

4 STANDARD PROVISIONS

4.1 TYPES OF RESOURCE CONSENTS

The Council has the responsibility for granting land use consents and subdivision consents. This responsibility complements those of the Northland Regional Council, which also grants resource consents. Several consents may be necessary in respect of any development. The types of resource consents which may be applied for and the organisation responsible for granting them are as follows:

- *Land use consent*
Far North District Council and/or Northland Regional Council
- *Subdivision consent*
Far North District Council
- *Discharge permit*
Northland Regional Council
- *Water permit*
Northland Regional Council
- *Coastal permit*
Northland Regional Council
- *Air discharge permit*
Northland Regional Council
- *Resource Consent Required by an NES*
Far North District Council and/or Northland Regional Council

4.1.1 LAND USE CONSENTS

The responsibility of Northland Regional Council for land use consents is generally restricted to the physical effects of activities (such as earth moving) which can affect water quality and soil. The Far North District Council deals with all other effects of land uses, including effects on adjoining sites. Generally speaking, an activity will require a land use consent unless it is an existing activity, a permitted activity or a designation in this Plan.

The rules which apply to activities for which a land use consent is sought are set out in **Part 2 - Environment Provisions (Chapters 7-11)**, and **Part 3 - District Wide Provisions (Chapters 12-18)**. The rules in **Part 2** are different in each zone. It is necessary to look at the particular zone to find the rules which apply to any activity.

4.1.2 SUBDIVISION CONSENTS

A subdivision consent from the Far North District Council is necessary before land may be subdivided (refer to **Chapter 13**).

- (a) Every subdivision activity is required to comply with:
 - (i) the subdivision standards relevant to the zone shown on the **Zone Maps** for the site to be subdivided; and
 - (ii) any relevant District wide rules including the financial contribution requirements of **Chapter 14**;
- (b) Where a site is shown on the **Zone Maps** as having two or more zones applicable, each allotment shown on the subdivision plan shall comply with all of the zone standards applying to that allotment.

In a limited number of cases, where minor boundary adjustments are sought, subdivision is a controlled activity (refer to **Section 13.7**). In the majority of cases subdivision will require a resource consent as a controlled, restricted discretionary or discretionary activity.

4.1.3 DURATION OF CONSENTS

Section 125 of the Resource Management Act 1991 addresses the duration of consents and provides for extensions of time if consents have lapsed. Whilst s125 provides timeframes by

which consents are deemed to have lapsed, Council can expressly provide for shorter or longer periods in the consent. Unless the consent is given effect to or an application for extension of time is made, the consent authority may grant a longer period upon being satisfied that substantial progress or effort has been made (and is continuing to be made) towards giving effect to the consent and the applicant has obtained approval from every person who may be adversely affected by granting of the extension and the effect of the extension on the policies and objectives of the plan is minor.

4.2 CLASSES OF ACTIVITY

The Act provides for a range of classes of activity. In this Plan five classes are recognised, as indicated on **Table 4.2**. The activity classes apply both to land use and subdivision consents.

Table 4.2: CLASSES OF ACTIVITY

Class of Activity	Requires a Resource Consent	Management Approach
Permitted	No	Must comply in all respects with Rules specified within the Plan (permitted activity conditions). If it does comply it can be undertaken as of right.
Controlled	Yes	A resource consent application for a controlled activity must be assessed and conditions may be imposed in respect of those matters which the Council has specified and over which it has reserved control in the Plan. A controlled activity application cannot be refused unless it is an application for a subdivision to which s406 applies, and the circumstances described in s106 and s406 of the Act exist. A consent may be subject to conditions.
Restricted Discretionary	Yes	The Council has discretion to grant or decline the application. A consent may be subject to conditions. However, the Council restricts its discretion to a consideration of specific matters and assessment criteria, which are stated in the Plan. The decision of the Council, including any conditions of consent, must therefore relate only to these matters and assessment criteria and the effect on them of granting the application.
Discretionary	Yes	The Council has discretion to grant or decline the application pursuant to any matter described in s104 of the Act. A consent may be subject to conditions. Assessment criteria are stated in the Plan.
Non-Complying	Yes	The Council shall not grant consent to the application, unless it is satisfied either that the granting of the consent will not be contrary to the objectives and policies of the Plan or that the environmental effects will be minor. A consent may be subject to conditions.
Prohibited Activities	No application possible	Activities in this category are expressly prohibited by the Plan. No resource consent can be granted (s105(2)(c) of the Act). A Plan Change is needed to amend prohibited activity status. Any person may make an application for a Plan Change

