

9 Cross Boundary Processes

9.1 Introduction

Section 67(2)(f) of the RMA states:

A regional plan may state the processes for dealing with issues –

- (i) That cross local authority boundaries; or*
- (ii) That arise between territorial authorities; or*
- (iii) That arise between regions.*

There are seven territorial authorities within the Auckland Region managing the Region's air, land and water resources: Auckland City, North Shore City, Waitakere City, Manukau City, Rodney District, Franklin District, and Papakura District. There are two regional councils adjoining the Auckland Region: Waikato Regional Council (Environment Waikato) and Northland Regional Council. Significant 'cross-boundary' issues can arise in the management of these resources due to the responsibilities of the ARC and the other local authorities.

Under the RMA, the Mean High Water Springs boundary separates the primary management responsibilities for the land and water in the coastal environment between regional councils and territorial authorities. Seaward of Mean High Water Springs, the coastal marine area of the Auckland Region, is controlled and managed by the ARC in the Regional Plan: Coastal in conjunction with the Minister of Conservation.

9.2 Integrated Management

The RMA includes various provisions to address cross boundary issues and encourage the integrated management of the natural and physical resources of the Auckland region. The Auckland Regional Policy Statement states policies for the management of the region's air, land and water resources. District or regional plans are required to be not inconsistent with this document. There is provision within the RMA for the integration of administrative functions through joint and combined hearings with territorial authorities or adjacent regional councils when consent applications or the possible effects cross administrative boundaries.

Various other agencies, including the Ministry for the Environment, Ministry of Agriculture and Forestry, Department of Conservation and the New Zealand Historic Places Trust also have statutory responsibilities under other legislation for the management of natural and physical resources in the Auckland Region. Liaison between all agencies involved in the management of the region's air, land and freshwater resources is an important component of integrated management.

9.3 Significant Issues Which Cross Boundaries With The Auckland Region

The effects of some activities undertaken within a region can 'migrate' into other regions. Examples of such activities and the effects they can have in the Auckland Region include: competition for water from the allocation of surface and ground waterbodies, e.g. the Mangatangi, Mangatawhiri and Tuatenui Streams, and the Pukekohe Volcanic and Franklin Kaawa Aquifers which cross the boundary between the Auckland and Waikato Regions; the discharge of contaminants from the application of fertilisers; the discharge of contaminants into air from the application of agrichemicals;

and the discharge of sediment from soil cultivation. Accordingly, the sustainable management of the environment needs to consider an inter-regional perspective.

9.4 Significant Issues Which Cross Local Authority Boundaries Within The Auckland Region

Many activities that take place on land can have an effect on the Region's air, land and water resources. Section 30 (1)(c) of the RMA gives regional councils responsibility for controlling the use of land for a number of purposes, including soil conservation, the maintenance and enhancement of water quality, the maintenance of water quantity, and the avoidance or mitigation of natural hazards. Section 31(b) of the RMA gives territorial authorities responsibility for controlling the effects of the use of land. Therefore, both TAs and regional councils have responsibilities for land use relating to soil and water.

The effects of an activity undertaken within the coastal marine area, e.g. discharge of contaminants, or erection of structures, are also unconstrained by jurisdictional boundaries and have the potential to cause adverse effects on natural character and features, landscape, ecosystems, and public access outside the coastal marine area. Conversely, activities undertaken outside the coastal marine area but within the coastal environment e.g., subdivision and development, can have a significant effect on the coastal marine area by increasing sediment run-off or increasing hazard risk.

An intra-regional perspective is considered necessary to achieve the sustainable management of the environment.

9.5 Process Policies To Address Cross Boundary Issues

To promote the integrated management and use of the air, land and freshwater resources of the Auckland Region across administrative and jurisdictional boundaries, the following processes will be used:

- 9.5.1** When considering consent applications, regard shall be had to the effects of the activity on the provisions of any relevant district plan, regional plan, or other council-adopted planning document. A copy of any consent application which may have more than minor adverse effects across a regional boundary shall be referred to that regional council.
- 9.5.2** Liaison shall occur with adjoining regional councils and territorial authorities to promote integrated management and ensure as far as practicable that a consistent approach is maintained between resource management issues which cross territorial authority and regional council responsibilities.
- 9.5.3** Joint regional plans may be prepared by the relevant regional councils where this approach is the most efficient and effective means of ensuring a consistent management approach for resource management issues which cross regional council boundaries.
- 9.5.4** Liaison shall occur with other statutory bodies on legislative issues that affect the management of air, land and water resources in the Auckland Region.

