

**OVERVIEW OF THE DISTRICT PLAN**



**FORMAT OF THE PLAN**

The District Plan is a formal legal document which is prepared in accordance with the provisions of the Resource Management Act 1991. The Resource Management Act gives the District Council the responsibility to prepare a District Plan. The District Plan is aimed at achieving the purpose of the Act which is set out in section 5 of the Act. It is:

"...to promote the sustainable management of natural and physical resources"

This is the first District Plan prepared by the Banks Peninsula District Council. The District covers an area that was formerly administered by four territorial local authorities before 1989. Those local authorities were Lyttelton Borough and the Counties of Akaroa, Mt Herbert and Wairewa. Each local authority prepared and administered its own District Scheme. This District Plan will replace all the previous District Schemes and it covers all of the land and the surface of water bodies within Banks Peninsula District.

The District Plan is divided into seven parts, together with Appendices and Planning maps. The contents of each of the parts is outlined below:

**PART I – OVERVIEW OF THE DISTRICT PLAN**

This part describes how the District Plan has been developed and how the plan deals with the responsibilities for territorial local authorities which are set out in the Resource Management Act.

**PART II – THE ENVIRONMENT AND RESOURCES OF THE DISTRICT**

This part of the District Plan outlines the geological events and settlement process, which have shaped the environment of Banks Peninsula. This section also describes the important natural and physical resources of the District.

**PART III – DISTRICT WIDE ISSUES, OBJECTIVES AND POLICIES**

Part III relates to the whole of the District. This part sets out the important resource management issues that apply throughout the District and states the District-wide objectives that are sought to be achieved by the plan.

**PART IV – FEATURES OF DISTRICT WIDE IMPORTANCE**

This part of the Plan addresses particular areas located throughout Banks Peninsula which are important in contributing to the overall amenity of the District. They include elements of both the natural and physical environment. Included in this part of the Plan are the coastline areas of significant landscape value,

cultural heritage sites and significant trees. Part IV of the Plan contains provisions aimed at protecting and enhancing the character and values of those features and places.

**PART V – ZONES**

The District is divided into Zones. Each Zone has a combination of natural and physical resources, which make it distinctive. The boundaries of these Zones are shown on the planning maps.

The issues specific to each particular Zone are set out as are the objectives which the Council seeks to achieve. Policies relating to the objectives for Zones are also stated in this part of the Plan. Policies will be used to guide the Council when it makes decisions about activities within a particular Zone.

This part of the Plan also contains the methods, including rules and standards, which apply to the various Zones, together with the criteria for the assessment of applications.

**PART VI – GENERAL PROVISIONS**

The provisions in this part of the Plan apply to the entire District. They apply when particular activities are proposed or undertaken. This part of the Plan includes resource consent procedures, subdivision standards, financial contributions, standards for parking and access, control of hazardous substances, natural hazards, provision for utilities and controls over noise.

**PART VII – DEFINITIONS**

This part of the Plan explains words and terms which have a special meaning in the Plan provisions. It sets out a clear interpretation of those words and terms in order to reduce uncertainty.

**APPENDICES**

The appendices identify and list designations, protected and notable buildings, objects and sites, archaeological sites and notable trees.

The appendices contain guidelines to assist persons establishing forests and siting buildings in the Rural, Rural-Residential and Akaroa Hill Slopes Zones and modifying existing buildings or erecting new buildings in the Residential Conservation and Town Centre Zones. Guidelines are also provided for signs.

The appendices also contain a glossary of terms used in assessing noise, diagrams showing the formation of vehicle crossings and a schedule of hazardous substances referred to in Chapter 37.

**DISTRICT PLAN MAPS**

The District Plan includes a series of Planning maps which together cover the whole District. The maps show:

- Zone boundaries.
- The location of areas referred to in Part IV of the Plan.
- Natural hazard areas.
- Designations (also refer to Appendix II).
- Archaeological sites including 'silent file' areas.

