

Appendix B: Officer's Recommended Amendments to General Approach

Note the below provisions represent the Section 42A Report Writing Officer's recommended amendments to the provisions of the Proposed District Plan, in response to submissions (with red underline used for new text and ~~red strikethrough~~ for deleted text).

Kaipara district plan structure

The Kaipara District Plan has two components: Planning Maps and written text.

The Planning Maps show all properties in the district, and their relevant zone, overlay areas (e.g. flood hazard areas), designations, heritage items and other features referred to in the text. The Planning Maps can be viewed online in the EPlan.

The text contains four parts:

1. Introduction and general provisions:
Explanation of District Plan context (including Tangata Whenua context), practical application guides, definitions. There are no objectives, policies or rules in Part 1.
2. District-wide matters:
Chapters contain objectives, policies and rules that apply across the district, for example, strategic direction, subdivision, earthworks, noise, and signs. Some Chapters in Part 2 manage mapped areas and places (Overlays) that have distinctive values or risks.
3. Area-specific matters:
Chapters for each zone state relevant objectives, policies and rules. All land is identified as part of a zone on the Planning Maps, excluding roads. Other chapters describe Designations that authorise the use of land by requiring authorities (such as the Crown, councils or utility operators) for a particular project or public work.
4. Schedules and appendices:
Schedules list Historical Heritage items, Notable Trees, Sites and areas of significance to Māori, Outstanding Natural Features and Landscapes. Appendices contain technical information and detailed standards referred to in multiple chapters. There are no objectives, policies or rules in Part 4.

See Contents for full lists of chapters in each part. Each chapter contains an overview of subject matter.

Format of chapters in Parts 2 and 3

Each chapter in Parts 2 and 3 contains these sections:

1. Overview
2. Objectives
3. Policies
4. Rules (if any)
5. Standards (if any)

Every chapter has a unique abbreviation that identifies the topic being covered. For example, the Earthworks chapter is identified as EW and provisions include EW in the numbering system.

Objectives, policies, rules and standards

1. Objectives set out the outcomes to be achieved for the topic. Objectives are numbered, for example EW-O2 in the earthworks chapter, where 'O' means 'objective'; '2' means the second objective in that chapter.).
2. Policies set out how the objectives are to be achieved. Policies are numbered, for example EW-P3

(where the 'P'; means 'policy').

3. Rules have the effect of regulations. Rules define whether resource consent is required, by stating the activity status (see below) for different activities that may be proposed. Rules may state performance standards that need to be complied with to meet the activity status. Rules are numbered, for example, EW-R6 (where the 'R' means 'rule').
4. Standards are part of the rules. Some are written directly into rules. Other standards are grouped after the rules. These are separated from the rules to assist readability, or to avoid repetition of standards

referenced in more than one rule. Standards are numbered, for example EW-S1 (where the 'S' means 'standard'.)

Determining activity status and resource consents requirements

Each rule in the plan states the activity status of an activity in one of the RMA activity categories of Permitted, Controlled, Restricted Discretionary, Discretionary, Non-complying, or Prohibited.

The activity status determines whether a resource consent is required, and what needs to be considered when deciding whether a consent application can be approved. Unless your proposal is a permitted activity, you will need a resource consent.

The following table explains the planning approach for each activity status. The left column indicates the presentation used in the rules.

Rule / Activity Status	Is resource consent required?	Planning Approach
Activity Status: Permitted	No	Activity, as defined in the plan and subject to compliance with any standards, can be done without resource consent.
Activity Status: Controlled	Yes	Council must grant consent, and may impose conditions, but only on the matters over which the District Plan has specifically reserved its control. These 'Matters of Control' are set out in the rule.
Activity Status: Restricted Discretionary	Yes	Consent may be granted or refused. In deciding whether to grant consent, council is restricted to considering only the "matters over which discretion is restricted." These will be the matters stated in the relevant rule, plus in relevant cases some additional general matters of discretion stated in the section below Additional Matters of Control and Discretion. If consent is granted, it can be subject to conditions within the scope of the matters over which discretion is restricted.
Activity Status: Discretionary	Yes	Council can exercise its full discretion in deciding to decline or grant consent with or without conditions. Often the District Plan provides assessment criteria (in the rule tables) to assist with the consideration of discretionary activities. However, Council's discretion is

		not limited to consideration of these criteria.
Activity Status: Non-Complying	Yes	Council may consider any relevant matters within Council's jurisdiction. Resource consent may only be granted, and conditions imposed, if: <ol style="list-style-type: none"> 1. The adverse effects of the activity are minor; or 2. The activity is not contrary to the objectives and policies of the Plan.
Activity Status: Prohibited	No application possible	The activity cannot be undertaken, and no consent can be applied for, or granted.

