

# Part 1

## Making an Application for Land Use Consent

### 1. Why is the Council involved in land use?

On 1 October 1991 the Resource Management Act became law. The Act has made many changes to the procedures that Council and applicants must follow in order for consents to be granted for land use activities.

### 2. The District Plan

The Western Bay Of Plenty District Plan became operative on the 19<sup>th</sup> day of July 2002 and takes precedence over any previous plans. Copies of the District Plan and current 'Plan Changes' may be viewed at any of the Council offices located at Waihi Beach, Katikati, Tauranga or Te Puke.

### 3. Do all land use activities require a resource consent?

No, the Resource Management Act and the District Plan classify land use activities into six difference categories:

1. permitted activities
2. controlled activities
3. discretionary activities
4. restricted discretionary or limited discretionary activities
5. non-complying activities
6. prohibited activities

If an activity is a Permitted Activity a resource consent is not required. For all other activities, the Rules and Standards in the District Plan will determine the category of your application and how it will be assessed.

#### 3.1 Permitted Activity

If your activity complies with standards set out in the plan for a permitted activity you do not need a resource consent. You may however, still need to apply for a building consent, from this Council or other consents e.g. earthworks consent, from Environment BOP, Regional Council.

### **3.2 Controlled Activity**

You will need resource consent. The Council cannot decline your application but may include conditions on how you carry out the activity. Conditions can only be imposed for matters the council has listed in the district plan.

### **3.3 Discretionary Activity**

You will need resource consent. Affected Parties will need to be consulted The Council may decide to approve (often with conditions) or decline your application. In some cases applications may need to be notified.

### **3.4 Restricted or Limited Discretionary Activity**

You will need resource consent. The Council may decide to approve, (often with conditions) or decline your application, but may only consider a few matters when it has listed these in the district plan.

### **3.5 Non complying Activity**

You will need a resource consent. The Council may approval (often with conditions), or decline your application. The Council must decline your application if it has more than a minor effect on the environment and contravenes the objectives and policies of the district plan.

### **3.6 Prohibited Activity**

No applications can be made for a prohibited activity.

## **4. How do I apply for a land use consent?**

This kit contains all the details needed to make an application for a consent. Fill in the application form supplied (Part 4), the Assessment of Environmental Effects (AEE) and gather all the information required as stated in the application checklist (attached to the application form). It is in your best interest to submit a well prepared application, which covers all aspects of your proposal. This will save you both time and processing costs. The most important part of your application is the Assessment of Environmental Effects.

In many cases it is advisable to seek professional services from resource management consultants. Consultants will ensure that you application meets all relevant statutory and planning information requirements. A brochure of local Planning Consultants is attached for your information.

## **5. Assessment of Environmental Effects**

For all applications it is necessary to provide an assessment of any actual or potential environmental effects that are likely to result from the activity for which consent is sought. An AEE needs to be prepared in accordance with the Fourth Schedule to the Resource Management Act. **A copy of the Fourth Schedule maybe found on page 9 of this kit. Council also has a series of brochures available which cover Assessments of Environmental Effects reports and the application process.**

An Assessment of Environmental Effects should include as much detail as corresponds with the scale of the project and the potential or actual effects of the activity. A simple application such as a garage being closer to the boundary than is allowable under the District Plan will require a simple assessment whereas an application to build an abattoir would require a more detailed assessment of environmental effects.

The Fourth Schedule also requires details of who is affected (including tangata whenua), any consultation undertaken with these parties, the results of any such consultation and the views of those consulted. It is best to consult at an early stage. Effective consultation can resolve misunderstandings and concerns affected parties may have. This in turn can result in the application process being quicker and with less cost to the applicant. If adequate consultation is not undertaken by the applicant, this will be done by the Council, at the applicant's cost.

If an Assessment of Environmental Effects is not completed or is not considered to have sufficient information for Council staff to make a decision, a request for further information will be made and your application will be put on hold until it is received. You have the right to formally object to a request for further information, advice on this is available from Council.

## **6. Advice and Further Information**

If you feel you need advice when preparing your application, or are unsure about obtaining further information there are a number of options available to you:

- ▶ visit your local Western Bay of Plenty District Council Library and make yourself familiar with the District Plan;
- ▶ telephone or visit the Duty Planner at our Barks Corner Officer, Greerton, Tauranga,
- ▶ consult a Resource Management or Planning professional. (refer to Planning Consultants brochure)

## **7. Non-notified and Publicly Notified Applications**

Once you have submitted your application Council will decide whether to publicly notify it or not, usually within 10 working days, once all the information has been provided.

Under the Act it is possible to gain consent for discretionary and non-complying activities without public notification and hearings. However, this is only possible if:

- ▶ Approval of all affected parties has been obtained;
- ▶ Council is satisfied that the effects will be minor; and
- ▶ The proposal satisfies the requirements of the District Plan and the Resource Management Act.