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**DISTRICT PLAN PREPARATION**

The purpose of the Resource Management Act 1991 is defined as being to promote the sustainable management of natural and physical resources (Section 5 of the Act). In accordance with this purpose, the Banks Peninsula District Plan recognises and addresses these matters through its provisions.

Sustainable management is defined in the Act as:

... managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while -

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

The achievement of these purposes is to be undertaken within the scope of certain matters of national importance which are set out in Section 6 of the Act.

The principles of the Resource Management Act 1991 (Sections 6, 7, and 8) are intended to give guidance as to how the purpose of the Act is to be achieved. They also express the public and intergenerational interests in natural and physical resources.

Section 6 places a duty on the Council to recognise and provide for a range of matters of national importance. These relate to the coastal environment, lakes, rivers, wetlands (and public access to them), natural features, habitats, indigenous vegetation, outstanding landscapes and the relationship of Maori to ancestral land, sites and features.

Section 7 of the Resource Management Act directs that the Plan be prepared with regard to certain specified matters. These include kaitiakitanga; the efficient use of resources; amenity values; the intrinsic values of ecosystems; heritage values as represented by sites, buildings, places or areas; environmental quality; and any finite characteristics of resources.

The Resource Management Act also requires that the Council take into account the principles of the Treaty of Waitangi. There is no definitive list of Treaty Principles and they are evolving over time as the Treaty provisions are interpreted by the courts and the Waitangi Tribunal.

As a territorial authority, the Council has a primary responsibility to give effect to the purpose and principles of the Resource Management Act and to use resource management techniques to achieve integrated management of the effects of use, development or protection of land and associated natural and physical resources

of the district. In particular, the Council has a clear duty to formulate, implement, and review objectives and policies and other measures to give effect to the Act. The Council has also undertaken to work with tangata whenua to set objectives, policies, methods and other measures to give effect to the Act.

### **COUNCIL RESPONSIBILITIES**

Banks Peninsula has a distinctive and special character because of its inherent natural resources and the quality of the natural landscape. The area also provides a place to live for a significant number of residents. Existing settlements and the nature of development on the Peninsula contribute to the character of the area.

In meeting its responsibilities, the Council clearly sets out in the Plan the reasons for the adopted objectives, policies and rules.

The Plan also takes into account a number of documents which have shaped its provisions. These include:

- National Environmental Standards in terms of natural elements.
- New Zealand Coastal Policy Statements.
- Regional Policy Statements and Regional Plans including the Regional Coastal Plan.
- Operative regional planning scheme considerations (prepared under the Town and Country Planning Act 1977).
- The Treaty of Waitangi.
- District Plans for adjacent areas.
- Management plans and strategies prepared under other legislation.

The District Plan should be read in conjunction with other documents such as the Council's Strategic Plan which provides strategic direction for the district and the Council's Annual Plan which outlines the Council's activities for the current financial year. Other relevant documents may include management plans, funding policies and long term financial plans.



**PUBLIC PARTICIPATION IN PLAN PREPARATION**

Since the resource management process involves public participation and recognition of the concerns and aspirations of the community, preparation of the Plan was preceded by a programme of consultation. This has included the presentation of the resource management issues and possible strategies to the public and interest groups and the active canvassing of input into the preparation of the document from those groups. In addition, the Council has consulted intensively with government and other statutory agencies to ensure that the plan is consistent with the resource management responsibilities of regional and central government and other statutory bodies.

This process has resulted in a Plan which the Council considers embraces a wide range of concerns and aspirations which seeks to balance a wide range of concerns and aspirations to achieve the best compromise amongst the range of different community views.

The Plan also contains provisions for modification and change where the need may arise. Specific mechanisms for the on-going evaluation and monitoring of the Plan are incorporated and opportunity is provided for individuals or organisations to initiate changes to the provisions.

In order to enable the public to be better informed of their duties and to enable them to participate effectively under the Act, the Council will keep information at each of its offices which is relevant to the administration of this Plan, the monitoring of resource consents and current issues relating to the environment of the District. Copies of National Policy Statements, New Zealand Coastal Policy Statements, Regional Policy Statements and Regional Plans will also be available.



