

Environmental legislation

A TRADIE'S GUIDE



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ACKNOWLEDGEMENTS

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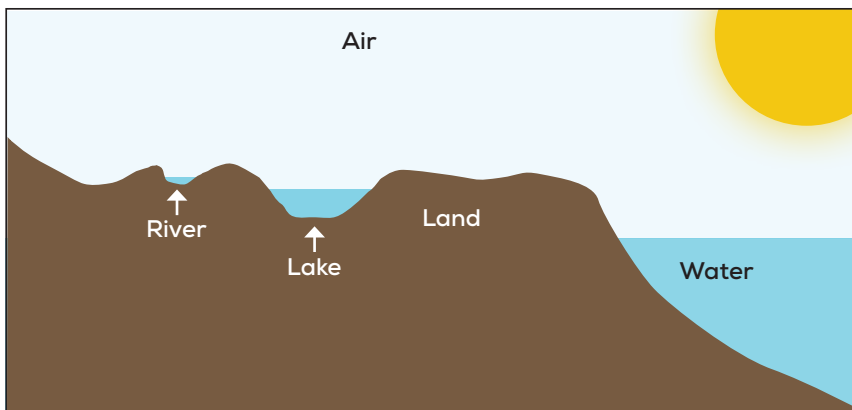
ENVIRONMENTAL LEGISLATION

Resource Management Act 1991

The Resource Management Act 1991 (RMA) is the primary legislation for the sustainable management of New Zealand's natural and physical resources. It is based on the concept that the development of the country must take place within the capacity and ability of the environment and the ecosystems that support it. In other words, the environment must be protected from the effects of activities carried out by people, communities and industry so that the development needs of future generations can also be met in terms of the use of natural and physical resources.

DEFINITIONS UNDER THE ACT

The RMA defines land as all the land area in New Zealand. This includes land covered by water (lakes, rivers and coastal marine areas) and also the airspace above the land.



The Act defines use to include all activities that might be done to the land including:

- ⊗ building on it.
- ⊗ drilling, excavating or tunnelling into it.
- ⊗ disrupting, damaging or destroying animal and plant habitats in, on or under the land or across the surface of lakes or rivers.
- ⊗ depositing substances in, on or under the land including discharging contaminants into waterways or the air.
- ⊗ taking water from any water sources.

SUSTAINABLE MANAGEMENT

The RMA provides a framework for the sustainable management of activities involving land, air and water resources, including lakes, rivers and coastal marine areas in New Zealand. Sustainable management is the process of managing the use, development, and protection of natural and physical resources so that:

- ⊗ they are maintained for use by future generations (this doesn't include minerals).
- ⊗ the life-supporting capacities of air, water, soil, and ecosystems are protected.
- ⊗ adverse effects from people's activities in the environment are either avoided, remedied or lessened.

The Act aims to ensure that the sustainability of the environment is not placed at risk by the economic and social goals of individuals or communities. It recognises that people need to be able to use resources but that using them should not affect the resources in such a way that they are no longer available for future generations to use.

MANAGEMENT CONTROLS

The RMA has three diverse functions related to managing New Zealand's natural and physical resources.

1	Control access to, and use of, natural resources.
2	Control the discharge of contaminants (pollutants).
3	Manage the adverse effects of all activities in the environment.

The Act controls access to and use of natural and physical resources by requiring a resource consent to be granted for any use or activity, unless the use or activity is specifically permitted by an existing use right. This requirement gives consenting authorities the opportunity to assess the impact of the activity on the environment. If consent is granted, it can also require that users avoid, remedy or lessen any adverse effects on the environment.

Controls are managed by rules set out in regional or district plans or national environmental standards which must be complied with under the Act. If an activity meets the criteria, either by right or by meeting required environmental standards set out in a regional or district plan or under the national environmental standards, then it can be carried out.

In particular it is not permitted to discharge contaminants into air or water or onto the land in a way that could allow the contaminants to enter a waterway. The need for a consent means that consenting authorities can control the discharge of contaminants.

EFFECTS-BASED APPROACH

The focus of the RMA is on the environmental impact of activities, not on the activities themselves. This means that the effect on the environment as a result of an activity determines whether the activity is permitted in a particular location. When individuals, communities and industries wish to use natural resources, they must consider how the use or activity will affect the environment. This approach applies to everyone regardless of who carries out the activity.

Relationship between the RMA and the Building Act

Building work comes under the control of both the Resource Management Act and the Building Act. The Building Act controls the construction of buildings while the RMA deals with their environmental effects. It does this by controlling aspects of buildings such as the:

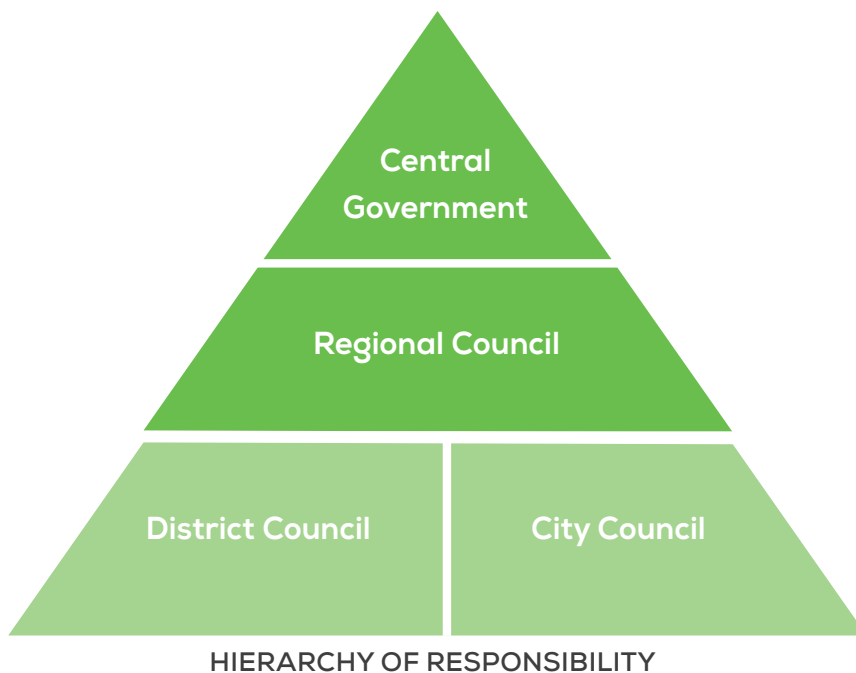
- ⊗ height, bulk and site coverage.
- ⊗ sizes of front, side and rear yards and sunlight recession planes.
- ⊗ noise levels.
- ⊗ parking requirements.

