

# PART TWO - RESOURCE CONSENTS

## **NOTE:- LAKES A ZONE**

***Part Two has relevance within the Lakes A Zone. Refer to Part Two that is part of Rule 1.1 of the Lakes A Zone.***

## **1. INTRODUCTION**

This Part explains how to go about making an application for a resource consent. It explains what types of consents can be applied for, what information is required to be supplied by the applicant, how the application will be assessed and the conditions which may be imposed on any consent.

## **2. RESOURCE CONSENTS**

Under the *Resource Management Act 1991* there are a range of resource consents for which district and regional councils are responsible. These consents are:

- |                       |   |                          |
|-----------------------|---|--------------------------|
| - Land use consent    | ) | Applications are made to |
| - Subdivision consent | ) | district councils        |
| - Coastal permit      | ) | Applications are made to |
| - Water permit        | ) | regional councils        |
| - Discharge permit    | ) |                          |

A resource consent from the Rotorua District Council is required where either the *Resource Management Act 1991* or a Rule in this Plan specifies that a resource consent is necessary.

The *Resource Management Act 1991* provides for activities to be classified into several categories. This classification is based on the likely effects that the proposed activity may have on the environment. The categories are as follows:

### **(a) Permitted Activities**

are activities that come within the range of Permitted Activities specified for the Zone and can proceed as of right but must comply in all respects with the Performance Standards for the Zone they are proposed to be located in.

A Certificate of Compliance may be obtained from Council for any Permitted Activity. This certifies that a proposed activity was permitted at the time of applying for the Certificate. This will ensure that, if the Plan

changes, a person may continue to undertake an activity which was previously permitted.

(b) **Controlled Activities**

are activities for which a resource consent will be granted if the activity comes within the range of Controlled Activities specified for the Zone and complies in all respects with the Performance Standards for the applicable Zone. In the following cases the written consents of property owner(s) and occupier(s), that Council considers may be affected, are to be obtained:

- (i) Where the performance standards are to be reduced or waived; or
- (ii) Where the application relates to the activity of stockpiling, earthworks involving cleanfill and disposal of materials other than cleanfill, where it is defined as a Controlled Activity.

Where the written consents of affected property owner(s) and occupier(s) cannot be obtained, the activity shall become a Discretionary Activity, unless otherwise provided for in the *Resource Management Act 1991* or this Plan.

Conditions may also be imposed in accordance with the provisions of the *Resource Management Act 1991* in order to avoid, remedy or mitigate adverse effects on the environment. Additional assessment criteria are specified in this Plan for particular activities in order to manage identified adverse effects.

(c) **Restricted Discretionary Activities**

are activities where the Plan stipulates that an application for a resource consent for a Restricted Discretionary Activity is required. Discretion to decline a resource consent and to impose conditions are restricted to matters specified in the Plan.

**NOTE:- Refer to Part Two Rule 1.1 of the Lakes A Zone for Restricted Discretionary Activities within the Lakes A Zone.**

(d) **Discretionary Activities**

are activities where the Plan stipulates that an application for a resource consent for a Discretionary Activity is required. Applications will be considered by Council, whose discretion will be exercised in accordance with the criteria specified in the Plan and the provisions of the *Resource Management Act 1991*. Council may grant consent, subject to conditions, or decline an application.

(e) **Non-Complying Activities**

are activities that do not comply with the provisions of the District Plan but are not specifically prohibited. An application for a Non-Complying Activity shall be considered in terms of Section 105(2)(b) of the *Resource Management Act 1991*.

(f) **Prohibited Activities;**

are activities which the District Plan expressly prohibits and for which no consent may be sought.

Council may grant a resource consent on the basis that the activity is a Controlled, Restricted Discretionary, Discretionary or Non-Complying Activity whether or not the application was expressed to be for an activity of that kind.

### **3. RESOURCE CONSENT PROCESS**

The *Resource Management Act 1991* sets out a standard process for applying for resource consents. This process is shown in **Figure 1** of this Part. Specified time constraints apply to the processing of all types of applications for resource consents under the *Resource Management Act 1991*.

Council can waive or extend these time limits, although the extension cannot have the effect of more than doubling the maximum time limits specified.

The *Resource Management Act 1991* requires that certain information is provided with every application for a resource consent. The nature of information required is set out in 4 of this Part. Information shall accompany every application, before it is formally accepted.

