

Applying for Resource Consent or a Deemed Permitted Boundary Activity

What does this guidance cover?

This guidance note will help you determine:

- Whether you may need a resource consent for your proposed activity, and how to apply; and
- The resource consent process; and
- Instances when you can apply for a deemed permitted boundary activity, and how to apply.

Who should read this guidance?

This guidance is for anyone who is thinking of undertaking a new activity. By activity we mean any use or development of land (including subdivision) which is regulated by the district plan, and certain types of land use, coastal uses, and any discharge into the environment or use of water which is regulated by the regional plan.

This guidance is primarily targeted at district plan users. Because the definition of an activity is so broad, we recommend you have a conversation with a Council planner. They can help you navigate the district plan or regional plan to see what rules and standards (if any) apply to your proposed activity.

We recommend you read through this entire guide, as it contains important information that will help you understand more about resource consent and deemed permitted boundary activity processes, and when they might apply to your proposed activity.

What are resource consents and deemed permitted boundary activities?

The Resource Management Act 1991 (RMA) requires district and regional councils to sustainably manage any effects of resource use and development on the environment.

A resource consent is permission from a district or regional council to undertake an activity that is regulated by a rule in a district or regional plan because the activity may have an adverse effect on the environment (which includes people).

A resource consent application can be granted or declined by Council following its consideration of the application against criteria contained in the RMA. The RMA directs what information should be included in an application to assist the Council when it makes decisions to grant or decline consent. This information will include, but is not limited to, a description of the proposed activity, a description of the site, an assessment of the effects of the activity, an assessment of the activity against the provisions of any relevant plans or standards and a set of relevant plans or drawings.

Instances when you will require resource consent, and what you need to do to apply, are explained below:

When do I need resource consent?

You will need resource consent if your proposed activity does not comply with one or more rules in the plan or the plan states that a resource consent is required.

Where an activity infringes a rule in the district or regional plan this changes the activity status of the activity. There are six categories of activity status, four of which require resource consent:



- i. A **permitted** activity can be carried out without resource consent if it complies with all relevant requirements and standards specified in the district or regional plan.
- ii. A **controlled** activity requires resource consent. An application for a controlled activity must be granted by Council. Council may impose conditions of consent to help manage adverse effects, but Council cannot decline consent.
- iii. A **restricted discretionary** activity requires resource consent and Council exercises its discretion in deciding whether to grant or decline consent. Council's discretion to grant or decline the consent and impose conditions is restricted to the matters listed in the district or regional plan.
- iv. A **discretionary** activity requires resource consent and Council may exercise its full discretion when deciding whether to grant or decline consent and on any conditions it imposes.
- v. A **non-complying** activity requires resource consent and will only be granted if it can be shown that the activity is not contrary to the objectives and policies of the plan or that the adverse effects on the environment are minor.
- vi. **Prohibited** activities cannot be carried out because resource consent cannot be applied for or granted.

Each district administered by a district council is divided into areas called zones, each with its own set of rules. Examples include residential zones, rural zones and commercial zones. An activity will be permitted in a zone that best suits the nature of the activity and where you would expect that activity to occur, such as a factory in an industrial zone. Alternatively, an activity may not be expected in a zone, or may have potential effects that do not help achieve the outcomes of the zone, such as a factory in a residential area. In those instances, resource consent is normally required.

Whether you need resource consent or not, you will still need to check with Council whether other kinds of consents are required for your activity e.g. a building consent under the Building Act 2004. This can be discussed in a **pre-application meeting** with Council.

District plans deal with land use and subdivision. Regional plans deal with matters such as discharges into the environment, water takes and activities in the coastal marine area. You will also need to check whether you need resource consent under the regional plan administered by the regional council.

District and regional plans can be found online or at the Council offices and libraries if you would like to check for yourself. District plans include guides to help you navigate your way through the rules, but if you need assistance then we recommend seeking the help and advice of a member of the Council's planning team.

How do I apply for resource consent?

Once you have identified that you need to apply for resource consent we recommend discussing your proposal with a council planner. The planner will help you to understand what information is required to support your application and who else you might like to talk to, for example, any of your neighbours who may be affected.

Step 1: Preparing an application

A number of important parts make up a complete application for resource consent. These are:

- A completed and signed resource consent application form;
- **An assessment of environmental effects (AEE);**
- A set of relevant plans, including a site plan of your site and proposal;
- A current record of title for the application site; and
- The required deposit fee.

An application must also include the following information:

- A description of the activity;
- A description of the site;
- The full name and address of each owner or occupier of the site;
- A description of any other activities that are part of the proposal;
- A description of any other resource consents that are required;
- An assessment of the proposal against the matters set out in Part 2 of the RMA; and
- An assessment against any relevant provisions of a policy statement, plan or standard listed in Section 104(1)(b) of the RMA.

The application form (available on Council's website or front desk) will ask for this information, and details of the proposal can be explained in the AEE. It is important to be as clear as possible in your application, so the planner processing your application fully understands your proposal.

Prior to lodging your application, it will also pay to get in touch with your neighbours, and anybody else you think could be affected by your proposal. Let them know what you're proposing to do. This gives them the opportunity to raise any concerns they might have and allows you to work through a solution together. It is also helpful to have your neighbours give their written approval by fully filling out a written approval form. This ensures that when Council considers your application any adverse effects on anybody that has given written approval can be disregarded. A copy of the written approval form is available from Council's website or front desk.

What is an Assessment of Environmental Effects (AEE)?

