



## **APPLICATION GUIDELINES - LAND USE**

**PLEASE READ CAREFULLY**

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# 1. SCHEDULE 4 – Resource Management Act 1991 (as at 3 March, 2015)

## Information required in application for resource consent

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### 1 Information must be specified in sufficient detail

- Any information required by this schedule, including an assessment under [clause 2\(1\)\(f\)](#) or [\(g\)](#), must be specified in sufficient detail to satisfy the purpose for which it is required.

### 2 Information required in all applications

- (1) An application for a resource consent for an activity (the **activity**) must include the following:
  - (a) a description of the activity;
  - (b) a description of the site at which the activity is to occur;
  - (c) the full name and address of each owner or occupier of the site;
  - (d) a description of any other activities that are part of the proposal to which the application relates;
  - (e) a description of any other resource consents required for the proposal to which the application relates;
  - (f) an assessment of the activity against the matters set out in [Part 2](#);
  - (g) an assessment of the activity against any relevant provisions of a document referred to in [section 104\(1\)\(b\)](#).
- (2) The assessment under subclause (1)(g) must include an assessment of the activity against—
  - (a) any relevant objectives, policies, or rules in a document; and
  - (b) any relevant requirements, conditions, or permissions in any rules in a document; and
  - (c) any other relevant requirements in a document (for example, in a national environmental standard or other regulations).
- (3) An application must also include an assessment of the activity's effects on the environment that—
  - (a) includes the information required by [clause 6](#); and
  - (b) addresses the matters specified in [clause 7](#); and
  - (c) includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

### 3 Additional information required in some applications

- An application must also include any of the following that apply:
  - (a) if any permitted activity is part of the proposal to which the application relates, a description of the permitted activity that demonstrates that it complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under [section 87A\(1\)](#));

(b) if the application is affected by [section 124](#) or [165ZH\(1\)\(c\)](#) (which relate to existing resource consents), an assessment of the value of the investment of the existing consent holder (for the purposes of [section 104\(2A\)](#)):

- (c) if the activity is to occur in an area within the scope of a planning document prepared by a customary marine title group under [section 85](#) of the Marine and Coastal Area (Takutai Moana) Act 2011, an assessment of the activity against any resource management matters set out in that planning document (for the purposes of [section 104\(2B\)](#)).

#### **4 Additional information required in application for subdivision consent**

- An application for a subdivision consent must also include information that adequately defines the following:
  - (a) the position of all new boundaries:
  - (b) the areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan:
  - (c) the locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips:
  - (d) the locations and areas of any existing esplanade reserves, esplanade strips, and access strips:
  - (e) the locations and areas of any part of the bed of a river or lake to be vested in a territorial authority under [section 237A](#):
  - (f) the locations and areas of any land within the coastal marine area (which is to become part of the common marine and coastal area under [section 237A](#)):
  - (g) the locations and areas of land to be set aside as new roads.

#### **5 Additional information required in application for reclamation**

- An application for a resource consent for reclamation must also include information to show the area to be reclaimed, including the following:
  - (a) the location of the area:
  - (b) if practicable, the position of all new boundaries:
  - (c) any part of the area to be set aside as an esplanade reserve or esplanade strip.

### **Assessment of Environmental Effects**

#### **6 Information required in assessment of environmental effects**

- (1) An assessment of the activity's effects on the environment must include the following information:
  - (a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity:
  - (b) an assessment of the actual or potential effect on the environment of the activity:
  - (c) if the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment that are likely to arise from such use:

- (d) if the activity includes the discharge of any contaminant, a description of—
    - (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
    - (ii) any possible alternative methods of discharge, including discharge into any other receiving environment:
  - (e) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect:
  - (f) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted:
  - (g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved:
  - (h) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group).
- (2) A requirement to include information in the assessment of environmental effects is subject to the provisions of any policy statement or plan.
- (3) To avoid doubt, subclause (1)(f) obliges an applicant to report as to the persons identified as being affected by the proposal, but does not—
- (a) oblige the applicant to consult any person; or
  - (b) create any ground for expecting that the applicant will consult any person.