The RMA allows any application to be notified under special circumstances, even if a relevant plan expressly provides that it need not be notified.

## **8. Non-Notified Applications**

If your application is non-notified then in most cases resource consent staff will make the decision to grant consent under delegated authority. Applicants can object to Council to this decision if they are not happy with it. Further information can be obtained from Council regarding non-notified applications and objections.

## **9. Public Notification, Pre -hearing Meetings and Hearings**

If your application is publicly notified, affected parties are notified in writing and the application is advertised in an appropriate local newspaper. Members of the public and affected parties are invited to make submissions either opposing or supporting your application. Once the closing date for submissions has passed Council may arrange a pre-hearing meeting. The applicant and all submitters are invited to discuss the application in an informal way. The aim is to first clarify the concerns and goals of all parties, and to agree on the facts as far as possible. Secondly, the pre-hearing meeting can go on to resolve as many differences as possible.

If all differences are resolved a hearing may not be necessary. If some concerns remain unresolved, then the application will go to Hearing. A hearing Committee of at least three elected Councillors, or an independent commissioner, will hear the case and make a decision to grant or refuse consent.

If you are unhappy with the decision made by the hearing committee you may appeal to the Environment Court. Further information on hearings is available from Council.

The Resource Management Act as from August 2003 also provides for a 'limited notification' process where most environmental issues have been addressed and these are only outstanding issues with a few neighbours.

## **10. How long before a decision is made?**

If your application is non-notified and is considered to have sufficient information, a written decision can be expected within 20 working days of applying. If sufficient information is not received at the outset, then the application is put on hold until sufficient information is received or if the application is lacking too much information it may be sent back.

In some cases, a non-notified application may have to go to a Hearing and therefore the time before a decision is made will need to be extended to allow for the earliest possible Hearing.

If your application is notified it can take up to 70 working days, in addition to delays if further information is requested. The flow diagram in part 2 shows the time frames given under the Resource Management Act for the processing of applications.

A 'working day' is defined in the Resource Management Act as 'any day except Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, Labour Day, the Queen's Birthday, Waitangi Day and any day in the period commencing with the 20th day of December in any year and ending with the 10th day of January in the following year'.

## 11. Monitoring

Council is obliged to monitor consents to ensure that the conditions are appropriate and being adhered to. The Act allows Council to charge the consent holder for the costs of such monitoring.

## 12. How much does it cost?

Council has adopted a policy of recovering the full cost of processing applications from applicants. Most fees will operate on a deposit system. Customers will be charged for the actual costs of services and, where applicable, may be refunded part of the deposit or charged additional fees. In many cases the deposit will cover the cost of resource consent processing. Incomplete information, more extensive consultation, or complex or unforeseen problems will result in additional costs. These costs will be charged to the applicant following the release of the resource consent decision. An estimate of processing costs based on a straightforward application may be obtained from the Resource Consents Department on request. Please also refer to Part 4 – Land Use Resource Consent fees as well our standard Fees and Charges pamphlet.

## 13. Other Costs – Financial Contributions

Financial Contributions may be charged as a condition of your resource consent. This is to mitigate the affects your new activity may have on existing Council infrastructure e.g. water supply, roads, sewerage, stormwater. These financial contributions are based on a formula that helps calculate your specific activity i.e. number of truck movements, number of staff etc.

These financial contributions will be stipulated as a condition of consent and an invoice will be sent out shortly after your consent has been processed. If there is some delay before your activity becomes operational, then you can advise Council in writing, stipulating an estimate date of commencement, and your invoice will be placed on hold, until this time.

## 14. Important notes to Applicants

1. Please read fully the notes below and the Information Brochures available from the Council to assist applicants, before preparing your application and the necessary supporting information.
2. If you are unsure as to what information to include with or application, please contact the Council before submitting the application.
3. Your application **must** be accompanied by the appropriate application fee as determined by the Council. **A Schedule of the set fees and charges for different types of applications is shown on page 9.** More information about charges may be found in Resource Consent **Brochure No 11** which is available from Council.

For complex applications, based on the actual and reasonable cost for processing such complex applications, Council may require progressive monthly payments during consent processing.

The final charge is based on actual and reasonable costs and is subject to objection and appeal.

4. If the application does not contain the necessary basic information and the appropriate application fee the Council may return the application to you and not commence processing it until it is completed.
5. Applications require notification (public advertising calling for submissions), unless the Council is satisfied that the adverse effect on the environment of the activity for which consent is sought will be minor, and written approval has been obtained from every person who the Council is satisfied may be adversely affected by the granting of the consent.
6. The information you provide is official information. It will be used to process the application and, together with other official information, to assist in the management of the district's natural and physical resources. Access to information held by the Western Bay of Plenty District Council is admitted in accordance with the Local Government Official Information and Meetings Act 1987 and the Privacy Act 1993.