

An Overview of the Resource Management Act

**An Everyday Guide to the
Resource Management Act Series**

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Introduction

Most people have heard of the Resource Management Act 1991 (RMA), but not everyone is sure what the Act means to them. This guide explains what the RMA does, how it works, and how it affects you in your daily life.

What's the RMA for?

New Zealand has always had laws that aimed to protect the environment. In 1991, the Resource Management Act, or RMA, brought many of these laws together so they could work in an integrated way.

Activities such as building a house, removing native vegetation, moving earth, taking water from a stream, setting up a business or burning rubbish can all affect our neighbours, our wider community, or the land, water and air on which we all depend for our survival.

The RMA gives everyone rights and responsibilities about protecting the environment and people's enjoyment of it. It requires you to think about the environmental effects of the things you want to do, and make sure negative environmental effects are lessened and avoided wherever possible.

The RMA includes systems and processes for making decisions about things that could affect other people's enjoyment of their environment or the wider environment. It aims to make sure that natural and physical resources such as soil, air, water and buildings are managed sustainably.

Sustainable management means that the effects of our activities don't damage the environment beyond repair, or use too many resources that can't be replaced for us by future generations.

The RMA can't avoid conflicts over the use of resources, or the environmental effects of people's activities. But it can provide an open and fair forum where differing positions can be discussed and solutions can be found.

The RMA is only concerned with the effects of our actions on the environment, not with wider effects on society or the economy. If you wanted to open a new fish'n chip shop, for example, the RMA would be concerned with the smell of greasy food and whether it might annoy the people living next door, rather than with its effect on the income of a pizzeria across the road, or adding to someone's cholesterol levels.

The RMA isn't the only law related to development or the environment. The Building Act 1991 is another law that many people encounter at some stage. Other environmental legislation such as the Hazardous Substances and New Organisms Act 1996, Forests Act 1949, the Biosecurity Act 1993, the Fisheries Act 1996, Crown Minerals Act 1991 and many others, deal with specific and important issues. But it is the RMA that people are most likely to encounter. Note: There are links to relevant websites on the Ministry for the Environment's website www.mfe.govt.nz.

Who's responsible for what under the RMA?

Councils have the job of making decisions about activities that could affect our neighbours, our community, the natural environment, or us. Councillors, and sometimes independent commissioners, make decisions on what is important about our local environment, and about the things we want to do that might affect that environment.

In making their decisions, councillors and commissioners refer to the relevant district or regional plan(s), and national policy statements or standards and the reports and recommendations prepared by council staff. Sometimes, council staff might make the decisions themselves if the councillors have delegated decision making to them.

The **Ministry for the Environment** helps the Minister for the Environment keep an eye on how well the RMA works in practice. The Ministry offers guidance to councils, business and communities on getting the best results out of the RMA. The Minister of Conservation and the Department of Conservation also have a role, along with regional councils, in looking after the coastal environment and other areas such as reserves.

The **Environment Court** resolves disputes over the decisions made by councils when these arise.

The RMA leaves environmental decision making mostly to local councils and their communities. There are lots of ways for people to get involved in what happens under the RMA. In particular, councils are required to get input from their communities when they create, change, or vary plans. Councils will also ensure the community has the opportunity to provide input into resource consent decision making, where appropriate.

The importance of plans

District and regional plans are one of the most important aspects of the RMA. Councils use plans to set out how they will protect the local environment. Plans are available at councils and most libraries.

Regional plans, prepared by regional councils (for their region), mostly relate to the coast, rivers, soil and the air. They set out how discharges or activities using these resources will be managed to stop the resources being degraded or polluted.

District plans, prepared by district and city councils (for their district or city), concern the use of land. This includes looking at what things are valued by their communities, such as trees, forests, farm land and the pleasant feel of suburbs. They set out how land use, subdivision and development activities will be managed to protect those values.

Under the RMA, all councils must take an interest in managing the risks associated with natural hazards and hazardous substances.

Plans include:

- the overall aim of what is anticipated for the area or resources the plan relates to
- objectives setting out what the council wants to achieve in the environment
- policies describing how it will achieve the objectives it sets
- rules about how things such as farming, running a business, or putting up a building should be carried out so the objectives can be met
- information on activities that are permitted as of right, and activities that do or do not need a resource consent from the council
- guidelines on the things the council will consider when it decides whether to grant a resource consent for an activity, and what conditions it may impose
- information on how the council will tackle environmental problems through measures such as public education campaigns or providing money for restoration projects. The RMA requires councils to include these things as well as rules in their plans.

Councils have to review their plans every 10 years to make sure they stay relevant.

A **plan change** is a change to a plan that's fully operational (a plan that is finalised). A **plan variation** is a change to a plan that's not yet fully finalised.