**DISTRICT PLAN ADMINISTRATION**

Resource management involves legal obligations and compliance with statutory procedures and practice. The provisions and requirements of this Plan should be referred to before any activity is commenced or undertaken and before an application for a resource consent is lodged with the Council.

**GENERAL DUTY TO COMPLY****The Resource Management Act 1991**

Compliance with the Plan and the Act does not remove the need to comply with all other applicable Acts, regulations, bylaws and rules of law.

**The Building Act 1991**

Any activity which does not require a consent under the Building Act 1991 may still require a resource consent in accordance with the provisions of the Plan.

**Non-Regulatory Methods**

The Plan includes non-regulatory methods to achieve the objectives and policies of the Plan. Non-regulatory methods are identified in various sections of the Plan and include such things as promoting education and advocacy, support for Landcare groups, rating incentives, and data collection.

**Summit Road (Canterbury) Protection Act**

The Summit Road (Canterbury) Protection Act applies to the area of land in the vicinity of the Summit Road. The area protected under this statute is broadly defined as being the area from the Summit to 30 vertical metres below the road (refer to the Act and Gazette notice for precise definition). Within this area, the development of structures, planting of trees, quarrying and subdivision are subject to the provisions of the Summit Road (Canterbury) Protection Act.

**TYPES OF ACTIVITIES AND RESOURCE CONSENTS**

For the purposes of administering the Plan, activities are classified into five groups. These are:

- (a) **Permitted.** A permitted activity does not require a resource consent provided the activity complies in all respects with the relevant rules of the Plan.
- (b) **Controlled.** A controlled activity is one which is identified as such in the rules of the Plan. An application must be made for consent to a controlled activity. Controlled activities must comply with the relevant standards set out in the Plan and applications will be assessed according to those matters that control has been reserved over by the Plan. The Council must grant consent to a controlled activity but conditions may be imposed in respect of those matters over which the Council has reserved control.

- (c) **Discretionary and Restricted Discretionary.** A discretionary activity is one which is identified as such in the rules of the Plan. An application must be made for consent to a discretionary activity. Discretionary activities must comply with the relevant standards set out in the Plan. Restricted discretionary activities are those over which the Council will limit the exercise of its discretion to the matters specified in the Plan. All discretionary activities will be assessed against the objectives and policies of the Plan.
- (d) **Non-Complying.** A non-complying activity is an activity that contravenes a rule in a plan. An application must be made for a resource consent.
- (e) **Prohibited.** A prohibited activity is one which the plan expressly prohibits and describes as an activity for which no resource consent will be granted and includes any activity prohibited by section 105(2)(b) of the Historic Places Act 1993.

The Council can grant two types of resource consents, namely:

- (a) a land use consent; and
- (b) a subdivision consent.

To fulfil its functions, the Canterbury Regional Council may require land use consents, water permits, discharge permits and coastal permits. Coastal permits for restricted coastal activities are issued by the Minister of Conservation.

### LAND USE CONSENTS

A land use consent is required for the use of any land in a manner which contravenes a rule in this Plan unless either:

- (a) a resource consent has already been applied for and granted; or
- (b) the activity complies with Section 10 of the Resource Management Act which protects certain existing uses.

An activity, which may generate adverse effects, has been included in the Plan either as a controlled activity, restricted discretionary activity, discretionary activity, or non-complying activity. In either case, an assessment of the effects of the proposed activity on the environment must be submitted with the application. No land use consent can be granted for a prohibited activity.

An application for a certificate of compliance may be made in respect of a permitted activity. Such a certificate, if granted, has a life of two years.

**SUBDIVISION CONSENTS**

Rules governing the subdivision of land are set out in Part VI of this Plan. Except as provided for by Section 11 of the Resource Management Act, land may not be subdivided without a resource consent for subdivision.