## **7 Matters that must be addressed by assessment of environmental effects**

- (1) An assessment of the activity's effects on the environment must address the following matters:
  - (a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects:
  - (b) any physical effect on the locality, including any landscape and visual effects:
  - (c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:
  - (d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:
  - (e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants:
  - (f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations.
- (2) The requirement to address a matter in the assessment of environmental effects is subject to the provisions of any policy statement or plan.

## 2. PART 2 – Resource Management Act 1991 (as at 3 March, 2015)

### Purpose and Principles

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#### 5 Purpose

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
- (2) In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—
  - (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
  - (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
  - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

#### 6 Matters of national importance

- In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:
  - (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
  - (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
  - (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
  - (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
  - (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
  - (f) the protection of historic heritage from inappropriate subdivision, use, and development:
  - (g) the protection of protected customary rights.

#### 7 Other matters

- In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

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- (a) kaitiakitanga:
- (aa) the ethic of stewardship:
- (b) the efficient use and development of natural and physical resources:
- (ba) the efficiency of the end use of energy:
- (c) the maintenance and enhancement of amenity values:
- (d) intrinsic values of ecosystems:
- (e) *[Repealed]*
- (f) maintenance and enhancement of the quality of the environment:
- (g) any finite characteristics of natural and physical resources:
- (h) the protection of the habitat of trout and salmon:
- (i) the effects of climate change:
- (j) the benefits to be derived from the use and development of renewable energy.

## **8 Treaty of Waitangi**

- In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the [Treaty of Waitangi](#) (Te Tiriti o Waitangi).

### 3. Information on the Resource Consent Process

#### **Important Notes for Applicants**

Please read fully the notes before preparing your application and the necessary supporting information.

- If you are unsure as to what information to include with or application, please contact the Council's Duty Planner before submitting the application.
- Your application **must** be accompanied by the information required by the Resource Management Act 1991 (as at 3 March 2015) and Part F of the District Plan. Your application must also be accompanied by the appropriate application deposit fee. A schedule of the deposit (or fixed) fees and charges for different types of applications are listed on Council's website.
- If the application does not contain the necessary basic information and the appropriate application fee the Council is obliged to return the application to you. Costs incurred by the Council in processing returned applications will be on-charged to applicants.
- For complex applications, the Council may require an additional deposit pursuant to Section 36(3) of the RMA based on the actual and reasonable cost for processing such complex applications, and may require progressive monthly payments during consent processing.
- The final charge is based on actual and reasonable costs and is subject to objection and appeal.
- Applications require notification (public advertising calling for submissions) or limited notification, unless the Council is satisfied that the adverse effect on the environment of the activity for which consent is sought will be minor or less than minor, and written approval has been obtained from every person who the Council is satisfied may be adversely affected by the granting of the consent.
- The information you provide is official information. It will be used to process the application and, together with other official information, to assist in the management of the district's natural and physical resources. By submitting the application, the applicant acknowledges that the application is official information and authorises the Council to make publicly available on the Council's website the details of the application, whether or not the application is publicly notified. Access to information held by the Kapiti Coast District Council is admitted in accordance with the Local Government Official Information and Meetings Act 1987 and the Privacy Act 1993.

#### **Why is the Council involved in land use?**

On 1 October 1991 the Resource Management Act (RMA) became law. The RMA and its subsequent amendments have made many changes to the procedures that Council and applicants must follow in order for consents to be granted for land use activities. One of these was that every district must have a District Plan. It is in this Plan that the Rules and Standards Council has imposed for land use activities are set out.

## **The District Plan**

The Kapiti Coast District Plan became operative in July 1999 and takes precedence over any previous plans. Copies of the District Plan may be viewed at the Council offices or any Kapiti public library.

