

7. Regional rules

7.1 Introduction

Sections 3 to 6 of the Plan state that regional rules will be used in a number of instances to control activities in fresh water. This section contains the detail of the regional rules to give effect to the policies in the Plan.

Sections 13, 14 and 15 of the Act provide that various activities relating to taking, use, damming and diversion of fresh water, discharges of contaminants to land and water, and uses of river and lake beds are allowed only if authorised by a resource consent or by a rule in this Plan (or by regulations). This means that unless a specific rule in this section of the Plan provides otherwise, then it will be necessary for the activities governed by those sections to be authorised by a resource consent obtained under Part VI of the Act.

Advisory note: As from 1 May 2018, this Plan is amended to align with the *Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017* (the NES-PF) (refer section 1.7). In general, rules within this Plan will not address plantation forestry activities that are regulated by the NES-PF unless section 6 of the NES-PF applies. However, several rules in this Plan have been assessed as prevailing over NES-PF regulations, and these rules will continue to apply.

7.2 Guide to consent applicants

This section of the Plan explains, in brief, how to find out whether or not an activity is regulated by the Plan, and if so, the steps to be taken in applying for a resource consent. The rules referred to can be found in the Rule Tables on pages 93 to 150.

- Step One: Find out whether the activity involves the taking, use, damming or diversion of surface water, discharge of contaminants to land or water, groundwater, use of river and lake beds, land drainage or wetlands.
- Step Two: If the activity is to occur within the Hangatahua (Stony) River catchment refer to Rules 1-14. (A map of the catchment is contained in Appendix IV).
- Step Three: If the activity is to occur outside the Hangatahua (Stony) River catchment, break the activity down into parts. Does the activity involve:
- (a) taking, use, damming or diversion of surface water (refer to rules 15 to 20);
 - (b) discharge of contaminants to land or water (refer to rules 21 to 45);
 - (c) bore or well construction (refer to rules 46 and 47);
 - (d) taking and use of groundwater (refer to rules 48 to 50);
 - (e) deepwell injection (refer to rule 51);
 - (f) an existing structure (refer to rule 52);
 - (g) construction, maintenance or removal of a structure (refer to rules 53 to 64);
 - (h) introduction or removal of plants (refer to rules 65 to 68);

- (i) other uses of river and lake beds (refer to rules 69 to 76);
- (j) land drainage (refer to rules 77 to 79); or
- (k) drainage, reclamation, diversion of water from, or discharge of contaminants to, a regionally significant wetland (refer to rules 80 to 87).

Note: the explanation in Section 7.3 about using the Rule Tables will assist you to understand how the Rule Tables may be interpreted.

Step Four: Are there rules that apply to each part of the activity? (Note: look carefully – most of the Rule Tables have one ‘catchall’ rule to cover activities if there is no specific rule.)

If there are no relevant rules, check sections 13, 14 or 15 of the Act. If those sections do not restrict a part of the activity, then that part may be lawfully carried out without a resource consent. If those sections restrict a part of the activity, then that part is non-complying and a resource consent is needed.

Step Five: If the activity is covered by rules in the Plan, how is each part of the activity classified? (Note: if the ‘activity’ is made up of several parts, several rules and classifications may apply.)

- (a) If it is **permitted** the activity can be carried out without the need to obtain a resource consent provided the conditions are met;
- (b) If it is **controlled**, a resource consent is needed and the Taranaki Regional Council must grant the consent if the standards and terms are met;
- (c) If it is **discretionary**, a resource consent is needed, and the Taranaki Regional Council will decide whether or not to grant the consent. This will usually depend on how well the proposed activity fits in with the policies in the Plan;
- (d) If it is **non-complying** it contravenes the rules in the Plan and therefore a resource consent is needed. The Taranaki Regional Council cannot grant a consent unless the effects of the activity are minor or are not contrary to the objectives and policies of the Plan. Even if this test is satisfied, the Taranaki Regional Council retains a discretion to grant or refuse a consent for the activity;
- (e) If it is **prohibited** the activity cannot proceed, and no resource consent can be applied for.

Figure 2 shows a simplified version of how the activity classifications work. Neither it nor this discussion can be treated as an exact substitute for the provisions of the Act.

Step Six: If any parts of the activity require a resource consent:

- (a) check the policies referenced in the Rule Tables to find out which effects are of concern¹²; and

¹² Policies contained in Part Two of the Plan apply to all activities. Policies in Part Two A apply to new consent applications or applications to change or increase an activity to discharge contaminants into fresh water, or onto or into land in circumstances that may result in the contaminant entering fresh water, or to take, use, dam or divert fresh water or drain a wetland. The policies listed under Part Three of the Plan may also apply, but in a more specific way, to the activity.