The controls or standards which apply to each class of activity are set out in this Plan. Specific controls and standards apply in each zone (under **Part 2 - Environment Provisions - Chapters 7-11**) but there are also controls and standards which apply in all zones (**Part 3 - District Wide Provisions - Chapters 12-18**).

4.3 PROCESSING OF RESOURCE CONSENTS

4.3.1 INFORMATION REQUIRED

A resource consent application must include adequate supporting information, in the form of written material and plans. The level of detail and scope of the information must be appropriate to the particular application and must be sufficient to enable those who might wish to make a submission on the application to be able to assess its likely effects on the environment.

4.3.1.1 WRITTEN DETAILS

All resource consent applications must be accompanied by an Assessment of Environmental Effects. For controlled and restricted discretionary activities, the assessment of environmental

effects need only address those matters specified in the plan over which the Council has restricted its discretion. Any assessment of environmental effects should be of sufficient detail appropriate to the scale and significance of the actual or potential effects that the activity may have on the environment and must be prepared in accordance with the Fourth Schedule of the Act.

In complying with the above requirement, some or all of the following information at a detail sufficient for the nature and scale of the proposed application may be required to be submitted with any application for resource consent:

- (a) A description of the site including:
 - (i) existing uses;
 - (ii) buildings;
 - (iii) topography;
 - (iv) water bodies (streams, lakes, rivers, wetlands etc. *as defined in Section 2 RMA*) and beds (*as defined in Section 2 RMA*) as applicable for the proposal;
 - (v) existing vegetation and any proposed changes to vegetation (e.g. clearance, tree planting, landscaping);
 - (vi) presence of threatened or rare indigenous flora and fauna;
 - (vii) a brief description of any significant habitats of indigenous fauna (e.g. bush areas);
 - (viii) natural hazards, including information on the extent and nature of any fill on-site, and any indication of any previous or potential earth movement;
 - (ix) soil type, including its suitability for effluent disposal (if proposed);
 - (x) any hazardous substances proposed to be located or used on-site including any past contamination;
 - (xi) any heritage resources, including known archaeological sites and/or historic buildings and objects;
 - (xii) any physical effect on the locality including any outstanding landscape or natural features as noted in **Appendices 1A** and **1B** of this Plan;
 - (xiii) a description of the existing and proposed access provision.
- (b) A description of the activity for which consent is sought.
- (c) A statement specifying all other resource consents that the applicant may require from any consent authority in respect of the activity to which the application relates, and whether or not the applicant has applied for such consents.
- (d) An assessment of any actual or potential effects that the activity may have on the environment and the ways in which those effects may be avoided, remedied or mitigated. This assessment is required by the Fourth Schedule of the Act. In addition to the other matters listed here, the Fourth Schedule requires an identification of those persons interested in or affected by the proposal, the consultation undertaken, any response to the views of those consulted, a description of the mitigation measures proposed, a description of any discharges proposed and the sensitivity of the receiving environment, a description of alternative locations or methods for undertaking the activity, the monitoring which is proposed, and the assessment of any risks to the environment where hazardous substances or installations are proposed.
- (e) An assessment of the degree to which the activity conforms with the Strategic Drainage Plan and any relevant drainage or stormwater management plan.
- (f) Where appropriate, an indication of how electricity and telecommunications are to be provided or, if electricity or telecommunications are not to be provided at present, an indication of where electricity and telecommunication services could be installed should there be a need in the future.
- (g) A current copy of the Certificate(s) of Title for the subject site(s).
- (h) All other information as required on the resource consent application form.
- (i) Any other information referred to in the relevant rules.
- (j) Any information required to enable a full assessment of the proposal in terms of the relevant assessment criteria.
- (k) An activity which may have significant adverse effects on the environment may need to be accompanied by one or more reports prepared by suitably qualified persons.

