



2 ADMINISTRATION AND PROCEDURES

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2

ADMINISTRATION AND PROCEDURES

2.1

INTRODUCTION

This Chapter sets out the administration and procedural aspects which enable the Council to carry out its functions and to achieve the desired outcomes of the Plan.

It provides an explanation of:

- The various categories of activity provided for in the Plan;
- The procedures involved in making a resource consent application;
- The process by which the District Plan can be changed;
- How the Council will monitor this Plan;
- How the Council will monitor the exercise of resource consents;
- How cross boundary issues with other local authorities are managed.

Generally, the matters are also addressed in the Act, and this should be referred to for more specific detail, particularly in relation to resource consent applications.

This explanation is a guide only, as to what the following activities are, and what they require.

2.2

EXPLANATION OF ACTIVITY TYPES

2.2.1

Permitted Activities

Permitted activities are allowed by the Plan without resource consent, providing they comply in all respects with the rules specified in the Plan. In respect of any particular zone, these rules include both the relevant site and zone development controls and performance standards.

In addition, a number of activities are given Permitted Activity status by way of scheduling. Scheduling provides for land use activities which require special recognition and some scope for development, but which do not necessarily justify specialised zoning. They are activities generally characterised by being either isolated from a zone in which they would normally comply, or relatively or distinctly different in character and effects from the surrounding activities. Scheduling goes beyond existing use rights to provide for specified activities as permitted activities on identified sites.

2.2.2

Controlled Activities

Controlled activities require a resource consent. They must comply with development controls and performance standards in the Plan and will be assessed in terms of those matters in the District Plan over which the Council has reserved control. The Council must grant consent to a controlled activity,



but in granting consent the Council may impose conditions relating only to the matters specified for control. Council cannot, however, impose conditions to the extent whereby the activity is precluded.

2.2.3

Restricted Discretionary Activities

Restricted Discretionary Activities require a resource consent, and are subject to the development controls and performance standards specified in the Plan. Activities have been afforded such status where there is a potential that elements of the activity may not be suitable in all locations in a zone, but where the matters for discretion have been listed in the Plan. The Council must limit its discretion to those matters only, when assessing an application of this type.

Alternatively, activities may be listed as Restricted Discretionary where they do not meet specified development controls and performance standards.

The Council may, subject to limiting itself to the matters for discretion, grant or refuse consent to a Restricted Discretionary Activity and, if granting consent, may impose conditions in respect of the matters to which it has restricted its discretion.

2.2.4

Discretionary Activities

Discretionary Activities may be appropriate in the zone and are assessed against assessment criteria which are included in the Plan, the Objectives and Policies of the Plan and the relevant matters set out in the Act.

The Council may grant or refuse consent to a Discretionary Activity and, if granting consent, may impose conditions.

2.2.5

Non – Complying Activities

Non-complying activities are those which are described as such in the District Plan. A resource consent is required for a non-complying activity. The Council may grant or refuse consent to a non-complying activity and, if granting consent, may impose conditions.

2.2.6

Prohibited Activities

Prohibited activities are those which a rule in the Plan expressly prohibits in the District or a particular zone. No application may be made for such activities and no resource consent will be granted.

A prohibited activity rule must be treated as discretionary until the rule is operative.



2.3

2.3.1

GENERAL

Public Notification

Section 94 of the Resource Management Act sets out the circumstances in which the Council is not required to publicly notify applications. In most situations the written approval of affected persons is required.

The Rules in the District Plan specify those resource consents for which the written approval of persons affected by the proposal will not be required, and which will not be publicly notified. However, section 94(5) provides for a consent authority to require an application to be notified in accordance with Section 93 even if a relevant plan expressly provides that it not be notified, where the Council considers special circumstances exist.

A notified application is open to public submission in accordance with Section 96 of the Act.

2.3.2

Activities Contrary to a Proposed Plan Change

A land use, as defined in s9(4) RMA, may be carried out as of right unless it contravenes a rule. Where a land use activity is proposed which does not contravene a rule in an Operative District Plan but does contravene a rule in a proposed plan or variation that has been publicly notified it will require resource consent (section9).

