

Appendix F

Legislative Requirements

Resource Management Act 1991

“5 Purpose

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
 - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

“6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) *the protection of protected customary rights.”*

“7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) *kaitiakitanga:*
- (aa) *the ethic of stewardship:*
- (b) *the efficient use and development of natural and physical resources:*
- (ba) *the efficiency of the end use of energy:*
- (c) *the maintenance and enhancement of amenity values:*
- (d) *intrinsic values of ecosystems:*
- (e) *[Repealed]*
- (f) *maintenance and enhancement of the quality of the environment:*
- (g) *any finite characteristics of natural and physical resources:*
- (h) *the protection of the habitat of trout and salmon:*
- (i) *the effects of climate change:*
- (j) *the benefits to be derived from the use and development of renewable energy.”*

“8 Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).”

“31 Functions of territorial authorities under this Act

- (1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:
 - (a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:
 - (b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—
 - (i) the avoidance or mitigation of natural hazards; and
 - (ii) the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances; and
 - (iia) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:
 - (iii) the maintenance of indigenous biological diversity:
 - (d) the control of the emission of noise and the mitigation of the effects of noise:
 - (e) the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:
 - (f) any other functions specified in this Act.
- (2) The methods used to carry out any functions under subsection (1) may include the control of subdivision.”

“72 Purpose of district plans

The purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act.”

“73 Preparation and change of district plans

- (1) There shall at all times be 1 district plan for each district prepared by the territorial authority in the manner set out in Schedule 1.
- (1A) A district plan may be changed by a territorial authority in the manner set out in Schedule 1.
- (4) A local authority must amend a proposed district plan or district plan to give effect to a regional policy statement, if—
 - (a) the statement contains a provision to which the plan does not give effect; and
 - (ii) the statement is reviewed under section 79 and is changed or replaced and the change or replacement becomes operative;
- (5) A local authority must comply with subsection (4)—
 - (a) within the time specified in the statement, if a time is specified;”

“74 Matters to be considered by territorial authority

- (1) A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2,.....duty under section 32,
- (2) In addition to the requirements of section 75(3) and (4), when...changing a district plan, a territorial authority shall have regard to—
 - (a) any—
 - (i) proposed regional policy statement;
 - (b) any—
 - (i) management plans and strategies prepared under other Acts; and
 - (c) the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.
- (3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition.”

“75 Contents of district plans

- (1) A district plan must state—
 - (a) the objectives for the district; and
 - (b) the policies to implement the objectives; and
 - (c) the rules (if any) to implement the policies.
- (2) A district plan may state—
 - (a) the significant resource management issues for the district; and
 - (b) the methods, other than rules, for implementing the policies for the district; and
 - (c) the principal reasons for adopting the policies and methods; and
 - (d) the environmental results expected from the policies and methods; and
 - (e) the procedures for monitoring the efficiency and effectiveness of the policies and methods; and
 - (f) the processes for dealing with issues that cross territorial authority boundaries; and
 - (g) the information to be included with an application for a resource consent; and
 - (h) any other information required for the purpose of the territorial authority’s functions, powers, and duties under this Act.
- (3) A district plan must give effect to—
 - (a) any national policy statement
 - (c) any regional policy statement.
- (4) A district plan must not be inconsistent with—
 - (b) a regional plan for any matter specified in section 30(1).
- (5) A district plan may incorporate material by reference under Part 3 of Schedule 1.”

“76 District rules

- (1) A territorial authority may, for the purpose of—
 - (a) carrying out its functions under this Act; and
 - (b) achieving the objectives and policies of the plan,—include rules in a district plan.
- (3) In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect.
- (4) A rule may—
 - (a) apply throughout a district or a part of a district:
 - (b) make different provision for—
 - (i) different parts of the district; or
 - (ii) different classes of effects arising from an activity:
 - (c) apply all the time or for stated periods or seasons:
 - (d) be specific or general in its application:
 - (e) require a resource consent to be obtained for an activity causing, or likely to cause, adverse effects not covered by the plan.”

76(4A) A rule may prohibit or restrict the felling, trimming, damaging, or removal of a tree or trees on a single urban environment allotment only if, in a schedule to the plan,—

- (a) the tree or trees are described; and
- (b) the allotment is specifically identified by street address or legal description of the land, or both.