Council is also able to request further information relating to an application to enable it to better understand the nature of the proposed activity. Where significant adverse effects are expected, Council may require an explanation of available alternatives and the consultation that has been undertaken by the applicant. Council may commission a review of the information which has been submitted with the application.

The *Resource Management Act 1991* requires that an assessment of the impacts of the proposal on the environment be provided with every application for a resource consent. The assessment is to be in such detail as corresponds with the scale and significance of the actual and potential effects that the activity may have on the environment.

## **4. REQUIREMENTS FOR RESOURCE CONSENT APPLICATIONS**

### **4.1 APPLICATION FEES**

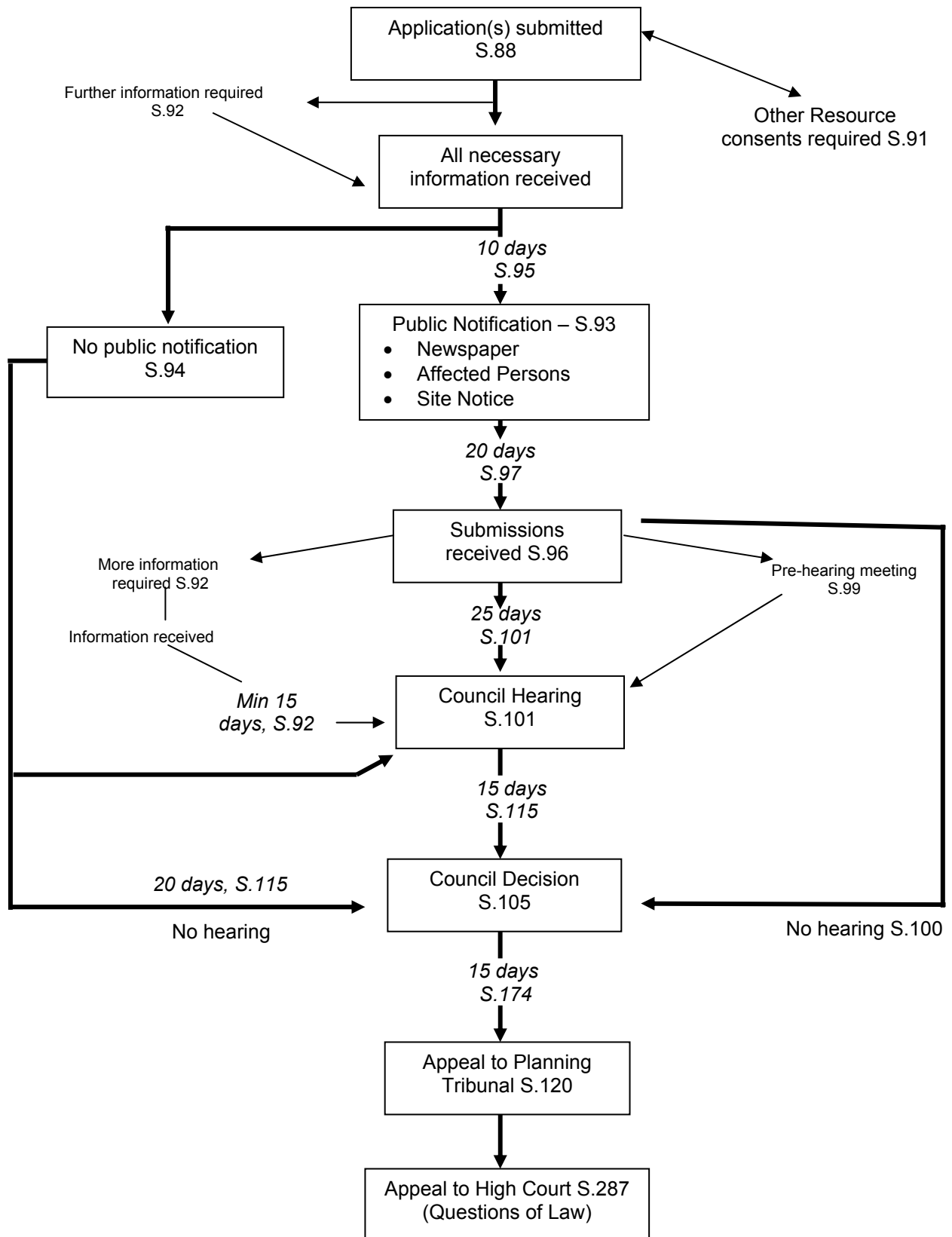
Under Section 36(1) of the *Resource Management Act 1991* Councils can fix charges for the processing of resource consent applications and Certificates of Compliance.