Councils are expected to consult with their communities when they create plans, review plans and consider a plan change or variation. In addition, members of the community are expected to take a part in the process and have their say on how the environment should be protected.

Policy statements, prepared by regional councils, give direction to all councils on environmental issues.

Central government can also produce national policy statements and national environmental standards to give national direction on important issues.

The role of the resource consent

A lot of things we want to do won't affect the environment in any major way, and don't require a resource consent. These are called permitted activities in district and regional plans.

However, some activities can affect the environment in a major way. You usually need to apply to the council for a resource consent to do one of these activities. Things that may require consent include putting waste into a stream, taking groundwater, subdividing land, or building a garage. But this will vary from place to place as different councils set their own rules. Just because you could do something in one place it doesn't necessarily follow that you can do it without first getting a resource consent if you move to another district or region.

A resource consent usually contains conditions about the way the activity can be carried out. These conditions aim to minimise the negative environmental effects of the activity.

An application for resource consent needs to include an **Assessment of Environmental Effects (AEE)**. An **AEE** identifies all the environmental effects, positive and negative, of a proposed activity. The council might also ask for written approval from people it identifies as **affected persons**. An **affected person** is someone who might be affected by the activity, such as a neighbour.

Sometimes the council will advertise the application for resource consent in the local papers and give people the chance to make submissions supporting or opposing it. Advertising the application and calling for written submissions is called publicly notifying the application. Sometimes applications are notified to a limited number of affected persons rather than to the community as a whole. Often a council will hold a public hearing so it can hear the views of the applicant and the people who've made submissions.

If you're thinking of buying some land or a business, or if you're thinking of subdividing or building on land, talk to your district or city council to find out:

- **what the relevant plan says about what you want to do**
- **whether you'll need a resource consent**
- **who you need to talk to if you do need a resource consent**
- **what you'll need to include in your AEE.**

Notification: a way for you to have your say

A council doesn't only notify resource consent applications. It also notifies:

- proposed policy statements
- proposed plans, plan variations, and plan changes
- proposed private changes to a plan
- notices of requirement for **designations**.

A **designation** allows land to be set aside for a particular purpose. It's a bit like a resource consent, but it's used for major public works like motorways, schools and power supplies. A 'notice of requirement' is an application for a designation. 'Requiring authorities', such as Telecom or public works authorities, can seek designations.

Notification is one of the main ways the RMA lets the community be involved in decisions about the environment.

Once a policy statement, plan change or variation, resource consent application or notice of requirement is publicly notified, anyone can make a submission. The only exception is where the council has determined to limit the notification of a resource consent to only those people it considers will be affected by the proposal. If the council holds a public hearing, people who made submissions can speak and present their evidence.

People who have made submissions can also appeal to the Environment Court if they don't agree with the council's decision. Sometimes people who haven't made a submission can also declare an interest in the case at the Environment Court.

The RMA's success depends on people telling councils what they value about their environment and how those values can be recognised, while providing opportunities for people to live and work effectively within the environment. This means it is really important that a range of people with different interests and values have input into decisions the council makes.

Any group that establishes itself as a 'body corporate' can ask the Minister for the Environment for status as a heritage protection authority. This gives the group powers to protect buildings or other features valued for their heritage by submitting a heritage protection order to the council.

Penalties and punishments

Doing something to harm the environment, whether deliberately or through carelessness, can carry heavy penalties. It is often cheaper to fix the problem than pay the fine, or avoid harming the environment in the first place. As well as the financial cost, a prosecution under the RMA can cause a lot of damage to someone's personal or business reputation.

Depending on the nature of the offence, penalties under the RMA range from \$300 (for a fairly minor offence) to \$200,000. Continuing offences can get a penalty of \$10,000 per day, or up to two years in jail.

Ignorance is not an excuse under the RMA; it doesn't matter whether a person sets out to cause an offence or not. Every person and business can do a lot to prevent or lessen the likelihood of spills, failures, or accidents that might harm the environment and result in them being prosecuted.

Council enforcement

Councils have a number of ways to enforce the RMA: infringement notices, abatement notices, and excessive noise directions.

An **infringement notice**, issued by the council is an instant fine for doing something that is damaging the environment.

An **abatement notice**, issued by the council, requires you to immediately stop doing something that is damaging the environment. Abatement notices are used to deal with urgent problems, such as a pollution spill.

The council can prosecute if you don't comply with an abatement notice or enforcement order. You can appeal to the Environment Court if you don't think the notice or order is fair, but you have to comply with it while the Environment Court makes its decision.

An **excessive noise direction**, issued by the council, requires you to address noise concerns, such as from a stereo or a noisy late night business.

An **enforcement order** can be applied for from the Environment Court by both councils and individuals. Enforcement orders tend to be used when the problem is ongoing and other measures haven't worked.

Summing it up