In some areas of control, particularly with regard to natural hazards, there may be overlaps between the resource management and the building controls. For example, when a resource consent is required in addition to a building consent, building work may not begin until the resource consent has also been granted.

Similarly, a subdivision of land to create a cross lease or unit title cannot be completed until the consenting authority is satisfied that existing buildings on the land comply with the Building Code.



Oversight and administration of the RMA

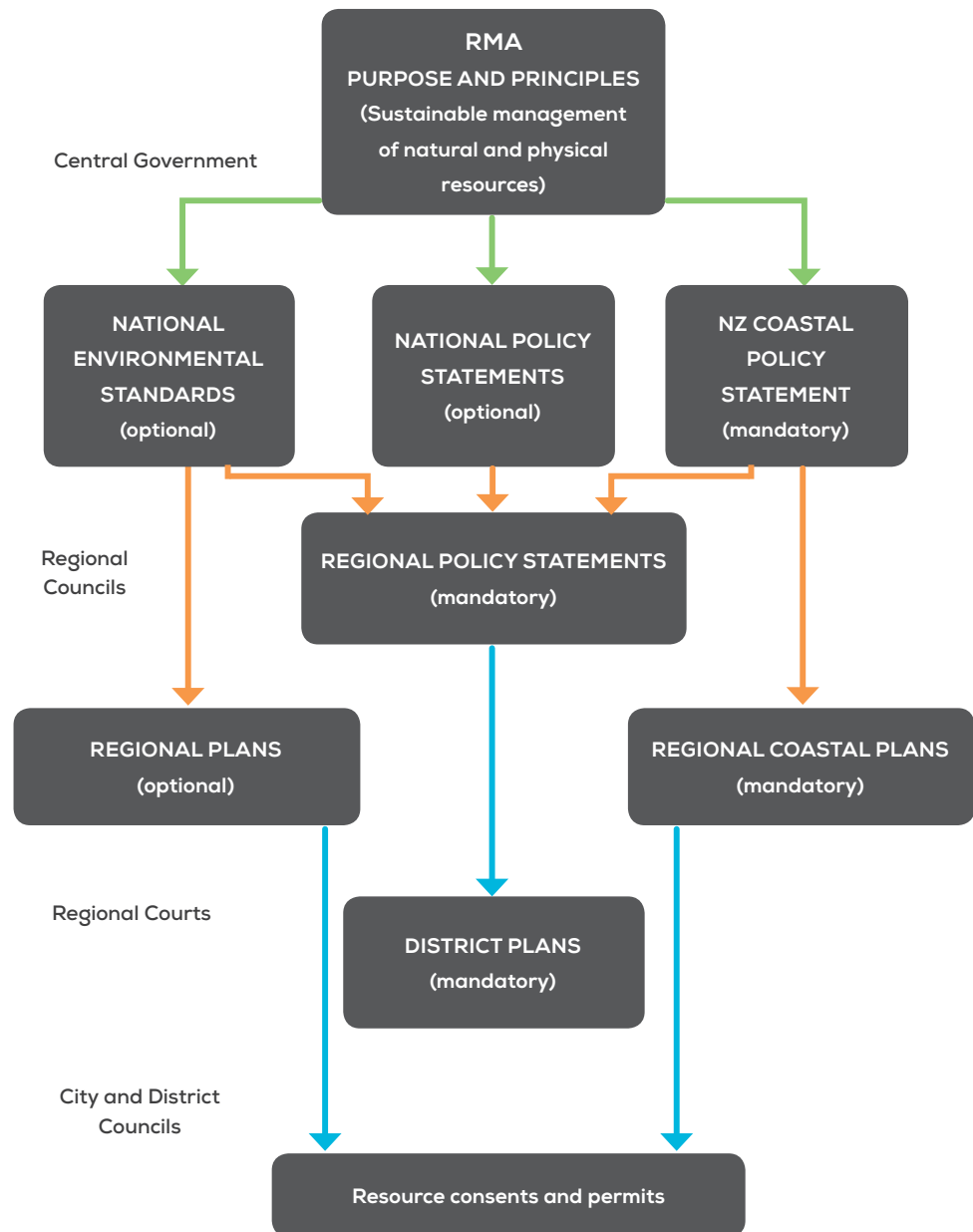


Under the RMA, the responsibility for making decisions about environmental issues lies with the community most directly affected by the use of the resources. There is a hierarchy of responsibility and prescribed roles for central and local government, regional councils, and city and district councils. Regional, city and district councils must identify the environmental risks in their areas and develop policy statements and plans describing how activities in their regions are to be regulated.

CENTRAL GOVERNMENT

At the top of the hierarchy is central government which has oversight of the RMA and provides the national direction for environmental issues. It develops standards and policy statements for environmental issues that affect the whole country.

The Act is monitored and administered by the Ministry for the Environment on behalf of the government and disputes are resolved in the Environment Court.



LOCAL GOVERNMENT

Local government consists of 11 regional councils, 61 territorial authorities and 6 unitary authorities. The territorial authorities consist of 11 city councils and 50 district councils.



Regional councils are responsible for environmental and public transport matters including the waterways, coastal marine areas and soil conservation in their regions. They must prepare regional policy statements and plans that describe and facilitate the management of natural and physical resources. They are responsible for managing natural hazards in their regions and investigating and monitoring land, air and water contamination.

Territorial authorities manage the development capacity for residential and business land use to meet the city or district's long-term requirements by making decisions about the effects of land use and activities within the city or district. They have the responsibility for the infrastructure including roading networks, reserves, the water supply, and stormwater and sewerage systems. They manage land use and subdivision, and assess consent applications for land use, subdivision and building. Territorial authorities are required to prepare policy statements and a district plan that provides guidelines and rules to assist in carrying out the sustainable management of the city or district.

Unitary authorities are territorial authorities that have the same responsibilities, duties and powers as a regional council. There are six unitary authorities in New Zealand: Auckland Council, Gisborne District Council, Chatham Islands Council, Nelson City Council, Marlborough District Council and Tasman District Council.

Administration of the Act

GUIDANCE DOCUMENTS

One of the administrative roles of the Ministry for the Environment is to develop guidance documents on the administration and application of the RMA. These guidance documents are called tools and include regulations, national environmental standards (NES), national policy statements, and national planning standards.