Resource consent is nearly always required for the subdivision of land unless the subdivision is expressly allowed for by both the Operative District Plan and any proposed plan.

The Council must consider the application as if it were the type of application that would have been required had the proposed change or review been operative at the time the application was made. This is subject to no submissions or appeals opposing the relevant rules being lodged, unless the Resource Management Act 1991 enables the Council to treat a proposed Plan as Operative regardless of submissions and appeals, and the Council decides to treat applications accordingly.

2.3.3

Changes to the District Plan Allowing Activities

Subject to submissions and appeals, where an activity has required a resource consent under the Plan, and the Council has proposed a change to the Plan which would allow that activity to proceed without a resource consent (normally as a permitted activity), it may be able to proceed as of right. This provision only applies when the time for making or lodging submissions or appeals against the new rule or change has expired, and no such submissions or appeals have been made or lodged, or all such submissions or appeals have been withdrawn [section 19].



2.3.4

Change or Cancellation of Conditions

An applicant may apply to the Council to have any condition imposed in respect of a consent changed or cancelled see [section 127].

Section 127 does not apply to a subdivision consent in respect of which a survey plan has been deposited by the District Land Registrar or Registrar of Deeds in accordance with Part Ten of the Act.



2.4

PLAN CHANGES

2.4.1

Council Initiated Plan Changes

In order to meet changing needs and requirements, the Council may from time to time give notice of its intention to make changes to the District Plan. The procedure is set down in the Act and is largely the same as for the preparation of the District Plan, with rights for affected parties to make submissions and appeal.

2.4.2

Privately Initiated Plan Changes

In addition to plan changes initiated by the Council, any organisation or person may request a plan change [Clause 21, First Schedule]. A request must state the purpose, reasons and the anticipated environmental effects that would result from implementation of the change.

The Council may request further information from an applicant to enable it to better understand the request, including, amongst other matters, its effect on the environment.

There are several grounds for the Council to refuse the request, among them that the substance of the request has been considered and given effect to, or rejected by the Council or Environment Court within the last two years, that the request or part of the request is frivolous or vexatious, or that the District Plan has been operative for less than two years [Clause 25, First Schedule]. The local authority can decide to deal with a private plan change request as a resource consent application.

If the Council accepts the request, the Plan Change process continues in a similar way to a Council initiated plan change. However, it does not take full effect after public notification, as does a Council initiated Plan Change (1st Schedule, Clause 16 (B)(2) Resource Management Act 1991).



2.5

2.5.1

MONITORING

The Need for Monitoring

Section 75(1) of the RMA requires that the District Plan state the procedure to be used:

- to review the significant resource management issues, objectives, policies and methods (including rules) of the Plan, and;
- to monitor the effectiveness of the Plan in achieving its objectives.

Section 35 of the RMA requires the Council to undertake such research or gathering of information necessary to effectively carry out its functions under the Act, and to monitor:

- the state of the District's environment;
- the suitability and effectiveness of the District Plan;
- the exercise of resource consents, and;
- the exercise of any functions, powers or duties delegated or transferred by the Council to another person or public authority.

Resource and environmental monitoring is one part of Council's monitoring responsibilities. Other monitoring allows assessment of Council's operational performance as it contributes information to asset management functions and to the Annual Plan and Report. This monitoring influences funding and development decisions that affect the environment.

Resource and environmental monitoring is an essential task towards describing the District's environmental objectives and to formulating management policies. Describing environmental qualities in the District, any change associated with particular characteristics, and determining the reasons for change, enables local resource management issues to be identified and the relative significance of these issues to be assessed. Monitoring also contributes to the design of methods by which to give effect to policy.

In addition, findings based on monitoring (including the monitoring of resource consents) are a key to assessments of the effectiveness of the Plan's methods, as applied to achieve the Plan's objectives and give effect to its policies. Monitoring provides information Council needs, to determine how well the District Plan is achieving the environmental outcomes it seeks to achieve.