- (b) check the policies in Part Two regarding natural, ecological and amenity values, public access, Tangata Whenua values, and use and development; then
- (c) prepare a document, under Section 8.8 of the Plan, which describes the assessment of effects on the environment; and
- (d) make your resource consent application(s) to the Taranaki Regional Council, and include the assessment of effects on the environment and any other information required under Section 8 of this Plan.

You are encouraged to consult with any people likely to be affected by your activity. You should consult with the Tangata Whenua if their interests are affected.

Step Seven: If in doubt, particularly regarding the information requirements of Step Six above, or the classification of your activity, telephone the Consents Section of the Taranaki Regional Council on (06) 765 7127.

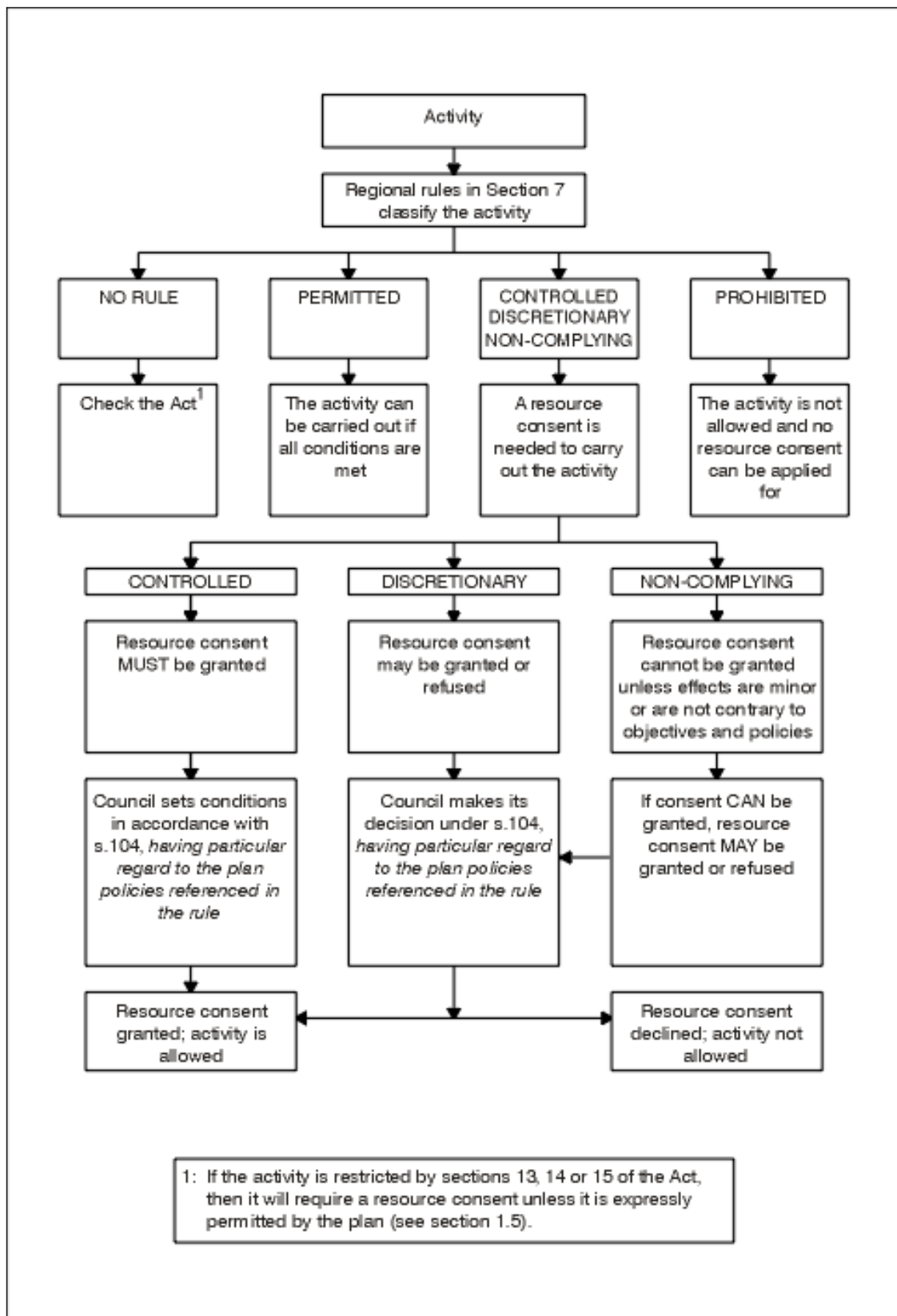


Figure 2 Activity classifications

7.3 Rule tables

This section contains tables which set out the regional rules applying to activities in fresh water. Sections 7.3.1 and 7.3.2 explain how the rules are arranged and how the Rule Tables are formatted.