## **The Proposed District Plan**

In 2008, Council began reviewing its District Plan, as required for every plan provision every 10 years under the Resource Management Act. On 29 November 2012, the Proposed District Plan (PDP) was publicly notified.

The Proposed District Plan contains some rules with immediate legal effect – information on these rules can be found on Council's website. The Proposed District Plan also contains Objectives and Policies which must be taken into account application for resource consent. The Proposed District Plan can also be viewed on Council's website.

## **Do all land use activities require a resource consent?**

The RMA and the District Plan divide land use activities into six different categories:

1. permitted activities;
2. controlled activities;
3. restricted discretionary activities;
4. discretionary activities;
5. non-complying activities; and
6. prohibited activities.

The Rules and Standards in the District Plan will determine the category of your application and how it will be assessed.

### ***Permitted Activity***

If your activity meets the Rules and Standards of the District Plan for a permitted activity you will not need a resource consent for your proposal. Although permitted activities do not require a resource consent, other consents may be required such as a building or earthworks consent.

### ***Controlled Activity***

You will need to apply for a resource consent if your activity is controlled. There are Rules and Standards that your activity must meet to be a controlled activity. Sometimes conditions may be imposed to remedy or mitigate any effects from your activity that can not be avoided. An Assessment of Effects on the Environment (AEE) for a controlled activity application need only address the matters over which Council reserves control, as listed in the District Plan.

### ***Restricted Discretionary Activity***

You will need to apply for a resource consent if your activity is restricted discretionary. There are Rules and Standards that your activity must meet. Sometimes conditions may be imposed to remedy or mitigate any effects from your activity that cannot be avoided but Council can only consider those matters to which it has restricted its discretion in the District Plan. As applicant, your Assessment of Effects on the Environment (AEE) need only address these matters.

### ***Discretionary Activity***

If the activity you are proposing is a discretionary activity, then affected parties will have to be consulted and it will have to be assessed against the objectives and policies of the District Plan. Council will then have to decide whether to grant or refuse the consent. Conditions will usually be placed on a discretionary activity. Generally, applications for discretionary activities are notified or have limited notification but some may be non-notified. Further information can be obtained from Council regarding this.

### ***Non-Complying Activity***

A non-complying activity is one that is not stated in the District Plan and therefore does not have any Rules or Standards. It is the responsibility of the applicant to demonstrate that the effects of the proposed activity are minor or that the proposal is not contrary to objectives and policies in the District Plan, otherwise the Council cannot grant consent. Generally, applications for non-complying activities are notified or have limited notification but some may be non-notified. Further information can be obtained from Council regarding this.

### ***Prohibited Activity***

No application can be made for a prohibited activity.

## **How do I apply for a land use consent?**

This kit contains details needed to make an application for a consent. Fill in the application form supplied and gather all the information required. It is in your best interests to submit a well prepared application, which covers all aspects of your proposal. This will save you both time and processing costs. The most important part of your application is the AEE.

## **Assessment of Environmental Effects**

For all applications it is necessary to provide an assessment of any actual or potential environmental effects that are likely to result from the activity for which consent is sought. An AEE needs to be prepared in accordance with Schedule 4 to the RMA. A copy of Schedule 4 may be found on page 7 of this kit.

An AEE should include as much detail as corresponds with the scale of the project and the potential or actual effects of the activity. A simple application such as a garage being closer to the boundary than is allowable under the District Plan will require a simple assessment whereas an application to build an abattoir would require a more detailed assessment of environmental effects.

Schedule 4 also requires details of who is affected (including tangata whenua), any consultation undertaken with these parties, the results of any such consultation and the views of those consulted. It is best to consult at an early stage. While not mandatory under the Act, effective consultation can resolve misunderstandings and concerns affected parties may have. This in turn can result in the application process being quicker and with less cost to the applicant.

If adequate consultation is not undertaken by the applicant, this will be done by the Council, at the applicants cost.

If an AEE is not completed or is not considered to have sufficient information for Council staff to make a decision, your application will be returned as incomplete.