Regulations are guidelines that set out how the provisions of the Act are to be applied. There are sixteen regulations under the RMA. They set out the requirements for a broad range of functions such as territorial authority approvals, heritage protection, forms, fees and application procedures, managing water usage, managing marine contamination and setting national environmental standards for contaminants in the environment. They are developed in response to specific aspects of the Act and are mandatory (compulsory) under the Act.

National Environmental Standards prescribe standards for the development, use and protection of natural and physical resources including water, air and soil quality in relation to the discharge of contaminants.

National Policy Statements set out the objectives and policies on matters relating to the management of natural and physical resources in New Zealand. They cover a range of topics including urban development, fresh water management, renewable electrical generation and electrical transmission.

National Planning Standards are guidelines to help maintain a consistent structure, format and content of policy and planning statements. They also support the implementation of policy statements and compliance with the Act.

ENVIRONMENTAL GUIDELINES

The Ministry for the Environment also prepares guidelines for a wide range of topics such as air quality, contaminated land management, timber treatment chemicals and integrated whole-building design. The guidelines:

- ✦ identify targets for environmental outcomes.
- ✦ set incentives for working towards outcomes.
- ✦ describe how outcomes may be achieved and measured.
- ✦ contain recommendations for environmental quality.

The guidelines are not legally enforceable but provide a standard that can be applied throughout the country. They may be incorporated into local authority policies and plans (in which case they become legally enforceable) and they may also be incorporated into codes of practice for industry groups.

MONITORING

Under the RMA, territorial authorities must monitor the state of the environment in their areas, ensure that the policy statements and plans they have prepared are working as intended, and ensure that resource consents are being carried out correctly.

Regional and District Plans

REGIONAL PLANS

Regional plans must be prepared by regional councils under the RMA. These plans contain rules governing the use of resources within the region. They are required to identify and state the objectives for the particular region, describe the policies required to carry out the objectives, and make rules to carry out the policies. Regional Plans enable the national policy statements and planning standards required under the Act to be implemented.

Every regional council must write a regional coastal plan that addresses specific coastal marine activities. The coastal area is defined as the area between “mean high water spring” (the highest level that spring tides reach on average over a given time), and the outer extent of the 12 nautical mile zone (approx. 22km).

Regional councils may write other regional plans but this is not mandatory.

Other regional plans may cover issues that are relevant to the region such as soil conservation, water quality and quantity, aquatic ecosystems, biodiversity, natural hazards, discharge of contaminants and allocation of natural resources.

DISTRICT PLANS

Each territorial authority (city or district council) must prepare a district plan to help manage the development of the city or district by regulating the environmental effects of activities and buildings.

Although district plans are specific to each district, they have some common requirements. For example, they must allow for open outdoor spaces, privacy and good sunlight access to interior spaces of residential buildings. District plans must also be consistent with regional plans.

A district plan must have three sections.

1	Objectives, policies and rules.
2	Design guidelines for the development of the district.
3	Maps that identify and locate the different zones in the district.

The design guidelines set out the rules for buildings such as height, site coverage, yard size, sunlight recession planes, noise restrictions and parking requirements for different zones in the city or district. Other requirements may include the:

- ✘ size, location and layout of subdivisions.
- ✘ scale and visual impact of buildings.
- ✘ type or level of development permitted in fault line and floodplain zones.
- ✘ proximity that buildings may have to high voltage transmission lines.
- ✘ location and effects of signage.
- ✘ fence heights.

ZONES

Districts are further divided into zones that are based on the predominant use of the land in the zone area. Zones are typically identified as residential, rural, rural lifestyle, industrial and commercial. By dividing a district into zones, targeted planning for population density and land use management, particularly in residential areas, is more easily achieved.

Residential zones may also be subdivided further based on amenities such as shops, schools, parks and playgrounds, or aspects such as special character or heritage housing or population density.

RESOURCE CONSENTS

When a resource consent is needed

A resource consent is the authorisation given to carry out a particular activity or use of natural and physical resources. Resource consents are required under the RMA and are issued by territorial authorities.

A RESOURCE CONSENT MAY BE REQUIRED FOR ANY ACTIVITY THAT IS CONSIDERED TO IMPACT ON THE ENVIRONMENT. DISTRICT AND REGIONAL PLANS CLASSIFY ACTIVITIES IN DIFFERENT CATEGORIES AND THE NEED FOR A CONSENT DEPENDS ON THE TYPE OF ACTIVITY TO BE UNDERTAKEN. THE CATEGORIES ARE:

- ⊗ permitted activities.
- ⊗ controlled activities.
- ⊗ discretionary restricted activities.
- ⊗ discretionary unrestricted activities.
- ⊗ non-complying activities.
- ⊗ prohibited activities.

ACTIVITIES NOT REQUIRING CONSENT

Under district plans, some activities are *permitted*. This means that they are allowed as of right, and a resource consent is not required. An example of a permitted activity is the construction of a house in a zone classified residential. As the permitted activity for the zone is the construction of residential dwellings, a resource consent is not needed as long as it complies with all requirements and conditions of the RMA and the district plan.

OTHER EXAMPLES OF PERMITTED ACTIVITIES ARE:

- ⊗ utilities for residential activities such as the installation of water, electricity and gas supplies.
- ⊗ community activities such as schools, community halls and sports facilities.
- ⊗ the allocation of areas as reserves and open spaces.

Although a permitted activity does not need a resource consent if it complies with all requirements and conditions of the RMA and district plan, a building consent is still required under the Building Act for any applicable construction activity.

ACTIVITIES REQUIRING CONSENT

As well as permitted activities, there are four categories of activities that require a consent to be granted before they may be undertaken, and one category for which consent will not be granted.

Controlled activities

In the case of these consent applications, the resource consent must be granted unless the activity is likely to have an adverse effect on the environment. An example is the construction of an additional dwelling on a single lot or parcel of land. There may also be the requirement to create a cross-lease subdivision.

Discretionary restricted activities

Discretionary restricted activities may be denied if the activities are likely to have an adverse effect on the environment. In the case of these applications the consenting authority may decide not to grant a consent or impose conditions on the consent but these may only apply to restricted aspects of the activity under the district or regional plan.

An example could be a residential subdivision creating lot sizes that are less than the minimum size permitted for the zone, or where the activity does not comply with the residential zone performance standards such as for noise levels, artificial lighting levels, building heights, sunlight recession planes and fencing requirements.