7.3.1 Arrangement of rules

The regional rules are arranged under seven categories reflecting the type of activity. The seven categories are then divided into particular activities as shown in Table 4.

Table 4 shows for each activity the rule number which applies to the activity and the page number where the relevant rule or rules can be found.

The first category of rules relates to activities carried out in the Hangatahua (Stony) River catchment only and these rules prevail over any other rule in the Plan and over the regulations in the NES-PF. The six other categories of rules do not apply within the Hangatahua (Stony) River catchment unless stated otherwise (refer to the rules for the Hangatahua (Stony) River catchment for details).

Table 4 Arrangement of rules according to activity

Category	Activity	Rule No ¹³	Page No
Hangatahua (Stony) River catchment	Activities in Hangatahua (Stony) River catchment	1-14*	99-104
Taking, use, damming and diversion of surface water	Taking and use of surface water	15-17	107
	Damming and diversion of surface water	18-20*	108
Discharge of contaminants to land and water	Discharge of water	21*	111
	Discharge of on-site domestic wastewater	22	111
	Discharge of stormwater	23-27*	112
	Discharges from closed landfills	28*	117
	Discharges from industrial and trade premises	29*	118
	Agricultural discharges		
	• Agricultural discharges	30-34	119 -121
	• Discharge of farm dairy, piggery and poultry effluent	35-40*	122 -124
	Discharges from hydrocarbon exploration	41-42	124-125
	Other discharges	43-45	125 -126
Groundwater	Bore or well construction	46-47	129
	Taking and use of groundwater	48-50	129 -130
	Deepwell injection	51	130
Use of river and lake beds	Structures		

¹³ **Advisory note:** The groups of rules identified with an asterisk are affected by the NES-PF. Please refer to the specific rules for further details.

Category	Activity	Rule No ¹³	Page No
	• Existing structures	52*	133
	• Maintenance of structures	53-54*	134
	• Removal of structures	55-56*	135 -136
	• Access structures	57-58*	137-138
	• Barrier structures	59*	139
	• Other structures	60-64*	140-141
	Plants		
	• Removal and Planting of vegetation	65-68*	142
	Other uses of river and lake beds		
	• Clearance of debris	69*	143
• Extraction of sand or gravel	70-73*	143 -144	
• Other uses	74-76*	145-146	
Land drainage	Diversion of water for land drainage	77-78	149
	Other land drainage activities	79	149
Wetlands	Regionally significant wetlands listed in Appendix IIB	80-83*	153
	Regionally significant wetlands listed in Appendix IIA	84-87*	153-154

7.3.2 How the tables are formatted

Each table contains seven columns headed:

- activity;
- rule;
- standards/terms/conditions;
- classification;
- notification;
- control/discretion; and
- policy reference.

Activity

The activity column describes the type of activity to be, or being, undertaken. For the activity to come within and continue to comply with the rule, the activity must come within the description contained in the 'activity' column and meet any standards/terms/conditions in the 'standards/terms/conditions' column (see below).

Rule

The column headed 'rule' contains the rule number, for reference purposes.

Standards/Terms/Conditions

This column contains:

- standards and terms for controlled or discretionary activities;
- conditions for permitted activities.

When multiple standards/terms/conditions are specified, the proposed activity must comply with all of them in order to remain within the rule class named in the column headed 'classification'. In other words, the sentence after each bullet point is to be read as being linked to the following sentence by the word '**AND**'.

However, if the word '**OR**' separates the standards, terms or conditions the proposed activity must comply with one or other of the standards, terms or conditions.

The standards, terms or conditions are ongoing requirements that must continue to be met after consent is granted. Failure to comply with the standards and terms amounts to a breach of the rule and may be subject to enforcement action. In the case of a permitted activity, failure to comply with the conditions will also mean that the activity is no longer permitted without consent.

Classification

The activity is classified as permitted, controlled, discretionary, or prohibited.

Any activity which is not provided for in the specific activity column or which does not meet the standards, terms, or conditions specified for that activity will be a non-complying activity unless a rule says that another classification applies.

Notification

The Taranaki Regional Council has the option to deal with a resource consent application as a notified application or as a non-notified application. The power to do so is provided by sections 93 and 94 of the Act. The options that the Taranaki Regional Council has for processing resource consent applications (and the corresponding sections of the Act) are as follows:

- (a) the Taranaki Regional Council can require any resource consent application to be **notified** (s 93);
- (b) the Taranaki Regional Council need **not notify** a resource consent application if:
 - (i) the activity is a **controlled activity** and the Plan expressly permits consideration of the application without notification or the need to obtain the written approval of affected parties (s 94(1)(b))¹⁴; or
 - (ii) the activity is a **controlled activity** and written approval has been obtained from every person who, in the Taranaki Regional Council's opinion, may be adversely affected by the granting of the resource consent unless, in the Taranaki Regional Council's opinion, it is unreasonable in the circumstances to require the obtaining of every such approval (s 94(1)(c)); or

¹⁴ The Taranaki Regional Council will be guided by the procedures for non-notification contained in "Taranaki Regional Council Resource Consents Procedures Document: A guide for applicants and submitters" (February 1997).