Every application to Council will require that a fee is payable to cover the costs of processing the application unless the Plan states otherwise. This is to ensure that the costs associated with processing applications are borne by the applicant and not by the ratepayers generally.

A schedule of fees payable for applications is set as part of the Annual Plan process and the current schedule is available from Council. These fees are based on the actual and reasonable costs of processing applications.

### FIGURE 1: RESOURCE CONSENT PROCEDURE

(Days = working days S.2)



Source: **Modified from Data Services Ltd 1991**

## 4.2 INFORMATION

Where applicable the following information shall be submitted with any application for a resource consent:

- (a) a description of the site including existing uses, buildings, topography and vegetation, including information on the extent and nature of any fill on the site, an indication of areas subject to erosion or landslips and a description of any outstanding natural heritage values (eg. bush areas, wetlands, areas of indigenous vegetation, lakes and rivers [including their margins], geothermal features and wildlife habitats) that may be affected by the proposed activity;
- (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 analysis of the suitability of the site for the proposed activity, having regard to topography, physical features, access, services and natural hazards.
- (e) an assessment of any actual or potential adverse effects that the activity may have on the environment (including the natural heritage values specified under (a)) and the ways in which those adverse effects may be avoided, remedied or mitigated. (See also 4.4 and 4.5 of this Part). In the case of a resource consent application for a Discretionary or a Non-Complying Activity, the assessment shall be in such detail as corresponds with the scale and significance of the actual or potential effects that the activity may have on the environment. While Council has a statutory responsibility to consult as a consent authority with tangata whenua, the applicant shall provide Council with information on consultation, if any, that he/she has undertaken with tangata whenua, who may be affected by the application.
- (f) the legal description of the site that the application relates to; and
- (g) plans illustrating the proposal as set out in 4.3 of this Part.

## 4.3 PLANS

The information requirements for subdivisions and developments are set out in Appendix U of this Plan. Subdivision applications will also be required to include information as set out in Section 219 of the *Resource Management Act 1991*.

Any application for a resource consent shall include a set of plans illustrating the proposal. Two original scale copies of each plan are required, and one copy reduced to A4 size.

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

- (a) a plan showing the location of the site, with road name, street number, north point and scale;
- (b) a site plan of the property (at a scale of not less than 1:200) showing:
  - (i) site boundary lengths and other dimensions in metres;
  - (ii) location with distances to site boundaries, of all existing buildings which are to remain on the site, and all proposed buildings and structures (including where applicable, eaves, balconies, courts and verandahs);
  - (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 turning areas including the location and width of footpath crossings necessary to serve such space;
  - (vi) kerb lines adjacent to the site and the position of any street trees;
  - (vii) proposed retaining walls, excavations and landfill;
  - (viii) levels on the site boundaries and around any buildings, contours of the site unless the site is less than 100m<sup>2</sup>, or has a uniform grade of less than 1 in 10;
  - (ix) existing trees and proposed landscaping. Dimensioned areas of the landscaping should be shown together with all existing and proposed sealed areas;
  - (x) water courses and drainage and sewerage pipes and other utility services within and adjacent to the site; and
  - (xi) the means proposed to deal with all stormwater and sanitary drainage.
- (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,
  - (ii) parking, lift towers, storage or service areas; and

**Note:** Where several floors are of the same area and are intended for the same use, a standard floor plan may be shown.

- (d) elevations of each building (at a scale of not less than 1:100) showing:
  - (i) external appearance of the building including doors and windows;
  - (ii) number of floors and their proposed use;
  - (iii) building heights and height in relation to any boundary;
  - (iv) relative height of new buildings fixed in terms of the natural ground level;
  - (v) maximum permitted height for the Zone;
  - (vi) any additional height requested; and
  - (vii) natural ground levels along boundaries at 1 metre intervals.

Plans submitted under paragraphs (a), (b) and (c) above will be made available by Council for public inspection in the case of an application which is notified.

