

PART 9

ADMINISTRATION OF THE DISTRICT PLAN

PROCEDURES, APPLICATIONS, INFORMATION REQUIREMENTS, DESIGNATIONS, HERITAGE ORDERS, ROADS, TEMPORARY ACTIVITIES, PERMITTED ACTIVITIES IN ALL ZONES

9.1 INTRODUCTION

This part of the Plan sets out the obligations, statutory procedures and practices which must be observed.

The Resource Management Act 1991 requires that a District Plan is prepared for every district in New Zealand. This Plan therefore presents proposals for the management of the rural resources of the Papakura District which will form part of the new Papakura District Plan. These proposals will be in accordance with Part II (Purpose and Principles) of the Act and particularly section 5 which states that the purpose of the Act, and therefore the District Plan, is to promote the sustainable management of natural and physical resources.

The District Plan is only one of the means available to implement the Act and provide for development. Other means are provided through other Acts (e.g the Local Government Act 1974, the Reserves Act 1977, the Building Act 1991 and the Queen Elizabeth II National Trust Act 1977), the Annual Plan, bylaws, rating relief, grants and other economic instruments which are available to the Council. While the Council has a duty to administer and to enforce compliance with the District Plan, other agencies also have a responsibility to give effect to the Plan and to the Resource Management Act 1991.

The Act does not prescribe the form which a District Plan should take. However, in order to achieve the purpose and principles of the Act it is clear that a district plan must contain controls as well as providing incentives and opportunities. The Act refers to the use of objectives, policies and rules and it is through these that controls and incentives are achieved in this Plan.

In the past, the zoning technique has been used in district schemes to achieve the purpose of the Town and Country Planning Act 1977. Although the emphasis of the new Act is different, zoning remains as a tried and proven technique which is understood by the public and which can be modified to meet the requirements of the new Act. This Plan therefore also retains a reliance on zoning which, together with the other controls and incentives, will ensure that an appropriate level of management of natural and physical resources is achieved.

In order that the Council can achieve the purpose and principles of the Act through the implementation of this Plan, monitoring will be required. This will require monitoring of the compliance with the provisions of the Plan or compliance with the conditions of consent. It will also require monitoring of environmental quality where the suitability and effectiveness of the provisions contained within the Plan are assessed. In either case action to change the Plan or to enforce compliance with conditions may be required and, will be pursued. Objections and policies in relation to monitoring are included in this Plan.

9.2 DUTY TO COMPLY

Compliance with this Plan and the Resource Management Act 1991 does not remove the need to comply with all other applicable Acts, regulations, bylaws and rules of law.

Any activity which does not require a consent under the Building Act 1991 may still require a resource consent in accordance with the provisions of this Plan.

9.3 GENERAL DUTY REGARDING ADVERSE EFFECTS

Section 17 of the Resource Management Act 1991, places a duty on every person to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of that person.. This duty applies whether or not the activity is being carried on in accordance with:

- a Rule in this District Plan or a Rule in a Regional Plan,
- a resource consent, or
- an "existing use" right.

The duty in section 17 is enforceable by an enforcement order or an abatement notice requiring a person to:

- cease, or prohibit a person from commencing, anything that, in the opinion of the Environment Court or an enforcement officer, is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment; or
- do something that, in the opinion of the Environment Court or an enforcement officer, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect on the environment caused by, or on behalf of, that person.

9.4 TYPES OF CONSENT

For the purposes of administering this Plan, activities are classified into 5 groups.

These are:

- Permitted Activities
- Controlled Activities
- Restricted Discretionary Activities
- Discretionary Activities
- Non-complying Activities

- **Prohibited Activities**

Permitted Activities do not require a resource consent provided the activity complies in all respects with the relevant rules of the Plan.

Resource Consents can be applied for in respect of controlled, restrict discretionary, discretionary and non-complying activities. Applications may not be made in respect of prohibited activities.

The rules and criteria which may be applied in assessing whether an application should be approved are contained in this Plan.

The Council can grant land use consents and subdivision consents and also Part B air discharge permits. Other consents provided for in the Act (discharge permit, water permit or coastal permit) are issued by the Auckland Regional Council.

Where more than one consent is necessary, this must be stated in the application. Where multiple consents are necessary, a joint hearing may be arranged.