**DISTRICT PLAN RULES**

All rules in the Plan have the force and effect of regulations. Rules have been included for the following purposes:

- Generally, to achieve the integrated management of the effects of land use and development, and in particular, to implement the objectives and policies of the Plan.
- To avoid, remedy or mitigate the adverse effects of land use and development (i.e. development controls).
- To protect land and the associated natural and physical resources of the District.
- To avoid or mitigate natural hazards.
- To prevent and mitigate adverse effects associated with hazardous substances.
- To control the subdivision of land.
- To control the emission of noise and to avoid, remedy or mitigate the effects of noise.
- To provide for the social, economic and cultural well-being of residents.

In considering the effects of an activity, the Council will take into account positive and adverse effects, temporary and permanent effects, any past, present or future effects and any cumulative effects. Any potential effect of high probability and any potential effect of low probability, which has a high potential impact, will also be considered.

Any activity which is not in this Plan shall be required to obtain a resource consent and shall be assessed against the actual or potential effect of the activity and, in particular, any adverse effect on the environment.

**ASSESSMENT OF APPLICATIONS**

An application for a resource consent for a discretionary or non-complying activity shall be in the form set out in Regulation 5 of the Resource Management (Forms) Regulations 1991. Forms are available from all Council offices. The forms may

also be used for an application for a resource consent for controlled activities. Separate forms are used for land use consents, subdivision consents, and for certificates of compliance.

Applications for resource consent shall be accompanied by the information specified in Chapter 30 of the Plan.

Where the Council considers that the information submitted with an application for a resource consent or a notice of requirement is deficient in terms of the requirements of the Resource Management Act or the Plan, it may require the applicant to provide further information (Sections 92 and 169 of the Act). The Council may only require further information to enable it to better understand the nature of the activity for which the application for a resource consent or notice of requirement is made, the effect it will have on the environment, or the ways in which any adverse effects may be avoided, remedied or mitigated.

### **NOTIFICATION PROCEDURES**

Unless an application complies with the provisions of Section 94 of the Resource Management Act regarding non-notification, it is required to be notified. Submissions by the public may be made on the content of the application. Applications for controlled activities may be considered without the need to obtain the written approval of affected persons.

### **HEARINGS/DECISION BY COUNCIL**

The Council will hold a formal hearing of submissions to applications which have been notified. Informal pre-hearing meetings may also be called by the Council in order to clarify and resolve issues where possible.

After the evidence is presented at the hearing of submissions, the Council will make its decision on the application and this decision will be conveyed to all parties. The decision may be subject to conditions. The terms and conditions of any resource consent shall be observed and fully complied with. The Council's decision is open to appeal to the Environment Court.

Hearings will be conducted by an appropriate committee of the Council with such a committee having membership which suitably reflects the scale and nature of the matter to be heard. Such committee membership will comprise elected members of the Council or one or more appointed commissioners. Where appropriate, it may be augmented by other members of the community, such as tangata whenua.

### **EXISTING USE RIGHTS**

In accordance with Sections 383 and 10 of the Resource Management Act, those uses and activities which were lawfully established before the enactment of the

Act and those uses which were lawfully established before this Plan was notified may continue if the effects of the use are the same or similar in character, intensity and scale to those which existed before the Plan was notified.

### **CHANGES TO THE DISTRICT PLAN**

Changes to the District Plan may be made in accordance with the procedures outlined in the First Schedule of the Resource Management Act. Changes may be necessary in response to revised or up-dated National or Regional Policy Statements, Regional Plans or Regional Coastal Plans. The effectiveness of the Plan will be continuously monitored and the Council will initiate plan changes which address evolving resource management issues and community needs, improve environmental conditions and enable the Council to better meet its obligations under the Resource Management Act.

Individuals may also request the Council to change the Plan. Applicants requesting a change to the Plan must also provide the following information in support of their proposed Plan change:

- The extent to which the change is necessary in achieving the purpose of the Resource Management Act;
- Any relevant objective or policy in the Plan;
- Alternative means of achieving the purpose of the Resource Management Act or any relevant objective or policy in the Plan;
- Reasons for and against the adoption of the Plan change, and the outcome of taking no action; and
- An evaluation of the likely benefits and costs of the principal alternative means and the likely implementation and compliance costs if the Plan change is adopted.