An AEE is a report about the effects that your proposed activity will or may have on the environment and the ways in which any adverse effects will be managed. The AEE also explains your proposal in greater detail and assesses your proposal against the criteria required under the RMA. If you choose to prepare your AEE yourself, a good rule of thumb is that the amount of detail required is proportional to the scale of the effects of your proposal on the environment.

Depending on the nature, scale and intensity of your proposal, you may also need to support your application with other information. For example, if your activity generates a lot of traffic then a traffic impact assessment may be required. If your activity generates a lot of noise, then a noise report may be required. These types of reports often need to be prepared by qualified experts, so it will pay to discuss this with a Council planner first to help you identify the information needs relevant to your application.

You may also like to consider seeking the assistance of a qualified planning consultant, as they can prepare a resource consent application on your behalf and help supply all the necessary information Council needs to process the application. While not compulsory, we recommend this approach, especially for more complex resource consent applications or if you are unfamiliar with the resource consent process.

Step 2: Council considers the application

The second stage of the process is when Council determines if your application is complete.

If your application is considered incomplete, it will be returned to you within 10 working days of the application being lodged. You will have the opportunity to provide any missing information if you choose to relodge the application.

If your application is accepted as complete, the Council will progress your application to the next step in the process.

It is common practice during the processing of your application for Council staff to undertake a site visit. This allows Council staff to have a first-hand look at the site to get a better understanding of how your proposal might affect the environment.

During this time Council may also need to ask you for more information so it can better understand the environmental effects of your proposal. It is important to note that the "processing clock" will stop on your application if further information is required and will not restart until the information is provided. You can refuse to provide the information requested, but Council can then decide to publicly notify your application for submissions and continue to process it. This may lead to a hearing if a member of the public makes a submission and asks to be heard on their submission.

Non notified and notified application processing timeframes

Your application can be processed on a non-notified basis, without the involvement of submitters, if:

- Your application is complete;
- Council does not require additional information;
- The adverse effects of the proposal on the environment are considered to be minor;
- Either the effects of the proposal on a person are less the minor (an 'affected person') or all affected persons have given their written approval for the proposal; and
- There are no special circumstances in relation to the proposal.

If the application is processed on a non-notified basis, Council must issue a decision within 20 working days of the application being lodged.

There are some instances when Council might decide to either limited or publicly notify your application. Limited notification will occur when Council decides that the effects of your proposal on a person are minor or more than minor, making that person an 'affected person', and you have not obtained their written approval. Your application will be limited notified to the affected person(s) alone. Public notification will occur when Council decides that the effects of your proposal on the environment are more than minor; this will lead to your application being publicly notified to all members of the public. Any person may make a submission on your proposal. If a submitter asks to be heard on their submission, Council will hold a hearing where both you and the submitter(s) can present to Council. Council will then consider your application and any submissions when making a decision to grant or decline consent.

If an application is limited or publicly notified, it is subject to different timeframes from a non-notified application. Council planners can advise you of the different timeframes involved.

Step 3: Council makes a decision on the application

The final stage is when Council decides your application. You will receive a letter via post or email to let you know the outcome.

If your application is granted, your resource consent will tell you:

- Any conditions that you must comply with when undertaking your activity;
- The reasons for the decision; and
- Any other advice or guidance that Council considers appropriate.

If your application is declined, the letter will tell you the reasons for the decision.

If you disagree with any part of the decision, you can formally object to Council or appeal to the Environment Court. You must do this within 15 working days of receiving the decision.

When can I apply to a 'Deemed Permitted Boundary Activity'?

Recent changes to the RMA mean that you can now apply to a district council to have your boundary activity exempted from needing resource consent for a boundary rule infringement. You must still make an application to Council, but it is simpler and quicker than applying for resource consent.

A boundary activity means an activity:

- That infringes a district plan boundary rule (and which would normally require resource consent);
- That does not infringe any other district plan rule; and
- The 'infringed boundary' is not a 'public boundary' e.g. not a road boundary.

Boundary rules are district plan rules that relate to the distance between a structure and a property boundary (or boundaries). Common examples of boundary rules in district plans include yard setbacks and height in relation to boundary rules.

An infringed boundary means:

- A boundary to which an infringed boundary rule applies; and
- If there is an infringement to a boundary rule when measured from the corner or a lot, every boundary that intersects with that corner.

Examples where a deemed permitted boundary activity could be applied for rather than a resource consent include a dwelling being located close to the side and rear boundaries than required, or a new shed encroaching a height in relation to boundary rule.

An application for a deemed permitted boundary activity must include the following information:

- A completed application form (this is available on Council's website or from the front counter);
- A site plan;
- Elevation plans of the proposed activity;
- The written approval from each owner of a neighbouring site whose boundary will be infringed by the proposed activity, including their signatures on the plan. If the infringed boundary is next to a private way, the owner of the property on the opposite side of the private way must also give their written approval.

If Council agrees that the activity is a boundary activity, and all the information is provided, Council must, within 10 working days, provide a written notice stating that the activity is a permitted activity. This means that no resource consent will be required.

If you apply for resource consent for the activity and Council considers that the application qualifies as a deemed permitted boundary activity, then it must return the resource consent application to you and issue a notice that the activity is deemed permitted boundary activity instead (provided that all required information to process a deemed permitted activity has been supplied).

Further information:

If you would like further information on applying for a resource consent or a deemed permitted boundary activity, or you would like to discuss your proposal with a council planner, then please get in contact with us.