An application for resource consent for a proposal must address all rules under which consent is required for that proposal under the District Plan and all relevant matters (e.g. matters of control/discretion). If the applicant considers any such matters are not applicable to the proposal, the application must clearly set out the reason why it is not applicable.

Step-by-step process for identifying activity status

Step 1: Check the planning maps

Identify your site on the Planning Maps, using the EPlan property search function, and note:

1. The zone for your site (e.g. General residential zone); and
2. Whether any overlay areas or features are mapped such as heritage items, flood hazard areas or designations.

Step 2: Find the relevant chapters

1. Find the zone chapter in Part 3 of the plan and overlay chapters in Part 2. For example, if your site is within the General rural zone, and includes a Site of Significance to Māori, you will need to start by checking:
 - a. Part 2 - District-Wide Matters: Historical and Cultural Values - Sites and Areas of Significance to Māori; and
 - b. Part 3 - Area Specific Matters: Zones - Rural zones - General rural zone.
2. Relevant information may also be found in:
 - a. Part 1 which defines terms used in the chapter text, and the Tangata whenua/Mana whenua chapter will help to identify relevant iwi where consultation is needed.
 - b. Part 4 - Schedule 3, Sites and areas of significance to Māori contains site and area descriptions.
3. Activities that are not specifically mentioned:
 - a. Activities that are not mentioned in a Part 2 chapter are generally permitted in that chapter.
 - b. Activities that are not mentioned in a Part 3 (zone) chapter are covered by a general rule (e.g. rule GRZ-R20 "Any activity not otherwise provided") that states the applicable activity status.

Step 3: Find district-wide chapters not indicated on planning maps

Look through the Part 2 District-wide Matters chapters to find any other chapters that are relevant but are not indicated by the Planning Maps. Many subdivisions and developments involve earthworks, temporary activities, signs, noise, light or vibration. Indigenous vegetation removal may be involved in some cases. The Financial Contributions chapter will indicate if the activity is subject to financial contributions. The Subdivision and Public Access chapters contain esplanade requirements.

Step 4: Check whether any National Environmental Standards apply

Check if any National Environmental Standards (NES) relate to the activity you are wanting to do, in addition to the rules in the District Plan. An NES may be more or less stringent than the district plan (the relevant NES will stipulate this). Some district plan chapters, e.g. Contaminated Land, contain objectives and policies relevant to resource consents under relevant NES.

Step 5: Consider all the applicable rules

All the chapters in Part 3 and most of the chapters in Part 2 contain rules that establish the status of an activity. Rules will generally include standards that need to be met for that activity status to apply. If you do not comply with a particular standard, the rule will state a different status. Unless what you are proposing is a permitted activity, you will need a resource consent.

Even if what you are doing is permitted under one rule, you will still need to check all relevant rules that apply to what you are proposing. For example, building a new house in the General Residential zone is a permitted activity under Rule GRZ-R1 Buildings and structures, subject to meeting particular standards. If you comply with these standards, then the new house is a permitted activity under that rule. However, other rules often apply.

The relevant Part 2 chapters identified in steps 2 and 3 above may contain rules that require consent separately from the zone chapter. For example, a new house in the General residential zone may meet the requirements of GRZ-R1 and other zone rules, but it might infringe rules on earthworks, transport, natural hazards, heritage or one of the mapped overlay areas, such as the Coastal Environment.

Where an activity is subject to multiple rules of the Plan, unless expressly stated otherwise in the Plan, each of the rules apply and must be complied with.

If more than one rule applies to your activity and different activity statuses apply, the activity will adopt the highest activity status and will be assessed under that status. Generally, all aspects of an activity needing resource consent will be "bundled" together in a single application.

Exceptions to consent requirements

1. Existing use rights:

Resource consent is not required if an activity is deemed as have existing use right under sections 10, 10A or 10B of the RMA. It is the responsibility of the person carrying out the activity to provide evidence to Council demonstrating the existing use right.