- (l) Any engineering report submitted with the application shall include a performance statement (a written declaration by a person responsible for an activity/product/process, setting out the performance requirements, how these are to be met and the measures required to assess their effectiveness).

4.3.1.2 DRAWINGS

In addition to the above information, any application for resource consent shall include a set of drawings illustrating the proposal. Two copies to scale, of each drawing are required, and one copy reduced to A4 size.

The drawings may include the details set out in paragraphs (a), (b), (c) and (d) below, as applicable:

- (a) A drawing showing the location of the site, with road name, legal description and north point.
- (b) A site plan of the property drawn to a recognised metric scale appropriate for displaying, where applicable, the following information:
- (i) Site boundary lengths and other dimensions in metres including proposed and partially completed subdivisions where the Certificate of Title has not been issued.
 - (ii) location with distances to site boundaries, of all existing buildings, and all proposed buildings and structures (including where applicable, eaves, balconies, courts and verandas) and all impervious surfaces;
 - (iii) proposed use of each building;
 - (iv) position of any easement over the site;
 - (v) position, location and dimensions of every parking and loading space (headroom dimensions are also required where parking or loading is within or under a building) and the proposed access and manoeuvring areas including the location and width of footpath crossings necessary to serve such a space;
 - (vi) kerb lines adjacent to the site and position of any street trees;
 - (vii) levels on the site boundaries and around any buildings and, except in cases where the site is less than 1000 m² or has a uniform grade of less than 1 in 10, contours of the site at 1m intervals;
 - (viii) proposed retaining walls, excavations and landfill (including depths of any proposed cut or fill);
 - (ix) proposed landscaping (particularly where this is a requirement of the zone rules). Dimensioned areas of the landscaping should be shown together with all existing and proposed sealed areas, a list of species and planting plan;
 - (x) where relevant, appropriate shadow diagrams or models showing overshadowing envelopes on adjacent properties;
 - (xi) waterbodies (including the coastal marine area) and drainage and sewer pipes within and adjacent to the site;
 - (xii) the means proposed to deal with all stormwater and sanitary drainage;
 - (xiii) location and extent of existing uses;
 - (xiv) location of existing vegetation and any proposed changes to vegetation (e.g. clearance, tree planting);
 - (xv) location of any indigenous vegetation and habitats of indigenous fauna (e.g. bush areas, wetlands and streams);
 - (xvi) extent and nature of natural hazards including any fill on-site, and any previous or potential earth movement;
 - (xvii) location of soil types if these differ across the site;
 - (xviii) location and extent of any hazardous substances or any past contamination;
 - (xix) location and extent of any heritage resources (as listed in **Appendices 1D, 1E, 1F** and **1G** in **Part 4**), including known archaeological sites. If the site contains any notable trees listed in **Appendix 1D**, the extent of the natural dripline shall be shown, together with the trunk diameter and the height of the tree in metres. Any notable tree located on adjacent land, where the dripline extends onto the site, shall also be indicated on the drawing;
 - (xx) location and extent of any landscape features or natural features as listed in **Appendices 1A** and **1B** in **Part 4**;
 - (xxi) location of ridgelines;
 - (xxii) the location of the existing and future access provisions.

- (c) A floor plan of each building (at a scale of not less than 1:100) showing:
- (i) use of all parts of the building, including basements, parking, lift towers, storage or service areas;
 - (ii) room layout of the building, if this is known, and a clear identification of the use of different rooms or parts of a floor.
- Where several floors are of the same area and use, a standard floor plan may be shown.
- (d) Elevations of each building (at a scale not less than 1:100) showing:
- (i) external appearance of the building including doors and windows and materials to be used;
 - (ii) number of floors and their proposed usage;
 - (iii) building heights and height in relation to any boundary;
 - (iv) relative height of new buildings fixed in terms of a datum;
 - (v) maximum permitted height marked;
 - (vi) additional height requested;
 - (vii) original ground levels along boundaries at 1m intervals in relation to the datum used.
- (e) Any other information referred to in the relevant rules.
- (f) Any information required to enable a full assessment of the proposal in terms of the relevant assessment criteria.