#### **4.4 FURTHER INFORMATION**

Further information may be required from an applicant where Council considers it to be necessary to better understand the nature of the activity, the effect it may have on the environment, or the ways in which adverse effects may be avoided, remedied or mitigated. Council may also commission a report, at the applicant's expense, on any matters raised in relation to the application or on any environmental assessment of effects. Such a report may be commissioned where the activity, which is the subject of the application may, in the opinion of Council, give rise to significant adverse environmental effects which are not adequately remedied or mitigated.

#### **4.5 INFORMATION ON ENVIRONMENTAL EFFECTS**

Under Sections 88 and 92 of the *Resource Management Act 1991*, Council is able to request information from applicants as to the anticipated effects from the proposed activity. The detail of the assessment of effects on the environment will depend upon the scale and significance of the effects that the activity may have on the environment. Details of this are provided in the Fourth Schedule of the *Resource Management Act 1991*. In order to fulfil the requirements of the *Resource Management Act 1991*, all resource consent applications will be required to submit an assessment of effects on the environment of the proposed activity. Applications for subdivision shall also include such assessments.

In order to assist applicants to assess the effect of their proposed activity on the environment, Council will use an assessment of environmental effects checklist. Examples relating to land use and subdivision consents are shown in **4.6** of this Part. The detail of the checklist may be amended from time to time as

appropriate. This checklist will aid in producing a consistent approach to all applications and will help ensure that adequate information is provided. Council will then audit this information. Because of the strict timeframe for considering resource consents, applications will not be accepted unless all relevant information requirements are met.

#### **4.6 ENVIRONMENTAL EFFECTS CHECKLISTS (see next page)**

# RESOURCE MANAGEMENT ACT 1991

## ENVIRONMENTAL EFFECT CHECKLIST FOR LAND USE CONSENTS

The effects of your proposed activity will be one of the key considerations when your application is assessed. This checklist has been compiled to assist you to prepare an application which will meet the requirements of the *Resource Management Act 1991*. Your application must be accompanied by this completed checklist.

Through consultation with Council staff and with affected parties, you should be able to identify the significant environmental effects which should be addressed in your application. We strongly recommend that you consult at an early stage. The formal process of the statutory application will be much smoother if you have done so.

Should you answer YES to any of the following questions, you may be required to provide an assessment of the effects from a professional person experienced in assessing the effects of your proposed activity, eg soil engineer, or environmental health expert. This assessment should also accompany the application. If there is any doubt, discussions with Council staff may assist.

**Note:** Unless the question is clearly not applicable to the application, it is unacceptable to claim without any reason that the proposed activity will have no effect on the environment. Applications with such incomplete assessments will not be processed until the relevant information is provided.

The assessment should include but not be limited to:

- (a) the type of effect (positive/negative/cumulative);
- (b) the extent of the effect (geographic spread/duration/volume); and
- (c) possible actions to reduce (avoid, remedy or mitigate) adverse effects.

1. Are any of the following natural constraints or hazards present on the site?

Is there any stormwater or flood-flow path?	YES/NO
Is the land unstable or on a slope greater than 20°?	YES/NO
Is the site in or adjacent to a gully?	YES/NO
Is the site within 20 metres of a permanent watercourse?	YES/NO
Are there any geothermal features on the site?	YES/NO
Are there any geothermal bores on the site?	YES/NO
Has the site been subject to landfill?	YES/NO
Are there any other natural constraints to the site?	YES/NO
(If YES, what are they?)	<b>SHOW ON PLAN</b>

2. Is there any waahi tapu or archaeological site present which may be affected by the proposed development? YES/NO

Is there any historic or significant building, tree, object or site affected by the proposed development? YES/NO

**Note 1:** The District Plan contains registers of the above features for reference, see Appendix A.

**Note 2:** If the above feature is registered under the *Historic Places Act 1993* the consent of the Historic Places Trust will be required. In addition a survey of archaeological sites, including registered, non-registered and NZAA listed and previously unlisted sites may be required to be undertaken.

DESCRIBE THE EFFECT OF THE PROPOSAL ON THE ABOVE FEATURE.

Has the value of any of the above items been assessed and relevant parties consulted?  
YES/NO

Does the proposed development affect tangata whenua?  
YES/NO

If YES outline how you have taken account of the principles of the Treaty of Waitangi. See Part Five of the District Plan for an explanation of these principles.