An application may be made, in respect of a permitted activity, for a Certificate of Compliance. Such a certificate, if it is granted, has a life of 2 years.

Rules governing subdivision of land are set out in this Plan. Except as provided in section 11 of the Act, land may not be subdivided without a resource consent for a subdivision (a subdivision consent).

The duration of any consent is specified by the Council. In each case, such duration may be up to a maximum of 35 years.

9.5 RULES

All rules have the force and effect of regulations. Activities will be regulated, prohibited or allowed, as appropriate, to ensure that any actual or potential adverse effects on the environment are mitigated or avoided. In considering the effects of an activity, the Council will take into account positive and adverse effects, temporary and permanent effects, any past, present or future effects and any cumulative effects. Any potential effects of high probability or effects of low probability which have a high potential impact will also be considered.

Any activity which is not in this Plan shall be required to obtain a resource consent and shall be assessed on the actual or potential effect of the activity and in particular any adverse effect on the environment.

9.6 INFORMATION TO ACCOMPANY APPLICATIONS FOR RESOURCE CONSENTS

All applications for a resource consent must include the following information except that applications for a resource consent for a controlled activity generally do not need to be accompanied by an assessment of effects as outlined in 3

below. Where appropriate, information shall be supplied in plan form, drawn at a suitable scale.

- 1 A description of the activity for which consent is sought and its location.
- 2 A description of the existing characteristics of the site and locality.
- 3 An assessment of any actual or potential effects that the activity may have on the environment and the ways in which any adverse effects may be mitigated with particular regard to those matters relevant to the applications as outlined in 1 and 2 above.
- 4 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.
- 5 Where the application is for a subdivision consent it shall also be accompanied by adequate information, including accurate plans.
- 6 Certificate of title for the site subject of the application.
- 7 Any information required to be included in the application by any other provision in the Plan or by regulations.

9.7 ASSESSMENT OF APPLICATIONS

Resource consent applications must be made in the form as set out in Regulation 9 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003. Application forms are available from Council's offices.

Applications for resource consents will be assessed against the criteria set out in this Plan.

Further information to that supplied with the application may be required by the Council.

In accordance with the Fourth Schedule to the Act, an assessment of the effects of any proposed activity on the environment must accompany any application for a discretionary or non-complying activity.

9.8 NOTIFICATION PROCEDURES

Notification procedures are specified in Section 95 of the Act and specify as follows:

- If the adverse effects of the activity will be or are likely to be more than minor then the application will need to be publicly notified. However the effects on persons who own or occupy adjacent sites are disregarded in respect to public notification decisions (s95D(a)).

- If the adverse effects of the activity will be or are likely to be more than minor, but the adverse effects only fall on a clearly identifiable set of land-owners or occupiers, normally adjacent to the proposed activity, then the application will need to be limited notified. The council will then need to assess whether or not the affected parties have given their written approval to the activity.
 - If the adverse effects of the activity are less than minor, or **all** affected persons or order holders have given their written approvals, the application can be dealt with on a non-notified basis.
 - If some affected persons or order holders have not given their written approval, the council must limited notify the application by serving notice on all affected persons and order holders who have not provided their written approval. Those who have given their written approval to the activity are not considered affected persons and need not be notified.
 - Council must publicly notify an application if:
 - it has not already decided that the application should be publicly or limited notified;
- And
- the council requests further information from the applicant under s92(1) but the applicant has not provided the information within the deadline concerned, or refuses to provide the information; or
 - the council notifies the applicant under s92(2)(b) that it wants to commission a report, but the applicant does not respond within the deadline concerned, or refuses to agree to the commissioning of the report.

9.9 HEARINGS/DECISION BY COUNCIL

The Council will hold a formal hearing of submissions. Informal pre-hearing meetings may also be called by the Council in order to clarify and resolve issues where possible.

After hearing the evidence presented at the hearing of submissions, the Council makes its decision on the application and this decision is conveyed to all parties. The decision may be subject to conditions. The terms and conditions of any resource consent shall be observed and fully complied with. The Council's decision is open to appeal to the Planning Tribunal.

Hearings will be conducted by an appropriate committee of the Council with such a committee having membership which suitably reflects the scale and nature of the matter to be heard. Such committee membership may solely comprise elected members of the Council and, where appropriate, may be augmented by other members of the community such as tangata whenua, deemed as having a particular contribution to make to the decision making process.