4.3.1.3 FURTHER INFORMATION

- (a) the applicant may be required to provide further information relating to the resource consent application. The Council may commission a report on any aspect of the application. Further information may only be requested if the information is necessary to enable the Council to better understand the nature of the activity, the effects it will have on the environment, or the ways in which any adverse effects may be mitigated. A report may be commissioned where: the application includes a natural hazard; or
- (b) the use or storage of a hazardous substance occurs; or
- (c) the activity which is the subject of the application may, in the opinion of the Council, give rise to significant adverse environmental effects which are not adequately remedied or mitigated.

4.3.2 NOTIFICATION OF APPLICATIONS

The Act prescribes the circumstances when resource consent applications will be notified for public submissions [Sections 95A, 95B and 95C] and when limited notification of affected persons is required.

Council must publicly notify an application if any of the following apply:

- The applicant requests that the application be publicly notified;
- The applicant fails or refuses to provide further information;
- The applicant fails to respond to or refuses a request to commission a report;
- A rule or a National Environmental Standard requires public notification;
- Council considers that special circumstances exist;
- Adverse effects of the activity are more than minor unless a rule or a National Environmental Standard precludes public notification.

- 4.3.2.1** If there are no circumstances warranting public notification, Council must decide if any persons or order holders are affected by the activity. Limited notification of the application must be undertaken to affected persons, unless a rule or a National Environmental Standard precludes limited notification, and to all order holders regardless of whether a rule or a National Environmental Standard precludes limited notification.

Persons cannot be considered affected if:

- the effects of the activity on them are less than minor;
- the effects of the activity on them are permitted by a rule or a National Environmental Standard;
- the effects on them do not, in the case of controlled and restricted discretionary activities, relate to matters over which control or discretion has been reserved or restricted;
- they have given written approval, or it would be unreasonable to seek their written approval.

4.3.2.2 In accordance with s77D of the Act, applications for controlled activities will not be publicly notified unless required by any of the circumstances listed in **4.3.2** above.

4.3.2.3 PERSONS AFFECTED

It is the Council’s responsibility to determine on a case by case basis those persons that may be adversely affected by a resource consent application. The Council will have regard to the effect of the proposal in determining who is considered to be adversely affected. Council has identified particular organisations as affected parties within **Part 3 - District Wide Provisions** of the Plan.

The Council recognises that “persons” has the same meaning as in the Act and can include incorporated and unincorporated bodies. The Council shall consider the extent to which the person refusing to grant such approval has identified any adverse effects and the extent to which those adverse effects relate to genuine effects on the environment as defined in the Act.

4.3.2.4 MINOR ADVERSE EFFECT

In determining whether an application for resource consent would potentially have more than minor effect, the Council will consider the following (where appropriate):

- (a) the extent to which the adverse effects exceed the standards for permitted (or controlled) activities applying to that site;
- (b) the degree of non-compliance with any rule in the Plan and the environmental outcome sought by a rule;
- (c) the cumulative nature of any effect over time or in combination with other effects;
- (d) the duration of any effect;
- (e) the frequency of any effect;
- (f) the area influenced by any effect;
- (g) the timing of any effect;
- (h) the sensitivity of surrounding uses to that effect;
- (i) any other aspect of the effect considered relevant in a particular circumstance.

4.3.2.5 MATTERS TO BE CONSIDERED

The matters set out in s104 and s105, and in Part II of the Act, apply to the consideration of all resource consents for land use activities. In addition the matters set out in s104A apply to Controlled Activities, the matters set out in s104B apply to *both* Discretionary Activities *and* Non-Complying Activities, the matters set out in s104C apply to Restricted Discretionary Activities and the matters set out in s104D apply to Non-Complying Activities.