Discretionary unrestricted activities

Discretionary unrestricted activities may also be denied if the activities are likely to have an adverse effect on the environment. In the case of these applications the consenting authority has a broader scope of discretion about whether to grant the consent. If it does so, it may also impose conditions and has a broader scope for the conditions than for the discretionary restricted category.

An example is a commercial activity in a residential area such as a day care centre where the associated effects from traffic, parking requirements, noise and loss of privacy exceed the permitted environmental effects for the zone. In this situation the council may impose conditions such as times of operation to limit the effects of the activity.

Non-complying activities

Consent authorities may also deny consent for these activities and in these cases applicants must demonstrate there will be no or only minor adverse effects to the environment.

An example might be a manufacturing activity such as the construction of a small factory or workshop in a residential zone. In this situation the consent authority has full discretion to consider all adverse effects on the area and a resource consent is only likely to be granted if the effects on the environment are proven to be minor.

Prohibited activities

These are activities that must not be undertaken and where a resource consent must not be granted under any circumstances. An example is an application for a subdivision or construction in an area subject to coastal erosion or on a floodplain.

Protected customary rights

An additional category is the protected customary right category which applies to activities, uses or practices established in accordance with the requirements under the Marine and Coastal Area (Takutai Moana) Act 2011.

Examples of protected customary rights include traditional activities such as launching waka or gathering natural resources such as shellfish and hangi stones. In order to be a protected customary right, the activity must have existed in 1840 and have been continuously carried out since then. Activities such as swimming and fishing may still be undertaken in coastal and customary title areas.

Resource consent exemptions

In addition to permitted activities, the RMA allows for exemptions from obtaining a resource consent in two other situations.

Boundary activities

These include issues relating to boundaries such as the distance between a structure and a property boundary, yard setback requirements and sunlight recession plane requirements. For example, for an infringement of a boundary activity, written approval must be obtained from each owner of a shared boundary in order to allow the boundary activity to go ahead without a consent. If written approval is provided, a consent is not required. Boundary activities may apply to one or more boundaries as long as the infringed boundaries are not public boundaries.

Marginal or temporary breaches

These are breaches of short duration, or temporary situations. They typically occur during the building work phase of a project such as when there may be need for short-term storage close to a boundary. In order to allow the boundary activity to go ahead without a consent, there must be no adverse effects on the environment or on anyone.

Resource consent applications

Most territorial authorities provide a comprehensive list of the information they require in a resource consent application. Typically they require a site plan showing the location of the proposed activity, a plan showing the location of the proposed activity on the site, and any other information relevant to the activity. If the resource consent is for building work, elevations of the proposed building must also be provided.

Councils generally require a LIM (land information memorandum), a PIM (project information memorandum), an assessment of environmental effects (AEE), a record of title of the site and written approval from affected parties where relevant.

LIM	A report on a property that contains both historical and current information on commercial and residential properties including sewer and stormwater drain locations, rates information, any consents, notices, orders or requisitions affecting the land or buildings, and the district plan classification. It may also include specific information concerning erosion, flooding, contamination or hazardous substances issues.
PIM	Information about special features of the land, any rights and restrictions over the land, and requirements of other Acts that may be relevant to any proposed work.
THE RECORD OF TITLE	Identifies the current and past ownership and rights and restrictions on the land.

Assessment of environmental effects (AEE)

Resource consent applications must be accompanied by an assessment of environmental effects (AEE) to determine the impact of the activity. The AEE is prepared as a report which:

- ✦ identifies and measures the adverse impacts on the environment of the proposed activity.
- ✦ proposes methods to avoid, remedy or lessen the effects of the activity.
- ✦ addresses specific issues and any concerns raised by parties affected by the proposed activity.

The process of the AEE is the same for all resource consent applications regardless of whether they are for land, subdivision, water, coastal, or discharge consents.

PREPARING THE AEE

An AEE must contain sufficient detail for the council to evaluate the potential effects of the activity, and for parties interested in or affected by the activity to identify how they will be affected. The amount of detail required for the assessment should be in proportion to the scale and significance of the potential effects of the proposed activity.

Professional assistance to prepare the AEE is usually needed when the effect on the environment is likely to be significant.

The AEE should:

- ✦ assess the actual or potential effects on the environment.
- ✦ identify any hazardous substances or installations that may be required for the activity.
- ✦ describe the nature of contaminant discharges where relevant.
- ✦ describe how the effects of the activity can be lessened.
- ✦ describe how monitoring, if required, will be carried out.
- ✦ Describe possible alternative locations or methods in cases where adverse effects are likely to be significant.

In cases where a protected customary right is likely to be adversely affected, the protected customary rights group must provide written approval.

Applying for a resource consent

The resource consent application involves three stages.

1 STAGE ONE: PREPARING AN APPLICATION

This involves gathering the information that the local council requires about the proposed activity, filling out the required application form and preparing an assessment of environmental effects (AEE). The application should include a description of the proposed activity, the address and a description of the site where the proposed activity will occur, and the name and address of owner/occupier of the site. Other activities that are part of the proposal should be described as well as any other resource consents that are required. The report should also describe how the activity will be sustainably managed, how it will meet the requirements of the district or regional plan, and how it will affect the environment.

Although consultation is not a requirement under the RMA, consulting with affected parties is recommended as it generally helps the application process run more smoothly. Affected parties are most likely to be neighbours but other people may also be affected by the proposed work. Neighbours include owners and occupiers where different to the owners.

2 STAGE TWO: COUNCIL PROCESSING

Once all the information has been gathered, the application can be submitted to the council where it is assessed. If the council decides that there is insufficient information, the application is returned to the applicant with a request for more information. This should happen within 10 working days of submitting the application.

Once the application is accepted by the council, it may decide that notification is required. Notification may be notifying the general public (*publicly notified*) or notifying the affected parties only (*limited notification*) of the proposed activity. Generally notification is not required (*non-notification*). This means that members of the public cannot make a submission against the application. Under the Resource Legislation Amendment Act 2017, councils cannot publicly notify resource consent applications for controlled activities, activities relating to residential zones, or to most subdivision applications.

If a resource consent application is publicly notified, anyone may make a submission and all submitters may appeal to the Environment Court against a decision. In some situations, a hearing may also be required if submissions are made.

Limited notification means only the affected parties may make a submission. If a party affected by an activity has given written approval for the activity to go ahead, they are no longer considered an affected party and may not make a subsequent submission.