**SHOW ON PLAN**

3. Does the site or neighbouring site contain:

Any wildlife habitat, wetland or area of indigenous vegetation that could be affected by the proposed activity?  
YES/NO

Any trees that will be affected by the proposed activity?  
YES/NO  
**SHOW ON PLAN**

4. Will the proposed development generate:

any additional utility service requirements? YES/NO  
any additional vehicular traffic? YES/NO  
any additional noise? YES/NO  
any dust that can drift beyond the site? YES/NO  
any odour beyond the site? YES/NO  
will the above be during the construction period? YES/NO  
will the above be when the development is completed? YES/NO

5. Will the property have direct access to a State Highway? YES/NO

If YES, the following provisions will apply:

- (a) An applicant will serve a copy of the application on Transit New Zealand (as an affected party) and Transit New Zealand will have the opportunity of supplying its comments in writing to both the applicant and Council within 20 working days of service (the notice period);
- (b) In the event of Transit New Zealand requesting further information from the applicant within 7 working days following service of the application, the notice period will be extended to enable the supply of the further information by the applicant and its evaluation and consideration by Transit New Zealand. Such extension shall be to a date 15 working days after the further information has been served upon Transit New Zealand.

- (c) If written comments from Transit New Zealand are not received by Council within the notice period, Council shall forthwith determine whether or not the application will be notified. If, however, Transit New Zealand's comments are received within the notice period, Council shall advise the applicant of such comments and if Transit New Zealand does not consent to the application or indicates consent only in terms unacceptable to the applicant, the application shall be notified.

6. Will the development produce any waste materials? YES/NO
7. Will you be applying for a liquor licence in relation to this activity? YES/NO
8. Will you be storing, using, transporting or disposing of any hazardous substance or contaminant? YES/NO
9. Will the scale/size/use of your development have any adverse effect on the environment or the amenities of the neighbourhood and the resources and services already provided to support such a use? YES/NO
10. Describe the visual effects of the proposed development.

To the best of my knowledge the answers on this form are correct. Where the answer is "YES" I have included an assessment from a recognised professional or addressed the issue in consultation with Council staff and have shown on a plan of the site those particular features.

\_\_\_\_\_  
Signature of applicant or agent for applicant

\_\_\_\_\_  
DATE

# RESOURCE MANAGEMENT ACT 1991

## ENVIRONMENTAL EFFECT CHECKLIST FOR SUBDIVISION CONSENTS

The effects of your proposed activity will be one of the key considerations when your application is assessed. This checklist has been compiled to assist you to prepare an application which will meet the requirements of the *Resource Management Act 1991*. Your application must be accompanied by this completed checklist.

Through consultation with Council staff and with affected parties, you should be able to identify the significant environmental effects which should be addressed in your application. We strongly recommend that you consult at an early stage. The formal process of the statutory application will be much smoother if you have done so.

Should you answer YES to any of the following questions, you may be required to provide an assessment of the effects from a professional person experienced in assessing the effects of your proposed activity, eg. soil engineer. This assessment should also accompany the application. If there is any doubt, discussions with Council staff may assist.

**Note:** Unless the question is clearly not applicable to the application, it is unacceptable to claim without any reason that the proposed activity will have no effect on the environment. Applications with such incomplete assessments will not be processed until the relevant information is provided.

The assessment should include but not be limited to:

- (a) the type of effect (positive/negative/cumulative);
- (b) the extent of the effect (geographic spread/duration/volume); and
- (c) possible actions to reduce (avoid, remedy or mitigate) adverse effects.

1. Are any of the following natural constraints or hazards present on the site?

Is there any stormwater or flood-flow path?	YES/NO
Is the land unstable or on a slope greater than 20°?	YES/NO
Are any sites in or adjacent to a gully?	YES/NO
Are any sites within 20 metres of a permanent watercourse?	YES/NO
Are there any geothermal features on any of the sites?	YES/NO
Are there any geothermal bores on any of the sites?	YES/NO
Have any of the sites been subject to landfill?	YES/NO
Are there any other natural constraints relating to any of the sites?	YES/NO
(If YES, what are they?)	<b>SHOW ON PLAN</b>

2. Is there any waahi tapu or archaeological site present which may be affected by the proposed subdivision? YES/NO

Is there any historic or significant building, tree, object or site affected by the proposed subdivision? YES/NO

**Note 1:** The District Plan contains registers of the above features for reference, see Appendix A.

**Note 2:** If the above feature is registered under the *Historic Places Act 1993* the consent of the Historic Places Trust will be required. In addition a survey of archaeological sites, including registered, non-registered and NZAA listed and previously unlisted sites may be required to be undertaken.

