or not contrary to objectives and policies of this plan. May be granted with conditions. Assessed on full range of assessment matters referred to in the Resource Management Act.
No consent possible	Prohibited	A rule at the start of each zone chapter lists prohibited activities. Not in rule table.	No application for a prohibited activity will be accepted for assessment and no consent granted.

## 18.4 Rule Tables

Land Use Activity, Land Use Effects, Land Use Building and Subdivision rules are in separate tables with a similar format.

The format of rule tables is shown in table 18B. Each row of the rule table presents rules on activities or effects. Read down the left-hand column to find the rules relevant to your proposal. Read across from left to right to determine whether that aspect of the proposal is permitted, or requires resource consent.

An activity (or aspect of it) is permitted if the conditions stated in the permitted column are met. If the activity does not comply with the conditions, look to the right-hand column to see what category of consent is required. The column states if the activity is: controlled, restricted discretionary, discretionary or non-complying.

**Table 18B: Rule table for land uses and buildings**

Item	Permitted	Resource Consent
<p><i>This column contains the rule number and the heading for the activity or effect dealt with in this row.</i></p>	<p><i>This column states the conditions that must be satisfied for the activity to be permitted.</i></p>	<p><i>This column states the class of resource consent that applies if the activity does not comply with the conditions for permitted activities.</i></p> <p><i>The resource consent will either be controlled restricted discretionary, discretionary, or non-complying.</i></p> <p><i>For restricted discretionary, the matters to which discretion is restricted are stated.</i></p> <p><i>If this column states that the activity is restricted discretionary, or discretionary, subject to conditions, it will go on to state the consent category that applies if the activity does not comply with those conditions.</i></p>
<p>Example (this illustration of the rule table is explained in section 18.5)</p>		
<p>40.12 Building height and setback</p>	<p>40.12.1 Construction or alteration of a building is a permitted activity if: (a) height does not exceed 7.5m, and (b) the building is set back at least 6m from all boundaries.</p>	<p>40.12.2 Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity if: (a) height does not exceed 10m.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> <li>▪ effects on streetscape</li> <li>▪ admission of daylight</li> <li>▪ privacy and amenity.</li> </ul> <p>40.12.3 Any activity that does not comply with a condition for a restricted discretionary activity is a non-complying activity.</p>

## 18.5 Example

**Question:** Is resource consent needed to build a house 7 metres high, and set back 5 metres from all boundaries?

**Answer:** Refer to the example in Table 18B. Locate the relevant row of the rule table. In this example, it is row 40.12. Look at the rule in the permitted column, 40.12.1. The proposed house must comply with conditions (a) height does not exceed 7.5m, and (b) the building is set back at least 6m from all boundaries, to be permitted.

**Discussion:** The house complies with (a) because it is under the height limit, but it does not comply with (b) because it is set back only 5 metres; therefore it is not a permitted activity.

**Question:** If the house is not a permitted activity, what happens then?

**Answer:** Resource consent is required. The next column tells us which resource consent activity category applies. Looking first at 40.12.2, we find that a building will be a restricted discretionary activity if it complies with condition (a) height does not exceed 10m.

**Discussion:** In our example, the proposed house complies with condition (a) and therefore it is a restricted discretionary activity. There is no need to read on to rule 40.12.3, as the activity has satisfied the requirements for restricted discretionary.

**Note:** meeting the conditions for a restricted discretionary activity does not mean that resource consent will automatically be granted, it simply means that an application for resource consent must be lodged and that the application will be considered as a restricted discretionary activity.

The application will be assessed by reference to the matters stated under the heading “discretion restricted to” in rule 40.12.2:

- Discretion restricted to:
- effects on streetscape
  - admission of daylight
  - privacy and amenity.

These matters are the only matters that will be taken into account by the Council when it decides whether or not to grant the consent and if so, the conditions to be imposed.

If the house were 12 metres high, condition 40.12.2 (a) would not have been complied with. It would have been necessary to read on to rule 40.12.3, which states that a building that does not comply with the condition for a restricted discretionary activity is non-complying. No matters of discretion are stated for non-complying activities. They are assessed by reference to the full range of relevant considerations stated in the Resource Management Act, sections 104, 104B and 104D. The objectives and policies of the plan will be an important component of assessment.

The above example does not include a discretionary activity rule. It is often the case that for a particular activity or effect, not all of the activity categories are used.

## 18.6 Multiple Rows

The activity must comply with all the permitted column conditions in every relevant rule to be a permitted activity. Often, a proposal will fall into different activity categories for different aspects of the activity.