- (iii) the activity is a **discretionary activity** over which the Taranaki Regional Council has restricted the exercise of its discretion and the Plan expressly permits consideration of the application without notification or the need to obtain the written approval of affected parties (s 94(1A)); or
- (iv) the activity is a **discretionary activity** or **non-complying activity** and:
 - the Taranaki Regional 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, in the Taranaki Regional Council's opinion, may be adversely affected by the granting of the resource consent unless the Taranaki Regional Council considers it is unreasonable in the circumstances to require the obtaining of every such approval (s 94(2)).

In the Rule Tables, the **notification** column will be blank, or contain the words "may be non-notified" or contain the words "may be non-notified without written approval".

When the words "may be non-notified without written approval" are used, then the rules must be taken as stating that an application for a resource consent may be considered without notification and without the need to obtain the written approval of affected persons in accordance with sections 94(1)(b) or 94(1A), ie in the circumstances outlined in (b)(i) and (b)(iii) above. These sections enable an application for a resource consent to be considered without notification or a need to obtain the written approval of affected persons. Note, however, that the Taranaki Regional Council may require an application to be notified, even where a rule states that it may be "non-notified", if the Taranaki Regional Council considers special circumstances exist in relation to an application. This power is provided by section 94(5).

If the column is blank, the activity may be either notified or non-notified but can only be non-notified in the circumstances described in (b)(ii) and (iv) above.

Control/Discretion

This column states the matters over which the Taranaki Regional Council reserves control (in relation to a controlled activity) or to which it has restricted the exercise of its discretion (in relation to a discretionary activity). The Taranaki Regional Council is limited to only considering these matters when deciding whether or not to grant consent (in the case of a discretionary activity), considering the environmental effects of the activity, and when setting conditions on a resource consent.

When the column is blank, one of two situations applies:

- the activity is a permitted or prohibited activity, and by definition no control or discretion can be reserved;
- the activity is a discretionary activity for which the Taranaki Regional Council has retained full discretion, which will be exercised in accordance with the objectives and policies of the Plan and the matters to be considered in section 104 of the Act.

Policy References

The 'Policy references' column cross-references the policies in Parts Two, Two A and Three of the Plan that are **generally** relevant to the type of activity governed by that rule.

Policy references are included as a guide to all plan users, including the Taranaki Regional Council, as to the policies that the Taranaki Regional Council will consider when deciding a resource consent application.

The policies listed in the policy references column may not include all the policies in the Plan that are relevant to a particular resource consent application, and the Taranaki Regional Council will consider any other policies relevant to the application.

7.3.3 How the classifications are used

A **permitted activity** can be carried out without a resource consent, provided that all conditions in the 'standards/terms/conditions' column are met (and can continue to be met). If the conditions of a permitted activity cannot be met, the activity will become either controlled or discretionary.

A **controlled activity** may only be carried out if a resource consent is obtained for that activity. The Taranaki Regional Council must grant the consent and will set conditions in relation to the matters set out in the 'control/discretion' column. When the content of these conditions is being considered, the relevant objectives and policies in the Plan and other section 104 matters will be considered only so far as they apply to the matters over which the Taranaki Regional Council has reserved control as set out in the 'control/discretion' column. If the conditions of a controlled activity cannot be met, the activity will become discretionary.

A **discretionary activity** may only be carried out if a resource consent is obtained for that activity. The Taranaki Regional Council may decline or grant a resource consent for a discretionary activity. The Taranaki Regional Council will exercise its discretion in accordance with the objectives and policies in the Plan and other section 104 matters. The Taranaki Regional Council may consider any matter allowed under section 104, including all effects on the environment. If the resource consent is granted, the Taranaki Regional Council may set any conditions on the permit that fall within the Taranaki Regional Council's powers under section 108 of the Act.

A **non-complying** activity is an activity (not being a prohibited activity) which is either defined in the rule as a non-complying activity, **or**, contravenes a rule in a plan or proposed plan, and is allowed only if a resource consent is obtained in respect of that activity (where an activity meets the definition of a permitted, controlled or discretionary activity it can not be a non-complying activity. If the activity does not meet any of the terms or standards for a discretionary activity it will be non-complying).

No consent may be granted for a **prohibited activity** and such activities cannot be carried out under any circumstances.