DESCRIBE THE EFFECT OF THE PROPOSAL ON THE ABOVE FEATURE.

Has the value of any of the above items been assessed and relevant parties consulted?

YES/NO

Does the proposed subdivision affect tangata whenua?

YES/NO

If YES outline how you have taken account of the principles of the Treaty of Waitangi. See Part Five of the District Plan for an explanation of these principles.

**SHOW ON PLAN**

3. Do the sites in the proposed subdivision or the neighbouring sites contain:

Any wildlife habitat, wetland or area of indigenous vegetation that could be affected by the proposed activity?

YES/NO

Any trees that will be affected by the proposed activity?

YES/NO

**SHOW ON PLAN**

4. Will the proposed subdivision generate the need for any additional utility service requirements?

YES/NO

5. Do the sites in the proposed subdivision have direct access to a State Highway?

YES/NO

If YES, the following provisions will apply:

- (a) An applicant will serve a copy of the application on Transit New Zealand (as an affected party) and Transit New Zealand will have the opportunity of supplying its comments in writing to both the applicant and Council within 20 working days of service (the notice period);
- (b) In the event of Transit New Zealand requesting further information from the applicant within 7 working days following service of the application, the notice period will be extended to enable the supply of the further information by the applicant and its evaluation and consideration by Transit New Zealand. Such extension shall be to a date 15 working days after the further information has been served upon Transit New Zealand.
- (c) If written comments from Transit New Zealand are not received by Council within the notice period, Council shall forthwith determine whether or not the application will be notified. If, however, Transit New Zealand's comments are received within the notice period, Council shall advise the applicant of such comments and if Transit New Zealand does not consent to the application or

indicates consent only in terms unacceptable to the applicant, the application shall be notified.

6. Describe the visual effects of the proposed subdivision.

To the best of my knowledge the answers on this form are correct. Where the answer is "YES" I have included an assessment from a recognised professional or addressed the issue in consultation with Council staff and have shown on a plan of the site those particular features.

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Signature of applicant or agent for applicant

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DATE

## 5. NOTIFICATION

In accordance with Section 94(5) of the *Resource Management Act 1991*, if Council considers special circumstances exist in relation to any application, it may require that application to be notified even if the Plan expressly provides that it need not be notified.

An application for a resource consent is not required to be notified if:

- (a) the application is for a Controlled Activity and written approval has been obtained from every person who in the opinion of Council may be adversely affected by the granting of the resource consent, unless in the opinion of Council it is unreasonable, in the circumstances to require the obtaining of every such approval; or
- (b) the activity to which the application relates is a Restricted Discretionary, Discretionary or Non-Complying Activity and Council is satisfied that the adverse effect(s) on the environment from the activity will be minor; and written approval has been obtained from every person whom Council is satisfied may be adversely affected by the granting of the resource consent, unless Council considers it is unreasonable in the circumstances to require the obtaining of every such approval.

### 5.1 NOTIFICATION PROCEDURE

The notification process is set out in Section 93 of the *Resource Management Act 1991*. This procedure involves preparing a notice relating to the application and serving copies of it on the following persons as appropriate:

- owner(s) and occupier(s) of the subject land;
- the Minister of Conservation;
- the New Zealand Historic Places Trust;
- persons likely to be directly affected;
- iwi authorities; and
- other persons and authorities who are likely to be directly affected.

The notice is required to be published in the local newspaper and must also be fixed to a conspicuous place on the subject site.

The notice shall give details of the application and give the closing date for submissions to be received by Council. Submissions at the actual hearing may be made in writing or orally by any persons.

The costs involved with the notification process will be included as part of the administrative charge to be paid to Council by the applicant.

## 6. DECISIONS

Section 104 of the *Resource Management Act 1991* sets out the matters to be considered when making a decision about a consent. Section 104 emphasises the priority given to Part II matters when considering a resource consent application. Most of these matters are explained throughout the Plan, particularly in the Rules for each Part. In addition, the following is also relevant.

Council shall not have regard to the effects of trade competition on trade competitors when considering an application for a resource consent. Where agreement has been reached between the applicant and any affected person, Council shall not have regard to any actual or potential effect of the activity on that person.