## **Advice and Further Information**

If you feel you need advice when preparing your application, or are unsure about obtaining further information there are a number of options available to you:

- Visit your local Kapiti Coast District Council Library and make yourself familiar with the District Plan;
- Telephone or visit the Resource Consents Department at Council offices in Paraparaumu and ask to speak to the Duty Planner (no appointment necessary). However, be prepared to make an appointment if you wish to speak with a specific person.
- Some information held by Council including Resource Consents information may be accessed via the Internet at <http://www.kapiticoast.govt.nz>. The Resource Consents Department may be contacted by E-mail on [resource.consents@kapiticoast.govt.nz](mailto:resource.consents@kapiticoast.govt.nz).
- Consult a Resource Management or Planning professional. (Some practitioners are listed under Environmental Consultants & Resource Management in *Yellow Pages*).

## **Non-notified and Publicly Notified Applications**

Once you have submitted your application Council will decide whether to notify it or not. Generally controlled activities non-notified while discretionary and non-complying consents are more likely to be notified either publicly or on a limited basis. (Though this is not a guarantee, Council needs to assess the application before deciding whether notification is required.)

Under the Act it is possible to gain consent for discretionary and non-complying activities without public notification and hearings. However, this is only possible if:

- Approval of all affected parties has been obtained;
- Council is satisfied that the effects will be minor or less than minor;
- The proposal satisfies the requirements of the District Plan and the Resource Management Act 1991; and
- There are no special circumstances rules or national environmental standards that require the notification to be notified

### ***Non-notified Applications***

If your application is non-notified then resource consent staff will make the decision to grant or refuse consent under delegated authority. Applicants can object to Council to this decision if they are not happy with it. Further information can be obtained from Council regarding non-notified applications and objections.

### ***Public Notification, Limited Notification, Pre-hearing Meetings and Hearings***

If your application is publicly notified, affected parties are notified in writing and the application is advertised in an appropriate local newspaper. If limited notification occurs only those parties directly affected will be notified of the application. Members of the public and affected parties are invited to make submissions either opposing or supporting your application. Once the closing date for submissions has passed Council may arrange a pre-hearing meeting. The applicant and all submitters are invited to discuss the application in an informal way.

The aim is to first clarify the concerns and goals of all parties, and to agree on the facts as far as possible. Secondly, the pre-hearing meeting can go on to resolve as many differences as possible.

If all differences are resolved a hearing may not be necessary. If some concerns remain unresolved, then the application will go to Hearing. A Hearings Committee consists of accredited hearing commissioners, who may be accredited elected District Councillors or independent Commissioners. They will hear the case and make a decision to grant or refuse consent.

If you are unhappy with the decision made by the Hearings Committee you may appeal to the Environment Court. Further information on hearings is available from Council.

### **How long before a decision is made?**

If your application is non-notified and is considered to have sufficient information, a written decision can be expected within 20 working days of applying. In certain circumstances or with your permission, Council may extend this time frame pursuant to section 37 of the RMA. If sufficient information is not received at the outset, then the application will be returned as incomplete (within 10 working days). Once Council is satisfied that there is sufficient information to make a decision, the written decision can be expected within 20 working days.

If your application is notified it can take up to 70 working days, in addition to delays if further information is requested. If a decision on a notified consent is appealed to the Environment Court, long delays may be expected before a judgement is made by the Court.

A 'working day' is defined in the RMA as 'any day except Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, Labour Day, the Queen's Birthday, Waitangi Day and any day in the period commencing with the 20<sup>th</sup> day of December in any year and ending with the 10<sup>th</sup> day of January in the following year'.

### **Monitoring**

Council is obliged to monitor consents to ensure that the conditions are appropriate and being adhered to. The Act allows Council to charge the consent holder for the costs of such monitoring.

### **What are the fees and charges?**

Council has adopted a policy of recovering the full cost of processing applications from applicants. A Schedule of the deposit fees and charges for different types of applications can be viewed on Council's website.