

The Resource Management Act 1991

What is it, and how could it affect you?

Are you planning to build or renovate a house, put up a fence, cut down a tree, or carry out any activity that will have an impact on the natural environment? If so, then are you aware how the Resource Management Act could affect YOU?

Over the next few weeks, Auckland City will be bringing you a series of articles that provide an insight into the Resource Management Act: what it is, how it works, the complexities associated with the Act and, most importantly, how it affects you.

The articles are aimed at those of you planning to buy property or carry out some type of building or property development work in the future or are interested in those things happening around you. They will also provide an overview for anyone wanting to know more about this important and wide-ranging piece of legislation.

The subjects that will be covered by the articles include:

- What is a resource consent?
- The resource consent process.
- Assessing environmental effects.
- Gaining affected person's approvals.
- Notification and non-notification of resource consents.
- How to make a submission on a resource consent application.
- Resource consent hearings, making a submission and the appeal process
- Monitoring of resource consents.
- A Hauraki Gulf District Plan overview.

Copies of all articles will be available from the Auckland City Council. If you're interested in obtaining more detailed information, you may also wish to purchase a series of five booklets on the Resource Management Act published by the Christchurch Community Law Centre.

Much of the information contained in the articles is derived from these booklets, and we wish to thank the Law Centre for the use of their material.

You can buy all five booklets by phoning (03) 366 6810, or faxing (03) 366 6631.

Note: The information contained in this article is intended as a general guide only. It should not be taken as textbook or legal opinion.

What Is A Resource Consent?

Introduction - The Resource Management Act 1991

The Resource Management Act 1991 (RMA) is an Act of Parliament that sets guidelines for the use of New Zealand's natural and physical resources, in both the urban and rural environment.

Its main aim is to protect our natural and physical environment, and to sustainably manage natural and physical resources for the benefit of all New Zealanders, both now and in the future.

By law, local authorities (ie, district, city and regional councils) are required to implement the Resource Management Act and oversee its day-to-day running. The main way we do this is by drawing up district and regional plans – documents that interpret the objectives of the RMA, and translate these into actual rules and laws that apply within specific districts and regions.

So What Exactly Is A Resource Consent?

Because district and regional plans (a) restrict the type of activities that can be carried out 'as of right', and (b) impose 'controls' on certain activities, permission must be obtained to:

- Carry out activities that aren't allowed as-of-right, or
- Exceed controls set out in a plan.

This is done by applying for a resource consent.

A resource consent basically, if approved, grants permission to a person, group or organisation to use or develop a natural or physical resource, or to carry out an activity that affects the environment in some way.

Whether or not a resource consent is required depends on the type of activity planned, and the rules set out in the relevant district/regional plans (see the 'resource consent hierarchy').

It's important to note however, that you commit an offence if you do not obtain a resource consent when one is required, and you then use resources in a way that breaches a rule contained in a district or regional plan.

Important: A resource consent should not be confused with a building consent. These are two quite different documents, with different purposes.

The Different Types Of Resource Consents

There are five types of resource consents:

- Land use consents
- Subdivision consents

- Coastal permits
- Water permits
- Discharge permits (for discharges into air, water or land).

The type of consent you need to apply for will therefore depend on the exact nature of your proposed activity. In some cases, you may have to apply for more than one type of resource consent (eg, a wine processing plant may require a land use consent, as well as a discharge permit for wastes).

Generally speaking, district and city councils (such as the Auckland City Council) administer land use and subdivision consents, and other consents are administered by regional councils (such as the Auckland Regional Council). In some circumstances, regional councils may delegate administration of some consents to district and city councils.

Notifying Resource Consent Applications

Under the terms of the RMA, there is an inferred presumption that all resource consent applications will be publicly notified. This means the local authority handling the application makes details of it available to the public, usually by putting a notice at the site of the proposed activity and in a local newspaper. Neighbours directly surrounding the site are also advised in writing of the application.

Notification is an important issue because it means that anyone (whether or not they are directly affected by the proposed activity) can make a submission supporting or objecting to the application.

In certain circumstances notification may not be necessary – these circumstances, along with an explanation of the notifications and submissions process, will be covered in later articles.

The Resource Consent Hierarchy

The RMA breaks activities up into five different levels, ranging from activities that have limited environmental impact, to those with the potential to pose a major risk to the environment. The particular level that your proposed activity falls into will determine:

- Whether or not you need to apply for a resource consent, and
- The degree of discretion that local authorities have to either restrict or permit your proposed activity.

The five different levels of activities are listed below.

Permitted Activities

No resource consent is required for these activities. However, district and regional plans may stipulate certain standards which must be complied with for the activity to be permitted (eg; noise, maximum height and lot coverage controls, etc).

Controlled Activities

A resource consent is required for these activities. The consent will be granted, but local authorities have the discretion to impose conditions to control the activities effects.

Discretionary Activities

A resource consent is required. Local authorities assess consent applications at this level according to criteria set out in the relevant district/regional plan, and have the discretion to grant or refuse the consent.

Non-complying Activities

A resource consent is required. Non-complying activities are activities that are not necessarily prohibited, but which:

- Breach standards contained in a district/regional plan, or
- Are not provided for in the plans.

Consent for these activities will only be granted if:

- Any adverse environmental impact they may have is minor, or
- The activities are not contrary to the objectives and policies of the relevant plan.

Prohibited Activities

Resource consent applications will not be accepted for these activities, which are those that are specified as prohibited under a district or regional plan. The only way to change the status of prohibited activities is to change the plans themselves.

Certificate of Compliance

If you believe that your proposed activity:

- Is permitted under a district plan, or
- Can be lawfully carried out without a resource consent,

Then you may wish to apply for a Certificate of Compliance. Essentially, this certificate gives official recognition that the activity can take place.

It is up to you to provide evidence of the proposed activity's compliance with the relevant plan. The local authority responsible for processing your application will only issue a certificate if, having assessed your proposal, they are satisfied that the activity is permitted without a resource consent.

It is by no means mandatory to apply for a Certificate of Compliance, but it can be useful when applying for finance, as many lenders are wary of financing activities they perceive as potentially contrary to the RMA.

How To Apply For A Resource Consent

Applications for land use and subdivision consents for proposed activities within the Hauraki Gulf Islands are made to the Auckland City Council.

For other types of resource consent, you should apply to the Auckland Regional Council.

Details about what information you might need to provide with your application, and the consents process itself, will be provided in later articles.

If you are unsure about your obligations and whether or not you need a resource consent, please feel free to contact the Auckland City Council's Hauraki Gulf Service Centre, by phoning (09) 372 5932.

Our Planners will be able to help you interpret the provisions and rules of the District Plan, and advise you if a resource consent is required.

Next Time: The Resource Consent Process, including how to prepare a resource consent application, and Council's procedures for handling the application.