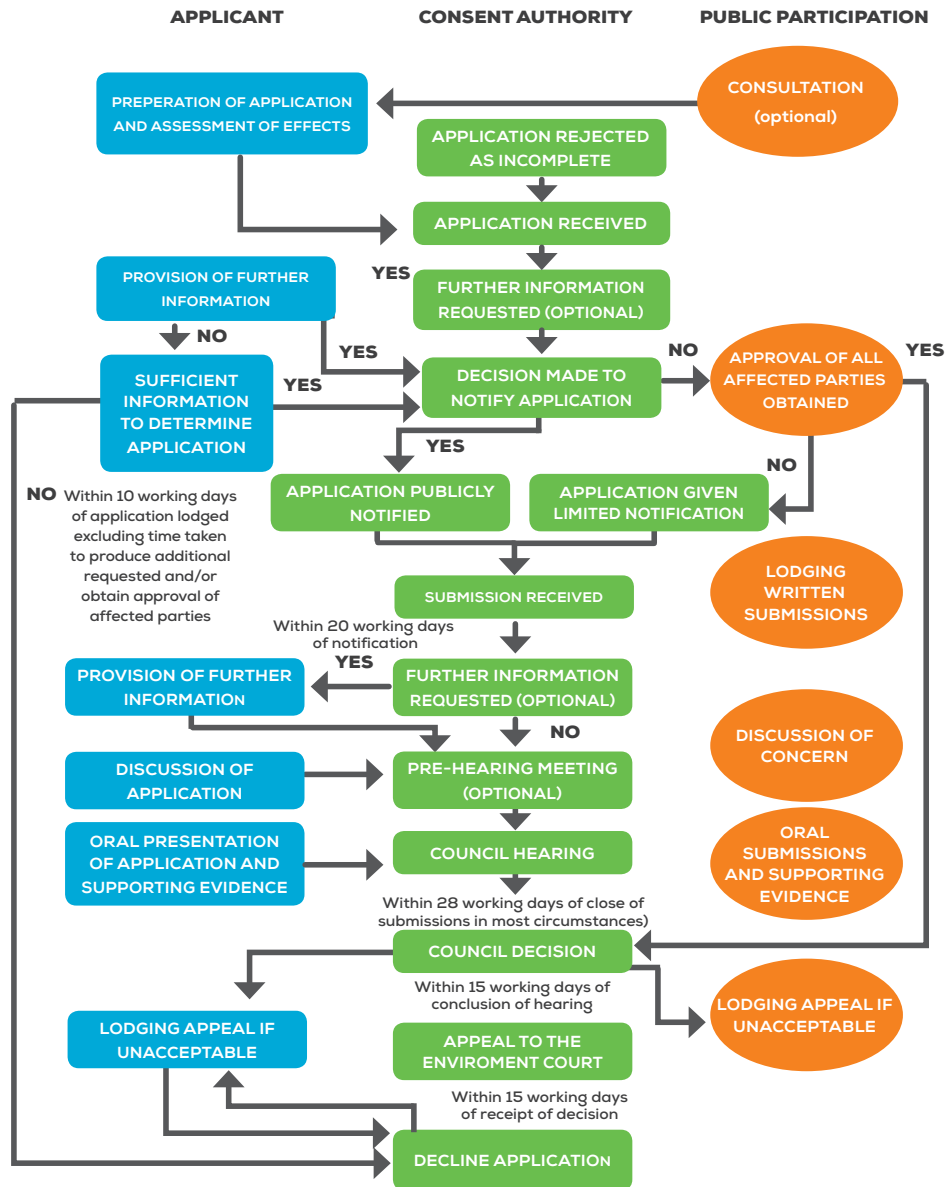
3 STAGE THREE: DECISION

This is where the application is approved or declined. Either way the applicant will be advised of the outcome by mail or email.

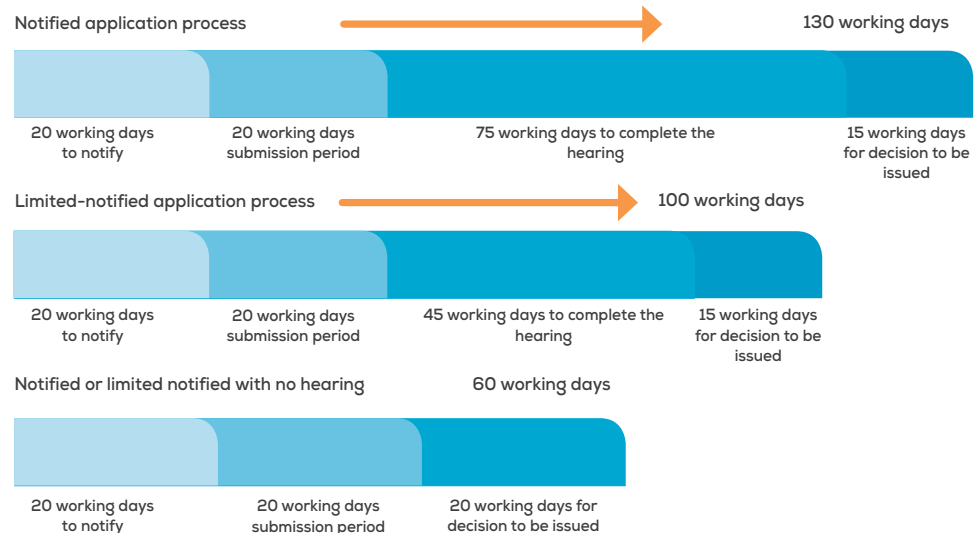
If approved, the application may be subject to conditions, or monitoring of the environmental effects may be required. In some situations, there may also be an expiry date for the consent which means the activity must be completed within the time frame set down in the approval.

If the application is declined and the applicant is not satisfied with the decision or with the conditions of approval, an appeal may be made within 15 working days of being advised of the decision.

PROCESSING RESOURCE CONSENT APPLICATIONS



SIX-MONTH PROCESSING TIMEFRAMES



THE LAND TRANSFER SYSTEM

History and principles of land registration

Property ownership in New Zealand was initially recorded as a deeds system. A copy of the deed was held by the landowner as evidence of ownership, while the original deed was lodged and registered in the Deeds Register. There is very little land still recorded under the deeds system and deeds are now held by Archives New Zealand, while LINZ (Land Information New Zealand) also holds some partial deeds.