9.10 EXISTING USE RIGHTS

In accordance with section 383 and section 10 of the Act, those uses and activities which were lawfully established before the enactment of the Act and those uses which were lawfully established before this Plan was notified may continue if the effects of the use are the same or similar in character, intensity and scale to those which existed before the Plan was notified.

9.11 DESIGNATIONS

Land may be designated by the Crown, by local authorities and by network utility operators who have obtained status as requiring authorities for a particular work. Designations effectively set land aside for public works or for utility services even though the District Plan may not otherwise provide for these to be permitted in the particular area.

When a requirement for a work has been received by the Council, any work or change of use or subdivision which would prevent or hinder the work may not be carried out without the consent of the authority responsible for the work concerned. Once the designation becomes operative, section 175 of the Act prohibits the carrying out of any work on the land or its subdivision without the requiring authority's consent.

A designation lapses on the expiry of 5 years after the date on which it is included in the District Plan, unless it has been given effect to or a different period applied under section 184 of the Act.

9.12 HERITAGE ORDERS

Heritage orders may be made by Heritage Protection Authorities in order to protect any place (and its surroundings) which is of special interest, character, intrinsic or visual or amenity value, or of special significance to tangata whenua. A heritage order is similar to a designation in that it is in addition to and takes precedence over the other rules and policies of the District Plan.

The site and land within which the heritage order lies is identified to indicate the purpose for which, and the conditions subject to which, any unaffected land within the site can be used. The rules for the relevant zone will apply to the construction of any building or to any activity which is not part of the heritage order but which is undertaken by or is approved by the heritage protection authority.

When a requirement for a heritage order has been received by the Council, any work or change of use which would wholly or partly nullify the effect of the heritage order may not be carried out without the consent of the appropriate heritage protection authority. Once the heritage order is included in the Plan, section 193 of the Act prohibits the using or carrying out of any work on the land or its subdivision which would wholly or partly nullify the effect of the heritage order, without the consent of the heritage protection authority named on this Plan.

9.13 ROADS

The District has an efficient and functional transportation system comprising principally road and rail links. State Highway 1 and the North Island Main Trunk Railway pass through the District as does the Great South Road. These routes provide arterial links to the north and the south and link the District with other parts of the region.

Some congestion problems are evident in various parts of the District. In particular, the Central Business Area experiences high traffic flows with resultant problems along the Great South Road and Broadway and, particularly, at intersections. These traffic flows cause difficulties of access and manoeuvrability in the central area and the Council recognises the need for improvements.

The District also contains Ardmore Aerodrome as, potentially, a substantial transport node. Any future growth in commuter aviation or third level carriers could see an acceleration in the growth of this facility.

For the purpose of the Plan, where existing formed or designated (and dedicated) roads are not included in the planning maps within the boundaries of any zone, such roads shall be deemed to be included within the adjacent zone(s). Where there are different zones on either side of the road, the stricter of the standards for those zones outlined in the Plan shall apply.

9.14 CHANGES TO THE DISTRICT PLAN

Changes may be made to this Plan in accordance with the procedures outlined in the First Schedule to the Resource Management Act 1991. Changes may be initiated either by the Council itself or, on application by individuals.

The effectiveness of the Plan will be continuously monitored and the Council will initiate plan changes which address evolving issues and community needs, improve environment conditions and enable the Council to better meet its obligations under the Act.

9.15 CHARGES

The Council is empowered to fix charges to recover the reasonable costs incurred by it in respect of applications for changes, resource consents, designations, heritage orders and other services associated with its resource management functions.

9.16 ASSOCIATION PLANS/RULES

This Plan is part of a number of measures which are available to the Council to manage the resources and plan for the future development of the District. Other measures available include the Papakura District Council Annual Plan which sets out the goals, outputs and policies of the Papakura District Council and which includes budgets and works programmes for the forthcoming financial year.

The Council also has the power to adopt bylaws. These, together with the development controls in this Plan, provide a co-ordinated approach to managing the resources of the District and controlling the environmental effects of these.

Economic instruments are another method for the Council to pursue resource management objectives. These may include measures such as rates relief in certain circumstances, a structured approach to financial contributions in respect of subdivision or activities which may affect the environment, or incentives (such as the creation of bush lots) to preserve important elements of the natural environment.