The *Resource Management Act 1991* provides for the possibility of pre-hearing meetings to clarify, mediate or facilitate resolution of any matter or issue. It allows the outcome of the meeting to be reported to Council and circulated to all parties before the hearing. Where the outcome is reported, it shall become part of the information which Council shall have regard to when considering the application.

As part of the resource consent process as outlined in *the Resource Management Act 1991* it is the duty of the District Council to have a working understanding of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). One of these principles is the duty to consult with tangata whenua. This is further discussed in Part Five of the Plan.

Joint hearings may be held where several applications for resource consents, in relation to the same proposal, have been lodged with different authorities. The consent authorities involved shall jointly hear and consider those applications unless these authorities agree that they are sufficiently unrelated and the applicant agrees that a joint hearing need not be held.

A joint hearing shall also be required where several consents relating to the same proposal have been lodged with Council.

Any statement in this Plan is considered to be a policy statement and may be used for the purposes of considering any application for a resource consent.

The following sets out how particular categories of activities shall be assessed.

### 6.1 PERMITTED ACTIVITIES

Consent for Permitted Activities shall be granted where the proposed development complies in all respects with the range of Permitted Activities specified for the Zone and the Performance Standards specified for the Zone they are located in.

## **6.2 CONTROLLED ACTIVITIES**

Consent for Controlled Activities shall be granted where the proposed development complies in all respects with the range of Controlled Activities specified in the Zone and the Performance Standards specified for the Zone they are located in. Conditions may also be imposed in respect of matters specified as assessment criteria for Controlled Activities. These are set out in each Part.

## **6.2A RESTRICTED DISCRETIONARY ACTIVITIES**

Consent for Restricted Discretionary Activities may or may not be granted. The criteria that Council will use to assess applications for Restricted Discretionary Activities are specified within each Part. Conditions may be imposed on any consent only in terms of the matters which are specified in the Plan.

## **6.3 DISCRETIONARY ACTIVITIES**

Consent for Discretionary Activities may or may not be granted. The criteria that Council will use to assess applications for Discretionary Activities are specified within each Part. Conditions may be imposed on any consent in terms of criteria specified in the Plan or *Resource Management Act 1991* in order to achieve the Objectives and Policies of the Plan.

## **6.4 GENERAL PROVISIONS AND PROCEDURES**

Council may either grant or decline an application for a resource consent for a Discretionary Activity to modify one or more of the provisions described as Performance Standards in the Plan, when it is satisfied that:

- (a) such modification is minor having regard to the Plan's express explanation of the Performance Standard; and
- (b) unusual circumstances exist in terms of **6.4.1** of this Part; and
- (c) conditions can be imposed to avoid, remedy or mitigate any adverse effects of the proposed modification on the environment which may include those set out in **6.4.2** of this Part.

#### 6.4.1 **CIRCUMSTANCES**

- (a) Inherent site considerations including unusual size, shape, topography, geology, vegetation, or flood susceptibility.
- (b) Particular site development characteristics including the location of existing buildings or their internal layout, achievement of architectural or visual harmony, compliance with bylaw or engineering standards, the preservation of privacy, enhancement of private open space, outlook improvement, building restoration, or renovation of identifiable merit, temporary buildings, provision of public facilities, the design and arrangement of buildings to facilitate access for the disabled, or legal impediments.
- (c) Unusual environmental circumstances; including adverse topography, unusual use or particular location of buildings on neighbouring sites,

improved amenity for neighbouring sites, or the presence of effective adjacent screening or permanent open space.

- (d) Extraordinary vehicle or pedestrian movement considerations including the achievement of a better relationship between the site and the road, improved operation of parking areas, an adequate alternative supply of parking in the vicinity, the improved safety, convenience or efficiency of pedestrian or traffic movement on the site or adjacent roads, unusual incidence or time of traffic movement, identifiably less than normal use intensity, or the considered need for pedestrian protection.