In 1870, a land titles system or land transfer registration system, referred to as the Torrens System, replaced the deeds system. Land title registration and land transfer are governed by the Land Transfer Act 2017 and the Land Transfer Regulations 2018. The 2017 Act has recently come into effect replacing the Land Transfer Act 1952.

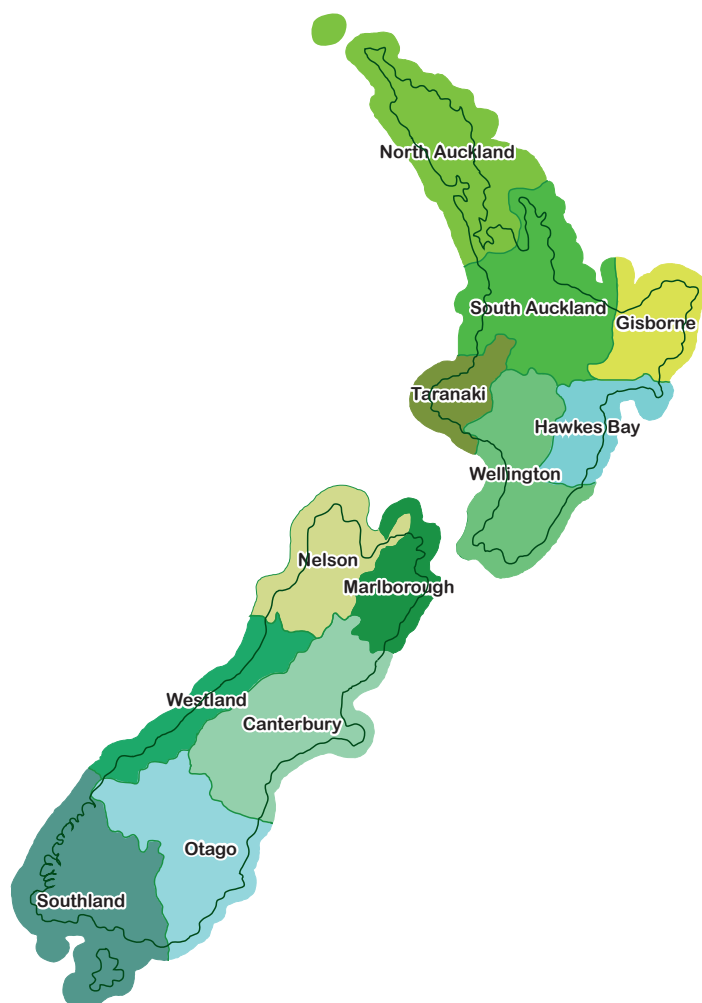
A core concept of New Zealand's land transfer system is indefeasibility, or being unable to be annulled or overturned. Indefeasibility protects the registered owner against claims from anyone else, and against any encumbrance such as a mortgage or another claim that is not on the register. The Torrens System is supported by the government which guarantees the accuracy of registered rights of land ownership.

The Land Transfer Act 2017 divides New Zealand into twelve land registration districts. These are North Auckland, South Auckland, Gisborne, Taranaki, Hawkes Bay, Wellington, Nelson, Marlborough, Westland, Canterbury, Otago and Southland. All land records are organised according to district so the correct district must be identified when requesting a copy of a land record.

Record of title

The record of title is evidence of property ownership. It provides a precise historical account as well as an accurate, up-to-date picture of legal ownership of privately owned land in New Zealand. It:

- ✦ identifies the registered owner of the parcel of land.
- ✦ contains a legal description of the land and identifies the legal (survey) boundaries.
- ✦ records registered transactions (shows when the land was bought or sold).
- ✦ identifies ownership of registered interests such as the bank that holds a mortgage on the property, or an easement that allows a neighbour the right of access over part of the land.
- ✦ records survey dimensions.



**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

1234567 Computer Register (Title) reference
North Auckland Land District
06 December 2000 Date of issue of title

Prior References
NA 160A123 Prior title reference

Estate
Area 4096 square metres more or less
Legal Description Lot 1-4 Deposited Plan 1234 Details of land in title

Proprietors
Joe Bloggs Current owner

Interests
List of current registered interests

Subject to a right to convey water (in gross) over part marked A on DP 123456 in favour of DEF Limited created by Transfer 185497

Subject to a right to drain water over part marked F of DP 123456 created by Easement instrument 8777483.7 - 2.6.2011 at 1:58pm

8777483.8 Mortgage to ABC Limited - 2.6.2011 at 1:58pm
Example of document reference

Proprietors Id 123456 Dated 20/02/12 3:29 pm, Page 1 of 1
Client Reference jkoe Register Only

Example of computer register

Landonline

Previously, all land records were called *certificates of title* or *computer registers* and up until 2002, New Zealand's land records were managed under a paper-based system. Land records are now called records of title. These, as well as survey plans and related documents including many historic land records, are now held by LINZ in an electronic database called Landonline. These include:

- ⊗ records of title.
- ⊗ documents that deal with particular aspects of a property such as a mortgage over the property.
- ⊗ cadastral survey plans and records for freehold, leasehold, Maori and Crown land.
- ⊗ technical survey documentation, which includes detailed field measurements and traverse records with survey observations and coordinates for survey marks, made by surveyors.
- ⊗ historical documentation of land ownership and transfer including deposited documents and deeds that prove land ownership.

- ⊗ historical property files from previous government agencies such as the Department of Survey and Land Information, the Department of Lands and Survey and the Ministry of Works.
- ⊗ The type of data that can be obtained from LINZ includes topographic data or land features such as elevations and contours, road address, property ownership and boundary data, geodetic or earth measurement data, and hydrographic or coastal and seabed data. It also provides photographic aerial images of ground surfaces.

RECORDING LAND TRANSFERS

When changes are made to land titles such as transferring ownership, discharging a mortgage or creating a new mortgage, documents recording the changes are lodged with LINZ which records the transaction in the Landonline database.

The geodetic system

The accuracy of land ownership, records of title and survey plans depends on the accuracy of information about the land's features and boundaries. New Zealand has a geodetic system which is a system of measurement that provides information such as boundary dimensions, elevations, heights of land and sea, and so on. A geodetic system consists of a network of trig stations and geodetic marks around the country.

The records of land location and related information are held by LINZ. They are referred to as the cadastre and are documented as cadastral survey data.

CADASTRAL SURVEY DATA

A cadastral survey dataset (CSD) consists of a cadastral plan, a title plan and other relevant information.