For example, a proposed building might comply with the permitted activity conditions relating to setback from boundaries, but not with the height or building coverage conditions. The relevant rows of the rule table may state that the activity is restricted discretionary in terms of height, and non-complying in terms of building coverage. In that case, consent would be required for the building as a non-complying activity, being the most restrictive applicable activity category.

In this plan, a specific rule overrides a general rule. For example, the definition of earthworks includes filling. A particular activity may comply with the general earthworks rule, but still need a resource consent because it contravenes a more specific rule restricting filling, for example in the Flood Risk Area.

## 18.7 Deleted

## 18.8 How to Find Out if a Consent is Needed

### Step 1

Begin with the Planning Maps. Locate the relevant property on the zone and policy area maps. Each part of the district is shown on two maps, on facing pages in the map volume. The right-hand side shows the zone the land is in, and the left-hand side map shows policy areas including landscape policy areas, hazard areas, notable trees, heritage items and designations. Make a note of map notations relevant to the land you are interested in.

### Step 2

Go to the zone rules chapter for the zone your site or property is located in. Determine whether the activity is a prohibited activity, by reading the prohibited activity rule at the start of the chapter. If it is prohibited, then the activity is not permitted and no resource consent application can be considered.

### Step 3

If the activity is not prohibited, read through the permitted activity rules to determine if your activity is permitted. Look at all the rules that are relevant, including rules on policy areas, hazards, notable trees, heritage items or other special features, if one of these applies to your property. Note the contents of these, including any conditions. The general rules (Chapter 20) may also contain relevant rules.

### Step 4

If your activity complies with all conditions for permitted activities in all the relevant rows of the rule table, then you may undertake your activity without resource consent. To obtain council confirmation that your proposed development is a permitted activity, you may apply to the Council for a Certificate of Compliance.

### Step 5

If any condition stated for a permitted activity is not complied with, you must obtain resource consent from the Council. Look along the row of the rule table that contains the condition that is not complied with. The right-hand cell states the category of resource consent required (controlled, restricted discretionary, discretionary or non-

complying). If you are not sure, contact the Council's planning staff who are available to help you. If more than one condition is not complied with, then the whole of the activity will be assessed in the highest activity category that applies.

### **Step 6**

Decide if you want to apply for resource consent. You may prefer to redesign your proposal to fit the permitted activity conditions. If you want to apply for consent, consider if you need professional advice on preparing your application. Council staff can assist by providing application forms and general advice on the requirements of the plan, but cannot write the application for you.

## **18.9 Resource Consent Application Procedure**

Applications for resource consents must be made in writing to the Council. The application must be accompanied by an assessment of any actual or potential effects that the activity may have on the environment, together with any other information required by this plan (Chapter 19) or the Resource Management Act. Application forms and information brochures are available from the Council.

Before a decision on an application is made, the Council checks the adequacy of the information and assessment of effects provided, and decides if the application should be notified. The Council arranges notification, pre-hearing meetings and hearings if necessary. The Resource Management Act sets time limits for the various steps. (See Chapter 20 for more on notification.)

Particular points to note about resource consent applications are:

- (a) it is essential to submit sufficient information with the resource consent application
- (b) consideration of the application will not begin until sufficient information has been received
- (c) there is a fee payable for resource consent applications, payable by an initial deposit followed by further payment if necessary
- (d) the Resource Management Act generally requires the Council (on the receipt of full information) to:
  - process non-notified applications within 20 working days
  - process notified applications to the hearing stage within 55 working days
- (e) the Resource Management Act allows for an extension of time in certain circumstances, and there is a period over Christmas to New Year, and other public holidays, which are not included in working days.

## **18.10 Decision**

Once it has sufficient information, the Council will assess the application taking into account the evidence before it and the matters it is required to take into account under the Resource Management Act. The objectives and policies of the plan will be one of the considerations. The act provides a different assessment process for the various activity categories (controlled, restricted discretionary, discretionary or non-complying). The assessment of a controlled activity is simpler than for other categories, and a non-complying activity receives the most detailed consideration.

Decisions of the Council can be appealed to the Environment Court, and in some circumstances an applicant dissatisfied with a decision can object to the Council.

### 18.11 Duration of Resource Consent

A resource consent lapses after a period of 5 years if it has not been given effect to. The Council can set a longer or shorter period where appropriate. A land use, once legally established, may continue at the same character, scale and intensity without time restriction, unless the consent states otherwise.

### 18.12 Deleted

**This page is intentionally blank**