#### 6.4.2 **CONDITIONS**

Conditions on the following matters may be imposed on any consent given:

- (a) alterations to or removal of existing buildings;
- (b) preservation of waahi tapu;
- (c) changes to the extent of modification initially applied for;
- (d) conformity with the plans submitted;
- (e) consent limited as to duration of hours of operation;
- (f) limiting the consent to carry out the activity to the applicant only;
- (g) waiver of the requirement to comply with other Performance Standards;
- (h) ensuring that any adverse effects on Council services such as stormwater and drainage are avoided, remedied or mitigated;
- (i) provision of landscaping, screening, or fencing;
- (j) location and design of vehicular and pedestrian access to and from the site including service lanes;
- (k) noise;
- (l) obtaining all necessary consents and compliance with bylaws;
- (m) open structures to be maintained as open structures;
- (n) parking;
- (o) particular standards for the design and external appearance of buildings;
- (p) performance bonds or enforcement agreements;
- (q) preservation of parts of a site for particular activities, eg. open space;
- (r) preservation or protection of important habitat areas;

- (s) provision of information to establish a particular fact or compliance;
- (t) restoration or renovation of existing building;
- (u) retention and protection of existing vegetation;
- (v) separation of buildings or activities;
- (w) signs; and
- (x) amalgamation of titles.

The extent of the modification consented to in any particular case will be determined by an assessment of the characteristics of the subject site and the design of the development in relation to the characteristics of surrounding sites and developments.

The extent will be limited so that the effect on adjoining properties in terms of the protection of amenity afforded them by the policies and Rules of the Plan is minor. Where this cannot be established the application will be assessed as a Non-Complying Activity.

## **6.5 NON-COMPLYING ACTIVITIES**

An application for a consent to a Non-Complying Activity shall be considered in terms of Section 105(2)(b) of the *Resource Management Act 1991*. Council, in granting any consent, must be satisfied that any effect on the environment will be minor or, granting consent will not be contrary to the Objectives and Policies of the Plan.

## **7. CONDITIONS**

In granting consent to an application, Council may impose conditions, restrictions and prohibitions as it thinks fit, in order to achieve the purpose of the *Resource Management Act 1991* including conditions which require positive effects on the environment so as to offset any adverse effects associated with the proposed activity. Such conditions may include the following:

- (a) financial contributions including contributions of:
  - (i) cash;
  - (ii) esplanade reserves or strips on development;
  - (iii) land;
  - (iv) services;

- (v) works, including the planting or replanting of any tree or other vegetation or the restoration or enhancement of any natural or physical resource; and
  - (vi) off-site protection and/or rehabilitation works, including fencing, planting or the rehabilitation of any natural or physical resource.
- (b) a requirement that an administrative charge be paid to Council for any specified matter in accordance with Section 36 of the *Resource Management Act 1991* or any Regulations;
  - (c) amalgamation of titles;
  - (d) bonds, in respect of the performance of any one or more conditions of the consent;
  - (e) management procedures including the staging of critical aspects of the activity;
  - (f) modification to or removal of existing building;
  - (g) modifications to the extent of the activity initially applied for;
  - (h) protective covenants on titles of adjacent land to secure parking on that land;
  - (i) restoration of the natural environment;
  - (j) restriction(s) on type of use permitted or the continuation of the particular use;
  - (k) a covenant capable of registration under the *Land Transfer Act 1952*, in respect of the performance of any condition of the resource consent;
  - (l) such other conditions as may be necessary to allow a resource consent to be granted in terms of Objectives, Policies and Rules set down in this Plan;
  - (m) where a condition of approval involves the paying of money to Council to ensure that a condition will be complied with, the maximum amount will be \$1 million;
  - (n) conditions that will be placed on each application will be specific to that application, however, general guidelines are given in each Zone statement; and
  - (o) issues of titles where any parcel of land is to vest or transfer into Council ownership.

## **7.1 CHANGES TO OR CANCELLATION OF CONDITIONS**

Once a resource consent is granted, an application may be made to Council to change or cancel any condition imposed on an activity as part of that consent (other than a condition as to the duration of that consent). A further resource consent application shall be required to change or cancel any condition. The application may be made at any time or on the grounds that a change in circumstances has caused the condition to become inappropriate or unnecessary.

If the original resource consent application had been notified then the application to change or cancel a condition must also be notified unless:

- (a) Council is satisfied that any adverse effect of an activity will continue to be minor, or remain unchanged or decreased as a result of the proposed change or cancellation to the condition; and
- (b) the written approval of every person who made a submission or who lodged an appeal on the original application or who may be adversely affected by the change is obtained (unless Council considers it unreasonable in the circumstances to obtain every such approval).