CADASTRAL PLANS	Where the land is located and survey information, boundary locations, dimensions and area of the land, and the record of the survey.
TITLE PLANS	Titles or ownership information.
OTHER RELEVANT INFORMATION	Information relevant to the survey process such as survey calculations, field notes and correspondence.

The cadastral survey defines boundaries and establishes land ownership, and provides information for use on plans, maps and other legal documents. It identifies property boundaries, calculates dimensions and land area, determines rights defined by land, water or natural or artificial features associated with properties and facilitates the transfer of title property for subdivision and land title transfers.

CADASTRAL SURVEY PLANS

There are three main types of cadastral survey plans. These are:

- ✦ deposited plans (DP)
- ✦ survey office plans (SO)
- ✦ Māori land plans (ML)

Cadastral survey plans include the legal description for the land which depends on the land classification. Deposited plans are identified by a lot number and a deposited plan number which is prefixed by DP such as DP 12345. The DP prefix identifies the position on a specific deposited plan. The survey office plans and Māori land plans have their own numbering system. The Māori land plans are held by the Māori Land Court.

Examples of cadastral survey plans are:

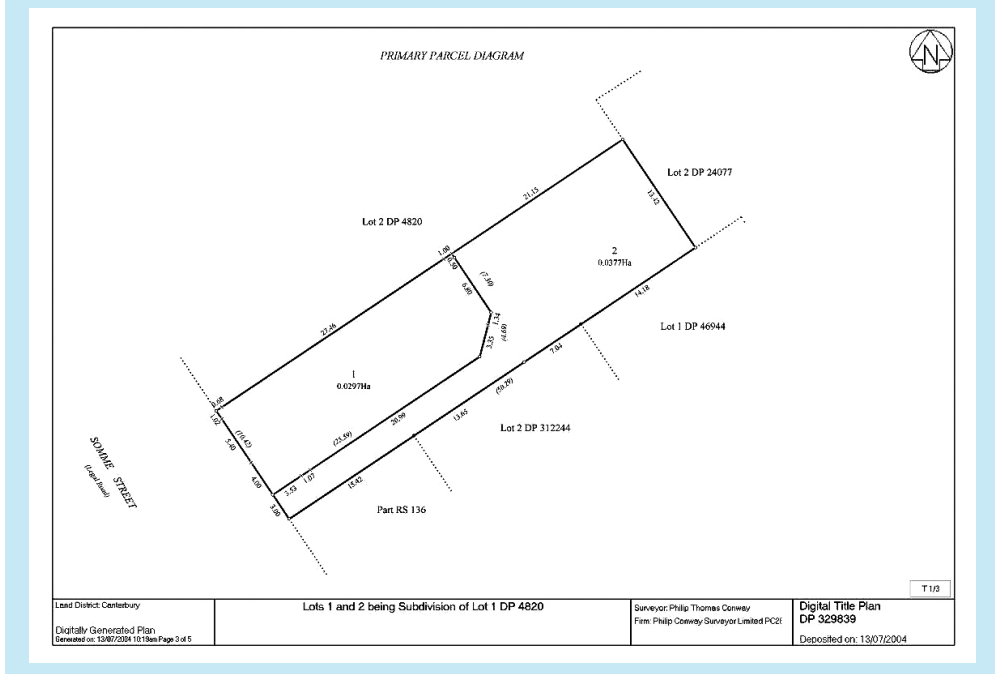
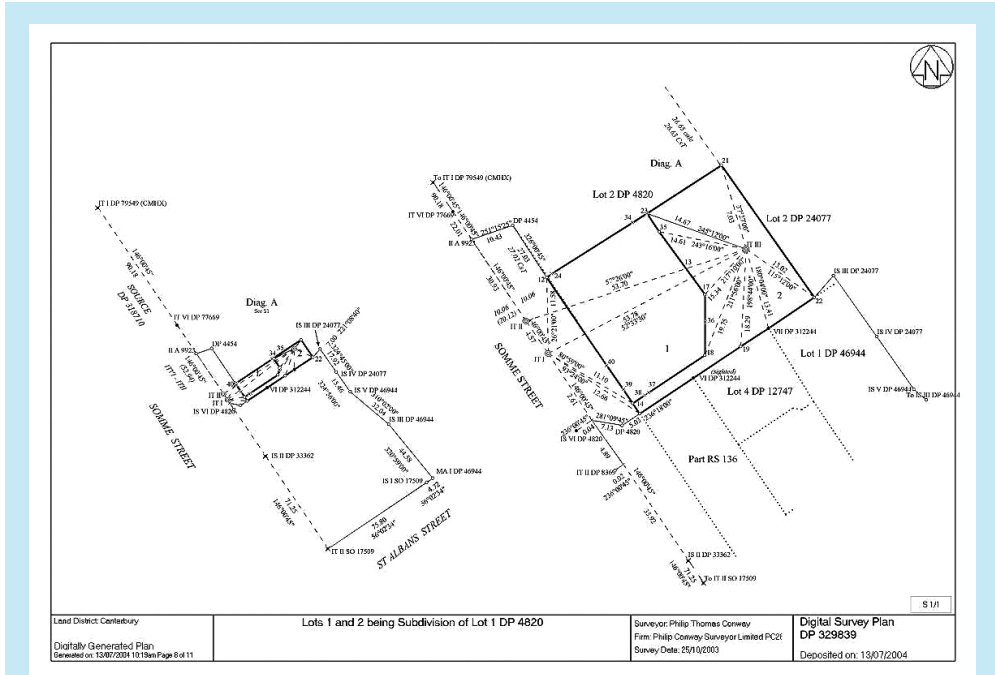
- ✦ *Lot 1, DP 12345* (a deposited plan)
- ✦ *Section 1, Block VII, Mata Survey District* (a survey office plan on Crown land)
- ✦ *Kaiti 313A6B2* (a Māori land plan).

The cadastral survey plans date back to around 1850 and the early plans often included Māori and early English place names. In some cases, they also included the names of the European settlers.

CADASTRAL SURVEYORS LICENSING BOARD

A Cadastral Surveyors Licensing Board oversees the licensing of cadastral surveyors, sets competence standards and has disciplinary powers. It operates under the Cadastral Survey Act 2002.

EXAMPLES OF CADASTRAL PLANS



A cadastral survey plan may be a plan of the property's boundaries, area and dimensions only, or it may contain more detailed survey observations. The title block shows the date on which the plan was deposited and the title created.

