

4.2 Rule tables

This section contains tables which set out the regional rules applying in the four coastal management areas. Sections 4.2.1, 4.2.2 and 4.2.3 explain how the rules are arranged, how the rule tables are formatted and give information about the rule classifications and how they relate to the rest of the plan.

4.2.1 Arrangement of rules

The regional rules are arranged by coastal management area. Within each coastal management area, the rules are grouped according to their general activity type, as follows:

Rule organisation and page numbering

| Activity | Areas of Outstanding Coastal Value | Estuaries | Open Coast | Port Taranaki |
|---|------------------------------------|------------|------------|---------------|
| Structures | pp 105-107 | pp 115-119 | pp 129-132 | pp 141-147 |
| Discharges | pp 108-109 | pp 120-121 | pp 133-134 | pp 148-149 |
| Disturbance of, and deposits to, foreshore and seabed | pp 110-111 | pp 122-124 | pp 135-137 | pp 150-152 |
| Reclamations | p 112 | p 125 | p 138 | pp 153-154 |
| Storage of hazardous substances | - | - | - | p 154 |

In addition to rules applying to individual areas, there are a number of rules that apply generally to all management areas.

| General rules applying to all areas | |
|---|----------|
| Occupation of space | p 95 |
| Discharges from ships and offshore installations ¹ | pp 96-99 |
| Use of water | p 100 |
| Exotic plant introduction | p100 |
| Temporary Military Training | p101 |
| Deposits from ships | p102 |

4.2.2 How the tables are formatted

Each table contains seven columns headed:

- activity;
- rule;

¹ The rules controlling discharges from ships and offshore installations will be overridden if they are inconsistent with any marine pollution regulations, developed under the Act to give effect to Section 15B, once those regulations come into force. See section 4.2.5 for further explanation.

- 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

The 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 mean that the activity is no longer permitted without consent.

Classification

The activity is classified as permitted, controlled, discretionary, non-complying, 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 Resource Management Act 1991. The options that the Taranaki Regional Council has for processing coastal permit applications (and the corresponding sections of the Act) are as follows:

- (a) the Taranaki Regional Council can require a coastal permit application to be **notified** (s 93);
- (b) the Taranaki Regional Council need **not notify** a coastal permit 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)); 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 coastal permit 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
- (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 Council's opinion, may be adversely affected by the granting of the coastal permit unless the Council considers it is unreasonable in the circumstances to require the obtaining of every such approval (s 94(2)).

In the table of rules, the **notification** column will be either blank 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 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 Council is limited to these matters when considering the environmental effects of the activity and when setting conditions on a resource consent.

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

- the activity is a permitted activity, and by definition no control or discretion can be reserved;

- the activity is a 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;
- the activity is a non-complying activity, and no control or discretion can be reserved.

Policy References

The 'policy references' column cross-references the policies in Section 3.0 of this 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 Council will consider when deciding a coastal permit application.

4.2.3 How the classifications are used

A **permitted activity** can be carried out as of right, provided that all conditions in the 'standards/terms/conditions' column are met. The rule is complete in itself.

A **controlled activity** may only be carried out if a coastal permit is obtained for that activity. The Taranaki Regional Council must grant the permit 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 Council has reserved control as set out in the "control/discretion" column.

A **discretionary activity** may only be carried out if a coastal permit is obtained for that activity. Effectively, three sub-types of discretionary activity exist. Each is explained below:

(a) Discretionary activity for which the Taranaki Regional Council has restricted the exercise of its discretion

The Taranaki Regional Council may decline or grant a coastal permit for this type of discretionary activity. The Taranaki Regional Council will exercise its discretion in accordance with Section 104 of the Act. However, the Council will only consider effects on the environment (Section 104(1)(a)) that are relevant to the matters to which the Council has restricted the exercise of its discretion. If the coastal permit is granted, the Council may only set conditions that are relevant to the matters to which Council has restricted the exercise of its discretion as set out in the "control/discretion" column.

This type of discretionary activity rule can be identified in the rule tables as a rule when the classification column contains the word "discretionary" and the control/discretion column is not blank. In that case, the Taranaki Regional Council's discretion is limited to the matters set out in the control/discretion column.

(b) Discretionary activity for which the Taranaki Regional Council retains full discretion

The Taranaki Regional Council may decline or grant a coastal permit for this type of discretionary activity. The Council will exercise its discretion in accordance with the objectives and policies in the plan and other Section 104 matters. The Council may consider any matter allowed under Section 104, including all effects on the environment. If the coastal permit is granted, the Council may set any conditions on the permit that fall within the 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 coastal permit is obtained in respect of that activity.

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

4.2.4 Activities falling in more than one coastal management area

Any activity that occurs across a boundary of two or more coastal management areas is considered to fall within the coastal management area (in that group) that has the most stringent provisions that apply to that activity.

4.2.5 Discharges from ships and offshore installations

Discharges from ships and offshore installations to the coastal marine area will be subject to section 15B of the Resource Management Amendment Act 1994 once that Act comes into effect. Under this Amendment Act the Government is preparing marine pollution regulations to address discharges of harmful substances or contaminants.

In anticipation of these changes in legislation, the general rules concerning discharges from ships and offshore installations have been drafted to be as consistent as possible with the draft regulations. These rules may be overridden when section 15B and the associated marine pollution regulations come into force.