76(4B) A rule may prohibit or restrict the felling, trimming, damaging, or removal of trees on 2 or more urban environment allotments only if—

- (a) the allotments are adjacent to each other; and
- (b) the trees on the allotments together form a group of trees; and
- (c) in a schedule to the plan,—

- (i) the group of trees is described; and*
- (ii) the allotments are specifically identified by street address or legal description of the land, or both.*

76(4C) In subsections (4A) and (4B),—group of trees means a cluster, grove, or line of trees urban environment allotment or allotment means an allotment within the meaning of section 218—

- (a) that is no greater than 4 000 m²; and*
- (b) that is connected to a reticulated water supply system and a reticulated sewerage system; and*
- (c) on which there is a building used for industrial or commercial purposes or as a dwellinghouse; and*
- (d) that is not reserve (within the meaning of section 2(1) of the Reserves Act 1977) or subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.*

76(4D) To avoid doubt, subsections (4A) and (4B) apply—

- (a) regardless of whether the tree, trees, or group of trees is, or the allotment or allotments are, also identified on a map in the plan; and*
- (b) regardless of whether the allotment or allotments are also clad with bush or other vegetation.*

77A Power to make rules to apply to classes of activities and specify conditions

- (1) A local authority may—*
 - (a) categorise activities as belonging to one of the classes of activity described in subsection (2); and*
 - (b) make rules in its plan or proposed plan for each class of activity that apply—*
 - (i) to each activity within the class; and*
 - (ii) for the purposes of that plan or proposed plan; and*
 - (c) specify conditions in a plan or proposed plan, but only if the conditions relate to the matters described in section 108 or 220.*
- (2) An activity may be—*
 - (a) a permitted activity; or*
 - (b) a controlled activity; or*
 - (c) a restricted discretionary activity; or*
 - (d) a discretionary activity; or*
 - (e) a non-complying activity; or*
 - (f) a prohibited activity.*
- (3) Subsection (1)(b) is subject to section 77B.*

77B Duty to include certain rules in relation to controlled or restricted discretionary activities

- (1) Subsection (2) applies if a local authority makes a rule in its plan or proposed plan classifying an activity as a controlled activity.*
- (2) The local authority must specify in the rule the matters over which it has reserved control in relation to the activity.*
- (3) Subsection (4) applies if a local authority makes a rule in its plan or proposed plan classifying an activity as a restricted discretionary activity.*
- (4) The local authority must specify in the rule the matters over which it has restricted its discretion in relation to the activity.*

National Environmental Standards

“43A Contents of national environmental standards

- (1) National environmental standards may—
 - (a) prohibit an activity;
 - (b) allow an activity;
 - (c) restrict the making of a rule or the granting of a resource consent to matters specified in a national environmental standard;
 - (d) require a person to obtain a certificate from a specified person stating that an activity complies with a term or condition imposed by a national environmental standard;
 - (e) specify, in relation to a rule made before the commencement of a national environmental standard,—
 - (i) the extent to which any matter to which the standard applies continues to have effect; or
 - (ii) the time period during which any matter to which the standard applies continues to have effect;
 - (f) require local authorities to review, under section 128(1), all or any of the permits to which paragraph (ba) of that subsection applies as soon as practicable or within the time specified in a national environmental standard.
- (2) A national environmental standard that prohibits an activity—
 - (a) may do one or both of the following:
 - (i) state that a resource consent may be granted for the activity, but only on the terms or conditions specified in the standard; and
 - (ii) require compliance with the rules in a plan or proposed plan as a term or condition; or
 - (b) may state that the activity is a prohibited activity.
- (3) If an activity has significant adverse effects on the environment, a national environmental standard must not, under subsections (1)(b) and (4),—
 - (a) allow the activity, unless it states that a resource consent is required for the activity; or
 - (b) state that the activity is a permitted activity.
- (4) A national environmental standard that allows an activity—
 - (a) may state that a resource consent is not required for the activity; or
 - (b) may do one or both of the following:
 - (i) state that the activity is a permitted activity, but only on the terms or conditions specified in the standard; and
 - (ii) require compliance with the rules in a plan or proposed plan as a term or condition.
- (5) If a national environmental standard allows an activity and states that a resource consent is not required for the activity, or states that an activity is a permitted activity, the following provisions apply to plans and proposed plans:
 - (a) a plan or proposed plan may state that the activity is a permitted activity on the terms or conditions specified in the plan; and
 - (b) the terms or conditions specified in the plan may deal only with effects of the activity that are different from those dealt with in the terms or conditions specified in the standard; and
 - (c) if a plan’s terms or conditions deal with effects of the activity that are the same as those dealt with in the terms or conditions specified in the standard, the terms or conditions in the standard prevail.
- (6) A national environmental standard that allows a resource consent to be granted for an activity—
 - (a) may state that the activity is—
 - (i) a controlled activity; or
 - (ii) a restricted discretionary activity; or