4.3.3 CONDITIONS

In granting consent to an application, the Council may impose conditions, restrictions and prohibitions as it considers appropriate as provided for in s108 of the Act, including conditions which require positive effects on the environment to offset any adverse effects associated with land use. Conditions may also require financial contributions, the payment of which may be secured by a bond. Section 220 of the Act allows Council to impose further conditions on subdivision consents.

4.3.4 BONDS

The Council may require bonds as a condition of some resource consents. The bond is repaid on the completion of some specified work or action. A bond also gives the Council the ability to arrange for the work or action required to be carried out even if the resource consent holder does not.

4.3.5 JOINT HEARINGS

The Act provides that where applications have been made for resource consents in relation to the same proposal to two or more consent authorities, and those authorities have decided to hear the applications, the consent authorities must jointly hear and consider those applications unless all the consent authorities agree that the applications are sufficiently unrelated that a joint hearing is unnecessary and the applicant agrees that a joint hearing need not be held.

The consent authorities that may be involved in joint hearings with the Far North District Council are the Northland Regional Council, the Whangarei District Council and the Kaipara District Council. Where a joint hearing involves an application for a restricted coastal activity a representative of the Minister of Conservation will also appoint a member to the committee hearing the joint application.

4.3.6 EXISTING USE RIGHTS

This section summarises sections 10 and 10A of the Act, and is intended as general advice only. Please refer to those sections of the Act for a full understanding.

You may use land in a manner which contravenes a rule in this Plan if the land use was lawfully established before this Plan was notified, and the effects of the use are the same or similar in character, intensity and scale to those that existed before this Plan was notified.

If, however, the land use is discontinued for a continuous period of more than 12 months, the Act provides that those existing use rights may lapse unless application is made to Council.

Existing use rights do not apply if changes to a building increase the degree to which the building fails to comply with any rule in the Plan.

Activities on the surface of lakes and rivers are treated slightly differently. If you formerly carried out an activity on a lake or river which now requires a resource consent under a rule in the new Plan, you must apply for consent within 6 months of the rule becoming operative, otherwise you will lose your existing use rights.

Notwithstanding the above, existing use rights are overridden by the duty of every person to avoid, remedy or mitigate any adverse effects on the environment arising from an activity carried on by, or on behalf of, that person. This duty (s17 of the Act) applies whether or not the activity is in accordance with the Plan's rules, a resource consent, or existing use rights.

Section 139A of the Resource Management Act 1991 enables people to request an existing use certificate to confirm that an existing use, on a specific site, complies with section 10 [land use] or section 10A [surface water use]. Council can request that an applicant provide sufficient additional information to support an application and can charge an administrative fee for processing these requests.

INTERPRETING THIS PLAN AS IT AFFECTS NORMAL RURAL PRACTICES

The Council is aware that the definition of existing use rights in the Act is of concern to many people. In particular, the Council is aware of cases where activities which are a normal part of farming, horticulture, forestry, and mineral extraction operations which are carried out less frequently than annually, should be regarded as existing uses. Activities such as drain clearing, maintenance of farm tracks and excavation of rock for such purposes are examples.

The Council does not wish to prevent this type of activity from occurring where the adverse effects are no more than minor. The Plan defines "normal rural practices" and exempts them from certain rules. In addition, farming and forestry are exempt from certain provisions. The provisions applying in the Rural Production and General Coastal Zones enable the majority of normal rural practices to continue as permitted activities.

4.3.7 CERTIFICATE OF COMPLIANCE

Section 139 of the Act provides that the Council can be asked to provide a Certificate of Compliance to confirm that a proposal or existing activity is a permitted activity. This can be useful if there is any doubt about whether an activity is permitted by the Plan.

An application for a Certificate of Compliance must be accompanied by the appropriate fee and the Council may require the applicant to supply information about the proposal or activity.

However, no Certificate of Compliance may be issued once a Proposed Plan Change has been notified and the proposal or activity would not be permitted in that Proposed Plan Change.

The provision of any information considered necessary for Council to determine compliance is the responsibility of the applicant.