10 Applications For A Resource Consent

10.1 Categories of Activities

The rules within this plan determine the category of any particular activity and whether a land use consent or water or discharge permit (resource consent) is required before the activity may be undertaken. No consent or permit is required for an activity that is specified as a permitted activity.

A consent or permit is required for any activity specified in this plan as controlled, restricted discretionary or discretionary, or for any activity that does not comply with the provisions of this plan (i.e. a non-complying activity). The plan also specifies prohibited activities for which no application can be made.

Permitted Activities

No resource consent is required, however any conditions or criteria that are specified must be complied with. Subject to such compliance, the activity can be carried out as of right.

Controlled Activities

A resource consent is required. In relation to Controlled Activities this plan states the standards and terms with which the activity must comply, and the matters over which the ARC will exercise control.

The ARC cannot refuse consent for a controlled activity that meets the standards and terms set out in the Plan. However conditions may be imposed in respect of the matters over which the ARC exercises control. If it does not meet the standards and terms the activity becomes either discretionary or non-complying, as specified in the plan.

Discretionary (including Restricted Discretionary) Activities

A resource consent is required, and the ARC may grant or refuse consent. In some instances the ARC has specified standards and terms and restricted its discretion to particular matters. These are called Restricted Discretionary Activities.

Other Discretionary Activities are those listed as such, in respect of which the ARC has retained full discretion.

Non-complying Activities

A resource consent is required and the ARC may grant or refuse consent. An activity is non-complying if it is not a permitted, controlled, or discretionary (including restricted discretionary) activity, and it is not listed as a prohibited activity.

Section 104 of the RMA sets out the matters to be considered by the ARC. The decision is made pursuant to sections 104B and 104D(1) of the RMA. The ARC cannot grant a resource consent for a non-complying activity unless it is satisfied that;

- (a) the adverse effects on the environment will be minor; or
- (b) granting the consent will not be contrary to the objectives and policies of the plan or proposed plan.

Prohibited Activities

No application may be made to undertake an activity that is listed as a prohibited activity.

10.2 Making an Application

It is recommended that prior to making an application for a resource consent you contact the ARC to discuss your proposed activity and find out what resource consents will be required. It is possible that you may also require a resource consent from the district or city council, therefore it is important to identify all the consents that are required at the outset to avoid unnecessary delays.

Consultation with people and parties, for example tangata whenua, who may be affected or interested in your proposal also forms an important part of the application process. The ARC will also be able to assist in identifying those parties you should consult in regard to your proposal.

The ARC has specific application forms available for each type of resource consent, which outline in detail the additional information you will need to provide about the effects of your activity on the environment. When discussing your proposal, staff will be able to assist you in identifying what aspects of your proposal will require an assessment of the effects and the level of detail you will be expected to provide.

All applications for a resource consent must be accompanied by the appropriate deposit fee. A deposit is payable when an application is lodged and further additional charges to cover the actual costs of processing the application will be charged if the deposit is exceeded.

In addition, all consent holders pay an annual charge to the ARC which is a contribution to the total costs of the council carrying out its functions under the RMA.

10.3 Information Requirements

Section 88(2) of the RMA requires that applications for resource consent must:

- (a) be made in the prescribed form and manner; and
- (b) include an assessment of the actual or potential effects that the activity may have on the environment and the ways in which any adverse effects may be mitigated; and

The assessment of effects submitted with an application needs to be sufficiently detailed to correspond to the scale and significance of the actual and potential effects that the activity may have on the environment.

This assessment needs to be prepared in accordance with the Fourth Schedule of the RMA. However any assessment of effects accompanying a controlled or limited discretionary activity application need only address those matters which the ARC is exercising its control or discretion over. It is recommended that applicants discuss this aspect of their application with an appropriate ARC staff member.

A description of any methods proposed to avoid, remedy or mitigate any adverse effects of the proposal should be included in the application.

10.4 Processing an application

Following receipt of an application, all applications are checked to make sure the correct application forms have been completed, the appropriate deposit fee has been paid and that there is enough information for the ARC to accept the application for processing.

Once it is accepted, the application will be passed to a consents officer for processing. That person(s) will assess the application, determine if any additional information is required, and whether the application needs to be publicly notified (including 'limited notification') or processed on a non-notified basis.

A request for additional information will result in the application being placed on hold until such time as the information requested is provided, leading to delays. It is therefore very important that applicants discuss their proposal with the ARC prior to lodging their application to reduce any potential delays and additional costs.

10.5 Notification of an application

Sections 95 to 95F of the RMA provide discretion as to whether an application needs to be publicly notified.

No resource consent is required for permitted activities, accordingly no notification or approval from other persons is necessary.