- (iii) a discretionary activity; or
 - (iv) a non-complying activity; and
 - (b) may state the matters over which—
 - (i) control is reserved; or
 - (ii) discretion is restricted.
- (7) A national environmental standard may specify the activities for which the consent authority—
 - (a) must give public notification of an application for a resource consent:
 - (b) is precluded from giving public notification of an application for a resource consent:
 - (c) is precluded from giving limited notification of an application for resource consent.

43B Relationship between national environmental standards and rules or consents

- (1) A rule or resource consent that is more stringent than a national environmental standard prevails over the standard, if the standard expressly says that a rule or consent may be more stringent than it.
- (2) For the purposes of subsection (1),—
 - (a) a rule is more stringent than a standard if it prohibits or restricts an activity that the standard permits or authorises:
 - (b) a resource consent is more stringent than a standard if it imposes conditions on an activity that the standard does not impose or authorise.
- (3) A rule or resource consent may not be more lenient than a national environmental standard.
- (4) For the purposes of subsection (3), a rule or resource consent is more lenient than a standard if it permits or authorises an activity that the standard prohibits or restricts.

44A Local authority recognition of national environmental standards

- (1) Subsections (3) to (5) apply if a local authority's plan or proposed plan contains a rule that duplicates a provision in a national environmental standard.
- (2) Subsections (3) to (5) apply if a local authority's plan or proposed plan contains a rule that conflicts with a provision in a national environmental standard. A rule conflicts with a provision if—
 - (a) both of the following apply:
 - (i) the rule is more stringent than the provision in that it prohibits or restricts an activity that the provision permits or authorises; and
 - (ii) the standard does not expressly say that a rule may be more stringent than it; or
 - (b) the rule is more lenient than the provision.
- (3) If the duplication or conflict is dealt with in the national environmental standard in one of the ways described in section 43A(1)(e), the local authority must amend the plan or proposed plan to remove the duplication or conflict—
 - (a) without using the process in Schedule 1; and
 - (b) in accordance with the specification in the national environmental standard.
- (4) If the duplication or conflict arises as described in section 43A(5)(c), the local authority must amend the plan or proposed plan to remove the duplication or conflict—
 - (a) without using the process in Schedule 1; and
 - (b) as soon as practicable after the date on which the standard comes into force.
- (5) In every other case of duplication or conflict, the local authority must amend the plan or proposed plan to remove the duplication or conflict—
 - (a) without using the process in Schedule 1; and
 - (b) as soon as practicable after the date on which the standard comes into force.
- (6) A local authority may amend a plan or proposed plan to include a reference to a national environmental standard—
 - (a) without using the process in Schedule 1; and

- (b) after the date on which the standard comes into force.
- (7) Every local authority and consent authority must observe national environmental standards.
- (8) Every local authority and consent authority must enforce the observance of national environmental standards to the extent to which their powers enable them to do so.

National Policy Statement

“45 Purpose of national policy statements (other than New Zealand coastal policy statements)

- (1) The purpose of national policy statements is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act.

55 Local authority recognition of national policy statements

- (1) In subsections (2) and (2A), document means—
- (a) a regional policy statement; or
 - (b) a proposed regional policy statement; or
 - (c) a proposed plan; or
 - (d) a plan; or
 - (e) a variation.
- (2) A local authority must amend a document, if a national policy statement directs so,—
- (a) to include specific objectives and policies set out in the statement; or
 - (b) so that objectives and policies specified in the document give effect to objectives and policies specified in the statement.
- (2A) The local authority must—
- a) make the amendments referred to in subsection (2) without using the process in Schedule 1; and
 - (b) give public notice of the amendments within 5 working days after making them.
- (2C) The local authority must make the amendments referred to in subsection (2B) using the process in Schedule 1.
- (2D) In all cases, the local authority must make the amendments—
- (a) as soon as practicable; or
 - (b) within the time specified in the national policy statement (if any); or
 - (c) before the occurrence of an event specified in the national policy statement (if any).
- (3) A local authority must also take any other action that is specified in the national policy statement.
- (4) A national policy statement may include transitional provisions for any matter, including its effect on existing matters or proceedings.”