2. Emergency works:

RMA section 330 authorises emergency work by local authorities, network and utility operators, and a person having financial responsibility for a public work (e.g. a Minister of the Crown) without obtaining a resource consent beforehand.

3. Boundary activities:

Under RMA section 87BA, with the neighbours written approval, it may be permitted to build within a side yard setback or height-to-boundary control, if these are the only matters you require a resource consent for. This is called a "deemed permitted boundary activity". There are specific requirements for this to apply and for the format of neighbours consent, so professional advice is recommended.

4. Marginal or temporary non-compliance with requirements:

RMA section 87BB gives council discretion to permit some activities where the plan otherwise requires consent. There must be no other Plan rules infringed, no affected parties, and the effects are no different than there would be without the marginal or temporary rule infringement. Approval can only be granted for activities to be undertaken through this process via either a resource consent application or a building consent or pre-planning meeting.

Other approvals may be needed

You may need to obtain an authority for your proposal or activity separate to any resource consent required under this District Plan. For example:

1. Building consent:

Resource consent granted for a development does not include building consent. Separate application to council must be made for a building consent.

2. Regional consent:

Resource consent may also be required under a regional plan of the Northland Regional Council.

3. Kaipara District Council Engineering Standards:

Engineering standards apply in addition to the provisions of this District Plan. These are critical for Council's acceptance of vested infrastructure.

4. Bylaws:

For example, Council bylaws address signs on roads, solid waste, trade waste, food safety and the use of geothermal resources.

5. Activities in the road corridor:

Excavations, trenching, and structures within the road corridor require a permit from Council under the Corridor Access Request process. Vehicle crossings onto the road reserve require approval through a Corridor Access Request and must be constructed to Council's standards.

Resource consent applications

An application for resource consent for a proposed land use, subdivision or development must address all rules under which consent is required for that proposal under the District Plan and all relevant matters (e.g. matters of control/discretion). If the applicant considers any such matters are not applicable to the proposal, the application must clearly set out the reason why it is not applicable. A resource consent is a consent granted by the council which allows a person to carry out a certain land use activity or subdivision.

General guidance on resource consent applications is available on this website: [Ministry for the Environment Applying for a Resource Consent](#)

The Kaipara District Council website has further guidance and application forms.

Individuals can prepare and lodge their own resource consent applications. However, the process can be very technical, with expert input required, and most people employ a planning professional to advise them and to prepare their applications.

~~Additional matters of control and matters of discretion~~

~~The following are additional matters over which control is reserved for all controlled activities, and to which discretion is restricted for all restricted discretionary activities and will also apply with respect to discretionary and non-complying activities. (These are stated here, instead of individual rules, to avoid repetition and improve rule readability.)~~

- ~~1. Bonds or covenants or both, to ensure performance or compliance with any conditions imposed, including provision for variation, cancellation or renewal of covenants;~~
- ~~2. Administrative charges to be paid to the Council in respect of processing applications, administration, monitoring and supervision of resource consents, as set out in the Fees and Charges Schedule of the Long Term Plan;~~
- ~~3. A requirement that the holder of a consent supply information relating to the exercise of the consent, as detailed in s108(3) and (4) of the Resource Management Act;~~
- ~~4. Financial contributions, subject to the Financial Contributions rules;~~
- ~~5. Works or services to ensure the protection, restoration or enhancement of any natural or physical resource, including the creation, extension or upgrading of services and systems, planting or replanting, or any other works or services necessary to ensure the avoidance, remediation or mitigation of adverse environmental effects;~~
- ~~6. The duration of a resource consent under s123 of the Resource Management Act;~~
- ~~7. Lapsing of a resource consent under s125 of the Resource Management Act;~~

- ~~8. Change and cancellation of a consent under s126 and s127 of the Resource Management Act;~~
- ~~9. Notice that some or all conditions may be reviewed at some time in the future under s128 of the Resource Management Act;~~
- ~~10. Whether any land use or subdivision consent should attach to the land to which it relates and be enjoyed by the owners and occupiers for the time being under s134 of the Resource Management Act;~~
- ~~11. The matters on which conditions can be imposed on subdivision consents under s220 of the Resource Management Act; and~~
- ~~12. Consent notices to secure compliance with continuing conditions under s221 of the Resource Management Act.¹~~

¹ Daytona Trust [263.1] BTRA [FS35.51], Tappenden Holdings Limited [289.1], BTRA [300.1]