Applications for controlled or restricted discretionary activities will not generally be publicly notified, and approval from any affected persons will not generally be sought. However, there may be special circumstances relating to an application, which, in the opinion of the ARC justifies public notification or obtaining the written approval of affected parties. In some cases the Plan specifies that affected parties' approval will be required.

Applications for discretionary activities may be notified, unless the ARC is satisfied that the adverse effects of the activity will be minor. If the effects are considered minor but affected party approvals have not been obtained, the ARC may serve notice on the affected parties who then have the right to lodge a submission and follow a hearing process.

Applications for non-complying activities will usually be publicly notified. In order to grant consent for a non-complying activity, the ARC must be satisfied that the effects of the activity are minor, and that it will not be contrary to the objectives and policies of any relevant regional plan and/or proposed regional plan and there are no affected parties.

When a resource consent application is publicly notified, any person may make a submission to the application, either in support or opposition. All submissions must be lodged within 20 working days of the application being notified, unless otherwise stated.

If submissions cannot be resolved through discussion or negotiation, then the application will proceed to a resource consent hearing. Sections 104, 105 and 107 of the RMA are some of the relevant sections that set out the matters to be considered by the ARC. Under section 113 of the RMA, a written decision must be given to the applicant and any submitters within 15 working days following the conclusion of a hearing or, if no hearing is required, within 20 working days after receipt of the application or any further information is received pursuant to section 92, or the date on which the approval of all affected persons (if any) has been obtained under section 95E, whichever is the latest. All parties, i.e. the applicant and the submitters, are able to then appeal this decision to the Environment Court if they are unsatisfied with the outcome.

11 Review and Monitoring

11.1 Statutory Requirements

Section 35(2) of the Resource Management Act (RMA) requires local authorities to monitor the efficiency and effectiveness of policies, rules, or other methods in their policy statement and plans. Local authorities are also required to monitor the state of the environment of their region to enable them to effectively carry out their functions under the RMA.

Section 35(2A) requires local authorities to make available to the public a review of the results of that monitoring, at intervals of no more than 5 years.

11.1.1 State of the Environment Monitoring

The ARC's State of the Environment (SoE) monitoring programme incorporates a range of monitoring and research initiatives which are designed to evaluate the state (i.e. condition) and trends in the environment (including social, economic and environmental issues).

Aspects of the SoE monitoring programme include:

- Ambient air quality;
- Surface freshwater quality and quantity;
- Freshwater ecology;
- Groundwater quality and quantity;
- Geothermal water quality and quantity;
- Saline water quality;
- Saline ecology;
- Terrestrial ecosystems;
- Geological features;
- Natural hazards;
- Land use patterns;
- Analysis of social and economic trends (population, GDP, etc.);
- Whether tangata whenua issues and concerns are being recognised and provided for.

This SoE monitoring will assist the ARC to appraise the efficiency and effectiveness of the Regional Plan: Air, Land and Water.

11.1.2 Statutory Policy Effectiveness Monitoring Programme

The ARC has developed a Statutory Policy Effectiveness Monitoring Programme (SPEMP) in order to evaluate the effectiveness of operative statutory RMA policy documents. The programme will be extended to this Plan when it becomes operative.

The SPEMP involves a 5 step process, broadly as follows:

- Setting monitoring objectives;
- Identifying what to monitor;
- Developing indicators;
- Collecting, analysing and presenting data; followed by
- Subsequent review of the statutory document.

The programme is based on data gathered through the SoE monitoring programme outlined above, but involves targeting indicators and processing information to separate the effect of the objectives, policies and methods in achieving environmental outcomes.

The programme will be used to evaluate the effectiveness of the policies and methods contained in this plan in achieving the anticipated environmental results. It is expected to show whether there is measurable movement towards or away from achievement of those results, and whether that movement can be attributed to the policies and methods in this plan.

11.2 Procedures To Review The Matters Set Out In Section 67 Of The RMA

As required by section 79(1)(b) of the RMA, within 10 years maximum of this Plan becoming operative the ARC must commence a review. The contents of a regional plan, as set out in section 67 of the RMA, will be reviewed as follows:

The results of the ARC's SoE monitoring process and the SPEMP will be analysed to determine if the issues, objectives, policies, and methods are proving to be efficient and effective in terms of achieving the environmental results anticipated;

From time to time the ARC reviews aspects of the resource consent process, including the information to be submitted with a consent application. Reviews include updating application forms and supporting information for consent applicants as well as reconsidering the circumstances in which the powers under section 92 may be used.

The results of these reviews will be taken into account.

Waikato Regional Council and Northland Regional Council and the TAs of the region will be consulted as to how well the processes to deal with cross-boundary issues are working.