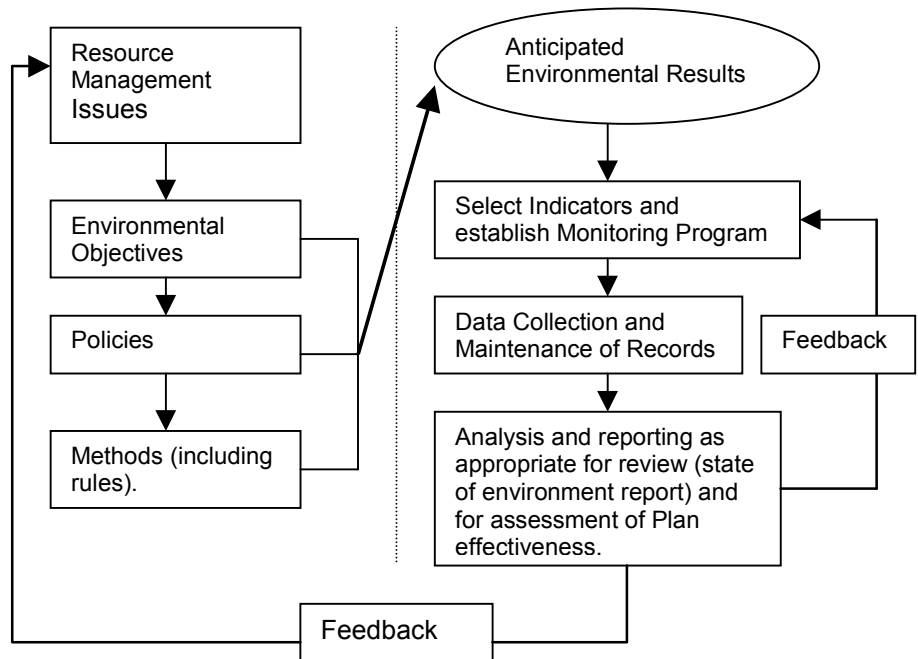
2.5.2

The Monitoring Process

Monitoring is a process that involves making observations, gathering data and information, and maintaining records in respect of plan administration, resource management issues, the state of the environment, and compliance with the Plan's rules and conditions applied to resource consents granted by



the Council. These records must contribute to analysis aimed at identifying and describing management issues, answering questions about what is happening to resources and in the environment, and helping to explain the environmental characteristics or outcomes that arise in the District.



For monitoring to be effective, a system must be established to collect appropriate data and to contribute accurate and sufficient information that enables timely evaluation of the extent to which the District Plan’s objectives, policies and anticipated environmental results are being achieved.

Council is working to establish systematic information collection, maintenance, analysis and reporting programmes, for environmental monitoring purposes. Key tasks associated with this work include:

- the selection of resource and environmental measures or ‘indicators’;
- the establishment of methods to gather and record this data accurately;
- the establishment of an information system that maintains this data and makes it accessible for analysis and that supports analysis as appropriate to the various purposes of monitoring;
- the establishment of a reporting framework that contributes effectively to processes that will utilise the outputs of monitoring;

The environmental monitoring programme will establish a means by which to review the District Plan and to assess the effectiveness of the Plan’s methods.

2.5.3

The Monitoring Procedure

For analytical reasons, monitoring must apply a systematic approach to the capturing and recording of data. The monitoring procedure must be rigorous in its approach to information gathering and management.

However, monitoring work is also evolutionary, as the information needs may change in response to the observations made. Therefore the monitoring



procedure must incorporate flexibility, as findings may indicate a need to adjust the scope of information being collected or the types of analyses to which it is put. The monitoring procedure must be adaptive and responsive; it is, functionally, an iterative process. While the procedure must employ consistent methods of data collection, and the recording systems must be supported by appropriate analytical methodologies, the range of issues upon which monitoring will focus (and therefore also the range of indicators being measured) may change.

