

# Chapter 12: How to use and interpret the rules

## Proposed Waikato District Plan Stage 1 (Notified version)



## Contents

Chapter 12 How to use and interpret the rules.....	3
12.1 Introduction to rules .....	3
12.2 Categories of Activities .....	3
12.3 Additional Matters of Control, Matters of Discretion and Matters for Discretionary and Non-Complying Activities.....	5
12.3.1 Additional matters .....	5
12.4 Rule Tables.....	6
12.5 How to find out if a resource consent is needed.....	7

## Chapter 12 How to use and interpret the rules

### 12.1 Introduction to rules

- (a) Section C of the district plan contains the rules. Rules are one of the methods of achieving the objectives and implementing the policies set out in Section B of the district plan.
- (b) Rules describe activities (land use and subdivision), the activity status and the conditions that must be complied with to meet the specified activity status. These terms are explained in this chapter.
- (c) The rules in Section C that are highlighted in green have immediate legal effect in accordance with s86B of the Resource Management Act 1991.
- (d) Chapter 13 contains all the definitions that are used in the rules within Section C. The definitions form part of the rules and are identified by underlining and are also hyperlinked in ePlan.
- (e) Chapter 14: Infrastructure and Energy and Chapter 15: Natural Hazards and Climate Change (Stage 2 of the district plan review) apply across the whole district.
- (f) There is a chapter of rules for each zone (Chapters 16 – 28). The order of text in each chapter is:
  - (i) Introduction (for some zones only);
  - (ii) Land Use – Activities Rules;
  - (iii) Land Use – Effects Rules;
  - (iv) Land Use – Building Rules; and
  - (v) Subdivision Rules.
- (g) The spatial area of each zone is shown on the planning maps. As well as zones, there are various policy areas (such as Landscape Policy Area), sites/features (such as Historic Heritage buildings) and designations marked on the planning maps. These are referred to where relevant in the rules in each zone chapter. Every part of the district (except for roads) is in one zone and the zones do not overlap.
- (h) Roads appear white on the planning maps and are not zoned. Rules relating to activities occurring in the road corridor are set out Chapter 14: Infrastructure and Energy.
- (i) Lakes and rivers appear with a blue shading to assist users with orientation. Although the rivers and lakes are not given a zone shading, they are in a zone. All waterbodies are zoned Rural, except for Lake Hakanoa and Lake Puketirini, both of which are zoned Reserve and have reserve management plans applying to them.
- (j) The district plan regulates activities on the surface of rivers, lakes and other waterbodies. Activities are subject to the zone rules that apply. The Waikato Regional Plan regulates any structures in, on, under or over the beds of lakes and rivers, and may also be required to obtain resource consent under the Waikato Regional Plan.

### 12.2 Categories of Activities

- (a) 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. The following table shows the order and summarises the meaning of these categories.

	Activity class	Rule	Comments
No consent required	Permitted	Activity is permitted if it complies with all the: (i) Land Use – Effects Rules; (ii) Land Use – Building Rules; and (iii) Conditions listed in the “Activity-specific conditions” column of the rule table.	No resource consent is required. However, approvals may be required under other legislation, such as a building consent under the Building Act or a resource consent under the provisions of the Waikato Regional Plan. There is no provision for subdivision as a permitted activity.
Consent required	Controlled	Activity is controlled if the activity is listed and complies with conditions for a controlled activity specified in the rule table.	The Council must grant consent. Consent conditions may be imposed on matters over which control is reserved, as listed in the rule table. The Council may refuse to grant a controlled activity subdivision if the provisions of s106 of the Resource Management Act apply.
	Restricted discretionary	Activity is restricted discretionary if the activity is listed, and the activity complies with conditions specified for a restricted activity specified in the rule table.	The Council may grant or decline consent. Assessment of the application is restricted to matters over which discretion is restricted in the rule table. If granted, the Council may impose conditions on the consent, but only for those matters over which discretion is restricted.
	Discretionary	Activity is discretionary if the activity is listed, and the activity complies with conditions specified for a discretionary activity specified in the rule table.	The Council may grant or decline consent. The consent may be granted with or without conditions. The Council will assess the application on the full range of matters without limitation.
	Non-complying	Activity is non-complying if stated in the rule table.	The Council may grant or decline consent. The application can only be granted if Council is satisfied

			that the requirements of s104D of the Resource Management Act are met. If the consent is granted it may be granted with or without conditions. The application will be assessed on a full range of matters without limitation.
No consent possible	Prohibited	Activity is prohibited if it is listed in the rule table.	No application can be made for a prohibited activity and Council must not grant a consent.

## 12.3 Additional Matters of Control, Matters of Discretion and Matters for Discretionary and Non-Complying Activities.

### 12.3.1 Additional matters

(a) The following matters are additional matters over which control has been reserved for all controlled activities, and to which discretion has been restricted for all restricted discretionary activities, and will also apply with respect to discretionary and non-complying activities.