Subdivision

Subdivision is the process of creating separate legal titles for land ownership of sections or parcels of land.

TYPES OF SUBDIVISION

The most common types of urban subdivision are:

FREEHOLD SUBDIVISION	Commonly called fee simple subdivision, where the owner holds the full title or ownership of the land.
CROSS-LEASE SUBDIVISION	Typically for multi-unit dwellings situations such as townhouses where a number of individuals own an undivided share of land.
UNIT TITLE SUBDIVISION	Typically for apartment situations where an individual owns a defined part of a building and shares ownership of the common areas. These are managed by a body corporate comprising all the owners of shares of the building. The Unit Titles Act 2010 sets out rules about unit title ownership.

SIMPLE LAND SUBDIVISION

A boundary adjustment is the simplest type of land subdivision. It involves realigning a boundary between properties and generally only involves the owners on either side of the boundary, a surveyor, a solicitor and the council. Changing a cross-lease to fee simple subdivision is also a straightforward procedure, involving transferring ownership of parts of a parcel of land to individual owners. It requires the consent of all owners of the cross-lease title.

CREATING A NEW SUBDIVISION

A resource consent is required to create a new subdivision. The resource consent application must demonstrate that the subdivision will comply with RMA and district plan requirements including zoning, minimum lot size, and the particular activities that are permitted on the subdivision.

It should include the position of new boundaries, areas of new allotments and new roads, and identify existing esplanade reserves, strips, new reserves, any parts of a river or lake to be vested in the territorial authority, or any land in a coastal marine area to become part of the common marine and coastal area.

Before land can be subdivided either for development or sale, a cadastral survey plan must be made which records the legal boundaries, dimensions and areas of the land. The survey plan must be submitted to the territorial authority which certifies that the plan meets the district plan's subdivision requirements. In some situations, there may be a number of steps to go through, for example obtaining multiple vehicle access approvals as most residential subdivisions require each lot to have its own access.

Once certified, the survey plan may be lodged with LINZ for approval and depositing as a legal document. LINZ then cancels the existing title to the land and issues a new record of title for each new lot or parcel of land created in the subdivision process.

Under changes made by the Resource Legislation Amendment Act 2017, anyone may subdivide land where the subdivision does not contravene a district plan rule or a national environmental standard, or if it is permitted by a resource consent.

TERMINOLOGY RELATING TO SUBDIVISIONS

EASEMENT

An easement is the right to use some or all of someone else's land for a particular purpose such as to drain water, or as a right of way. A right of way easement grants the ability to go over and along an easement area with vehicles and have the right of way kept clear of obstructions at all times.

COVENANT

A land covenant is a rule relating to the use of land, particularly to maintain some control over the land. It may limit the height of future buildings, or require construction in particular materials, for example. The rule can be registered onto the record of title as a land covenant.

DATUM

A datum defines the coordinates that relate to a physical location including longitude and latitude which are expressed in degrees, minutes and seconds, and to heights which are given in metres relative to sea level. The average sea level around New Zealand varies by up to 0.5m so different tide and gauge-based datums are used. When referring to or combining heights, care must be taken to make sure that heights are from the same datum or if a different datum is used, that the difference is compensated for.

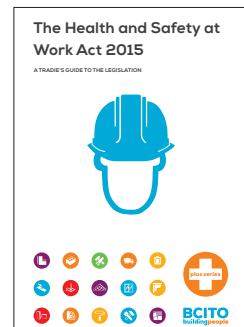
HEALTH AND SAFETY AND HAZARDOUS SUBSTANCES

Health and Safety at Work Act 2015

The Health and Safety at Work Act 2015 (HSWA) aims to ensure the health and safety of workers in their workplaces. This includes being protected from harm by hazardous substances. All hazardous substances in the workplace must be managed according to both the HSWA and the Hazardous Substances and New Organisms Act 1996.

Hazardous Substances and New Organisms Act 1996

The aim of the Hazardous Substances and New Organisms (HSNO) Act is to prevent, or manage the adverse effects of, hazardous substances and new organisms to protect the environment and the health and safety of people and communities.



What is a hazardous substance?

A hazardous substance is any chemical, or mixture of chemicals, that meets particular criteria including:

- ✘ explosiveness.
- ✘ flammability.
- ✘ toxicity to people and/or the environment.
- ✘ ability to cause cancer.
- ✘ the ability of the substance to become hazardous when it comes in contact with air or water.

Hazardous substances include petrol, solvents, explosives, industrial chemicals, fireworks, agrichemicals, household cleaners and cosmetics.

MANAGING RISK

In order to manage the risk of hazardous substances, including hazardous waste, that are manufactured, used, handled or stored in a workplace, the HSNO Act requires three processes to be carried out. These are:

- ✘ there must be an inventory of all the hazardous substances in the workplace. The inventory must be accurate and current, and it must be readily accessible to everyone in the workplace.
- ✘ the risk associated with the hazardous substances must be assessed.
- ✘ appropriate measures to manage the risks by eliminating the risk if possible, or minimising the risk if elimination is not possible.

A highly detailed regulation under the HSWA covers a wide range of controls including the management, disposal, classification, packaging and transport of hazardous substances and new organisms.

ROLES AND RESPONSIBILITIES FOR MANAGING ENVIRONMENTAL RISKS

The roles and responsibilities for managing environmental risks sit with the Ministry for the Environment, the Environmental Protection Authority, WorkSafe New Zealand and local government.

The Ministry for the Environment is the principal advisor on the environment. It must ensure the legislative framework is effective against risks but without unnecessarily restricting economic growth.

The Environmental Protection Authority is responsible for regulating and approving the introduction and use of hazardous substances and new organisms in New Zealand. An approval must be obtained from the EPA before a hazardous substance or new organism may be imported, or manufactured in New Zealand.

WorkSafe New Zealand has the responsibility for enforcing the rules for hazardous substance in workplaces under the Health and Safety at Work (Hazardous Substances) Regulations 2017. These regulations moved the management of hazardous substances in the workplace from the HSNO Act to the HSWA.

Local government also has a responsibility to enforce the management of hazardous substances under the RMA. District and regional plans prepared by councils must include methods to control the discharge of contaminants into the environment.

Resource Legislation Amendment Act 2017

The introduction of the Resource Legislation Amendment Act 2017 was intended to streamline the resource consent process and create a more direct consenting pathway, particularly in relation to residential activities.

Included in the changes was a fast-track consent process to allow resource consent applications for land use controlled activities.