The monitoring procedure will be described within a comprehensive monitoring programme, to be established to support an iterative analytical process. This programme will enable resource and environmental audit and reviews of environmental conditions that can contribute to assessments of existing planning mechanisms. This monitoring will provide Council with a means to develop more appropriate and/or effective planning mechanisms.

The Council is required to undertake a complete review of the Plan at least every 10 years [section 79, RMA]. However, monitoring may show a necessity to alter the Plan's provisions at an earlier stage, by way of a plan change.

2.5.4

Policy

The Council's policy on monitoring is to acquire and manage information about activities within the District, the state of the environment and the effects of activities, as a means to measure its progress towards promoting sustainable management of natural and physical resources and to assess the effectiveness of the District Plan.

2.5.5

Methods of Implementation

Council has prepared an interim monitoring report *Window on Rodney* (September 1999) in which key features and characteristics of the District's environment are described. This document is providing a reference point for consultation to design and establish a comprehensive, integrated environmental monitoring programme.

Council has identified in this District Plan the significant environmental issues arising in the District. Objectives, policies and methods have been developed and the anticipated environmental results from implementation of this Plan have been described.

The resource and environmental monitoring programme currently being prepared will outline how Council intends to carry out its monitoring responsibilities. The monitoring programme will be established and information arising from it will be systematically fed into a process of review of environmental issues and of the efficacy of planning mechanisms as applied in the District.

Only a skeleton of this monitoring programme is described here as all the details of its scope and methodology are yet to be completed.

The emphasis of the programme is on providing an ability to observe trends in regard to the significant resource management issues of the District, using a



2.5.6

range of indicators. The monitoring program will also include a methodology by which information about resource consents, their conditions, compliance, and the environmental effects of activities and resource use can be recorded and linked within analysis, to describe how planning mechanisms are implemented and to illustrate environmental results attributable to the Plan's methods.

The Council's monitoring will be carried out in consultation and co-operation with other parties and agencies. Where suitable data and information is being collected by other organisations, the Council will seek to incorporate this into its monitoring program.

The Council will also encourage community monitoring activities and will seek to incorporate data and information captured by the community into its monitoring program, where appropriate.

How Monitoring Will be Undertaken

Information will be collected using both qualitative and quantitative techniques.

The time frame for data collection will vary according to the needs associated with each indicator, as defined within the comprehensive monitoring programme, depending on the purposes for which the information is intended.

The Council will seek access to alternative sources of data and information to achieve the most appropriate monitoring coverage and resource use efficiencies possible for the District. The Council may, therefore, directly gather only some of the data it needs and may establish other arrangements for information collection for use in its monitoring and reporting tasks.

Council will:

- (a) Maintain records and report in regards to specific features and qualities of the environment, activities as undertaken in the District, and management responses to promote sustainable management.
- (b) Consult or survey on a regular basis:
 - (i) Residents and community groups (including groups set up for this purpose)
 - (ii) Tangata whenua
 - (iii) Land and property owners
 - (iv) Local business, industry and sector groups including land user groups.
 - (v) Environmental groups
 - (vi) The Regional Council
 - (vii) Department of Conservation
 - (viii) Ministry for the Environment
 - (ix) Crown Research Institutes
 - (x) other government agencies as appropriate
- (c) Collate data from other government agencies and authorities, as



appropriate for analysis to review the Plan and the outcomes of its policies and methods, and to assess the state of the environment.

- (d) Regularly review the range of data collected and the collection methodology, to ensure that the information collected is relevant and is sufficient for analysis.
- (e) Regularly review the system for retrieving information and for managing records to ensure that it supports improved analytical capabilities and is well designed for the reporting purposes.
- (f) Prepare a State of the Environment Report every five years. This Report will provide a basis for a review of environmental issues, their relative significance and assess the priorities for management effort. Monitoring that contributes to analysis as appropriate to state of the environment reporting must therefore be able to pick up trends that may not have been considered significant in earlier reviews.
- (g) Prepare Environmental Trends Reports as appropriate to each of the significant resource and environment issues, on an 'as required basis' depending on the scale and/or rate of change, as well as the risks associated with the issue and the scale of effort applied to managing the issue. These interim monitoring reports will identify any changing conditions with greater frequency than five yearly. These may highlight where potentially serious resource management issues may demand a more rapid or intensive management response than was initially thought necessary.