- (i) bonds or covenants or both, to ensure performance or compliance with any conditions imposed, including provision for variation, cancellation or renewal of covenants;
- (ii) administrative charges to be paid to the Council in respect of processing applications, administration, monitoring and supervision of resource consents, as set out in the Fees and Charges Schedule of the Long Term Plan;
- (iii) a requirement that the holder of a consent supply information relating to the exercise of the consent, as detailed in s108(3) and (4) of the Resource Management Act;
- (iv) works or services to ensure the protection, restoration or enhancement of any natural or physical resource, including the creation, extension or upgrading of services and systems, planting or replanting, or any other works or services necessary to ensure the avoidance, remediation or mitigation of adverse environmental effects;
- (v) the duration of a resource consent under s123 of the Resource Management Act;
- (vi) lapsing of a resource consent under s125 of the Resource Management Act;
- (vii) change and cancellation of a consent under s126 and s127 of the Resource Management Act;
- (viii) notice that some or all conditions may be reviewed at some time in the future under s128 of the Resource Management Act;
- (ix) whether any land use or subdivision consent should attach to the land to which it relates and be enjoyed by the owners and occupiers for the time being under s134 of the Resource Management Act;
- (x) the matters on which conditions can be imposed on subdivision consents under s220 of the Resource Management Act; and

- (xi) consent notices to secure compliance with continuing conditions under s221 of the Resource Management Act.

## 12.4 Rule Tables

- (a) Land Use - Activities, Land Use - Effects, Land Use - Building and Subdivision rules are in separate tables with a similar format.
- (b) The prohibited activities are listed at the start of the Land Use – Activities rule table and within the Subdivision rule table.
- (c) The format of rule tables is shown in the following table. Each row of the rule table presents rules on activities or buildings/facilities. The left-hand column contains the activity number and the middle column states the activity, building or facility. The right-hand column contains the conditions that the activity must comply with to meet the activity status.
- (d) An activity is permitted if the conditions stated are met. If the activity does not comply with the conditions, look further down the column to see which category of consent is required. The column states if the activity is controlled, restricted discretionary, discretionary or non-complying.
- (e) The rule table format for permitted activities is described in the following table:

<b>Activity</b>		<b>Activity specific conditions</b>
<i>This column contains the rule number</i>	<i>This column describes the activity</i>	<i>This column states the conditions that must be satisfied for the activity to be a permitted activity</i>

- (f) The rule table format for controlled and restricted discretionary activities is described in the following table:

<b>Activity</b>		<b>Activity specific conditions</b>
<i>This column contains the rule number</i>	<i>This column describes the activity and the conditions that must be satisfied for the activity to be a controlled or restricted discretionary activity</i>	<i>This column states the matters of control or the matters of discretion that will apply to the assessment of the application</i>

- (g) The rule table format for Land Use – Effects and Land Use – Building rules is described in the following table. Where a number of different effects or building rules apply (such as for noise and earthworks), there are ‘navigation’ rules before the table to assist.

<i>This column contains the permitted activity rule number</i>	<i>This column describes the activity and standards that apply to a permitted activity</i>	
<i>This column contains the activity rule number and activity status</i>	<i>This column specifies the area of non-compliance with a permitted activity standard</i>	

## 12.5 How to find out if a resource consent is needed

- (a) To determine if an activity is provided for by the plan, or is provided for in a certain area, users of the plan should take the following steps:
- (i) Step 1 – Check the zone that applies
    - A. Begin with the planning maps. Locate the relevant property on the zone map and determine its zoning.
  - (ii) Step 2 – Confirm if any notation, overlay or designation applies
    - A. Use the planning maps to confirm whether the property has any special feature or designation applying to it. Make a note of map notations relevant to the land you are interested in.
  - (iii) Step 3 – Confirm the activity status
    - A. Go to the zone rules chapter for the zone your site or property is located in.
    - B. 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.
    - C. 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, to see if one of these applies to your property. Note the contents of these, including any conditions.
    - D. If your activity complies with all conditions for permitted activities in activity table, and the Land Use – Effects and Land Use – Building rules, then your activity is permitted and may be undertaken 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.
  - (iv) Step 4 – Apply for resource consent
    - A. If any condition stated for a permitted activity is not complied with, you must obtain resource consent from the Council.
    - B. Look within the following activity tables, which state the category of resource consent required (controlled, restricted discretionary, discretionary or non-complying).
    - C. After each Land Use – Effects and Land Use – Building rule, look within the table to determine the category of resource consent required.
    - D. 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, the whole of the activity will be assessed against the highest activity category that applies.
    - E. Decide if you want to apply for resource consent. You may prefer to redesign your proposal to fit the permitted activity conditions.
    - F. If you want to apply for consent, consider whether you need professional advice to prepare 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.