2.6

MONITORING THE EXERCISE OF RESOURCE CONSENTS

Resource consent holders must at all times comply fully with resource consents and their conditions. To ensure that compliance is achieved, the Council monitors the exercise of resource consents and compliance with conditions of resource consents.

Resource consents for activities that may result in minor effects on the environment are monitored by Council staff visiting the site or area of the activity and checking that the resource consent and any conditions are being complied with. In some circumstances, consent holders may be required to report at regular intervals on specified aspects of resource consents and whether compliance is being achieved.

Resource consents for activities that could result in significant effects on the environment are usually subject to individual monitoring programmes which include routine inspections by Council staff and regular self monitoring and reporting to the Council by consent holders.

Failure by consent holders to comply with resource consents and their conditions may result in the Council proceeding with enforcement action under the Resource Management Act 1991 to ensure that compliance is achieved.

2.7

CROSS BOUNDARY ISSUES

2.7.1

In this District Plan the Council is required to set out the processes to be used to deal with issues which cross territorial boundaries.

Some activities within the District may cross territorial boundaries. Typical examples are transport networks, utilities and other services.

Some activities within the District will impact on adjoining districts. Some may have regional or even national significance. Similarly, activities outside the District may produce environmental effects within the District.

In addition, in exercising its resource management functions, the Council must have regard to and act in a manner which is consistent with any national policy statement, water conservation order, regional policy statement or regional plan. It must also have regard to the District Plans of adjacent territorial authorities.

2.7.2

Issues

The significant cross-boundary issues are as follows:

- (a) The activities in one district may have an effect in an adjoining district.
- (b) Activities may cross territorial boundaries.
- (c) Activities within the District may have regional or national significance.



- (d) Activities within the District may require a resource consent from the Regional Council.
- (e) National and Regional Policy Statements, Regional Plans, and the plans of adjoining territorial authorities may have implications for the District.
- (f) Catchments extend over District and City boundaries.

2.7.3

Processes

To deal with these cross boundary issues the Council will:

- (a) Establish efficient and effective means of dealing with other agencies affected by or with an interest in resource management issues that have significance outside the District.
- (b) Respond effectively and efficiently to resource management issues outside the District, including at a regional or national levels, which impinge upon the District.
- (c) Recognise and provide for the effects of national and regional policy statements, regional plans and the plans of territorial authorities in adjoining districts, on any review of the Plan, in considering applications for resource consents and in carrying out the Council's resource management functions

These processes are to be achieved by:

2.7.3.1

Monitoring

To continue to identify resource management issues which have cross boundary implications.

2.7.3.2

Consultation

Consulting with central government, the Regional Council and adjoining territorial authorities on cross boundary issues, and in particular, maintain membership and contribute to the Regional Growth Forum and Hauraki Gulf Forum.

2.7.3.3

Protocols

Establishing, in conjunction with central government and other local authorities, mechanisms for the identification, discussion and resolution of cross boundary issues.

2.7.3.4

Liaison

Establishing, where appropriate, with central government and other local authorities joint working groups, joint committees and other co-operative groups, systems for dealing with and resolving cross boundary issues.

2.7.3.5

Resource Consent Applications

Using, where appropriate, the provisions in the Resource Management Act for



joint hearings, when applications are made to two or more consent authorities for resource consents for the same activity.

2.7.3.6

Advocacy

Promoting the District perspective on resource management issues, to adjoining local authorities, the Regional Council, and central government including, where appropriate, making submissions on proposed national and regional policy statements, regional plans, and district plans of adjoining cities and districts.

2.7.3.7

Transfer of Functions

Transferring, where appropriate in the interests of expertise and efficiency, functions to or from the Council under Section 33 of the Act.