Further information may be obtained from the Council regarding Plan changes. At the applicant's request an application for a Plan change may be treated as an application for a resource consent.

### **DESIGNATIONS**

A designation is a form of land use control which is available to a requiring authority. A requiring authority is a Minister of the Crown, a local authority or a network utility operator approved by the Minister for the Environment for a particular project or work.

Sites for existing or proposed public works, project or works described by an Order in Council under Section 167 of the Resource Management Act and any

associated restrictions in respect of any land, water, subsoil or airspace are specifically designated in this Plan.

Designations are identified on the Planning maps. The effect of designating land is to give notice of the designated purpose and generally to limit the use of land to that purpose.

The Zone within which the designated land lies is identified to indicate the purposes for which, and the conditions by which, the land could be used if it were not designated. The rules for the relevant Zone will apply to the construction of any building or to any activity which is not part of the designated work but which is undertaken by, or is approved by, the requiring authority.

The information to accompany a notice of requirement is set out in Section 168 of the Resource Management Act.

When a requirement for a work has been received by the Council, any work or change of use or subdivision which would prevent or hinder the work may not be carried out without the consent of the authority responsible for the work concerned. Once the designation becomes operative, Section 175 of the Resource Management Act prohibits the carrying out of any work on the land, or its subdivision, without the requiring authority's consent.

A designation lapses on the expiry of 5 years after the date on which it is included in the District Plan, unless it has been given effect to or a different period applies under Section 184 of the Resource Management Act.

### **ROADS**

Where existing formed or designated (and dedicated) roads are not shown on the Planning maps within the boundaries of any Zone, such roads shall be deemed to be included within the adjacent Zone.

Any activity carried out on a road (as defined by the Local Government Act 1974) is permitted where it involves the exercise of public's right of passage or where it is authorised by the road controlling authority in the exercise of its power in relation to roads.

### **HERITAGE ORDERS**

Heritage orders may be made by Heritage Protection Authorities in order to protect any place (and its surroundings) which is of special interest, character, intrinsic or visual or amenity value or of special significance to tangata whenua. A heritage order is similar to a designation in that it is in addition to, and takes precedence over, the other rules and policies of the District Plan.

The site within which the heritage order lies is identified to indicate the purposes for which, and the conditions by which, any unaffected land within the site can be



used. The rules for the relevant Zone will apply to the construction of any building or to any activity which is not part of the heritage order but which is undertaken by, or is approved by, the heritage protection authority.

When a requirement for a heritage order has been received by the Council, any work or change of use which would wholly or partly nullify the effect of the heritage order may not be carried out without the consent of the appropriate Heritage Protection Authority. Once the heritage order is included in the Plan, Section 193 of the Resource Management Act prohibits the using or carrying out of any work on the land or its subdivision which would wholly or partly nullify the effect of the heritage order, without the consent of the Heritage Protection Authority named in this plan.

### **TEMPORARY ACTIVITIES**

Any activity involving the temporary use of land or buildings necessary and incidental to an authorised building or development project shall be a permitted activity, subject to any conditions the Council deems necessary. Such temporary activity shall be permitted for a maximum period of 3 months.

### **CHARGES**

The Council is empowered to fix charges to recover the reasonable costs incurred by it in respect of applications for changes, resource consents, designations, heritage orders and other services associated with its resource management functions.

### **ASSOCIATED PLANS/RULES**

This District Plan is one of a number of measures, which are available to the Council to manage the resources and plan for the future development of the District. Other measures available include the Bank Peninsula District Council Annual Plan which sets out the goals, outputs and policies of the Council and which includes budgets and works programmes for the forthcoming financial year.

The Council also has the power to adopt bylaws. These, together with the development controls in this Plan, provide a co-ordinated approach to managing the resources of the District and controlling environmental effects.

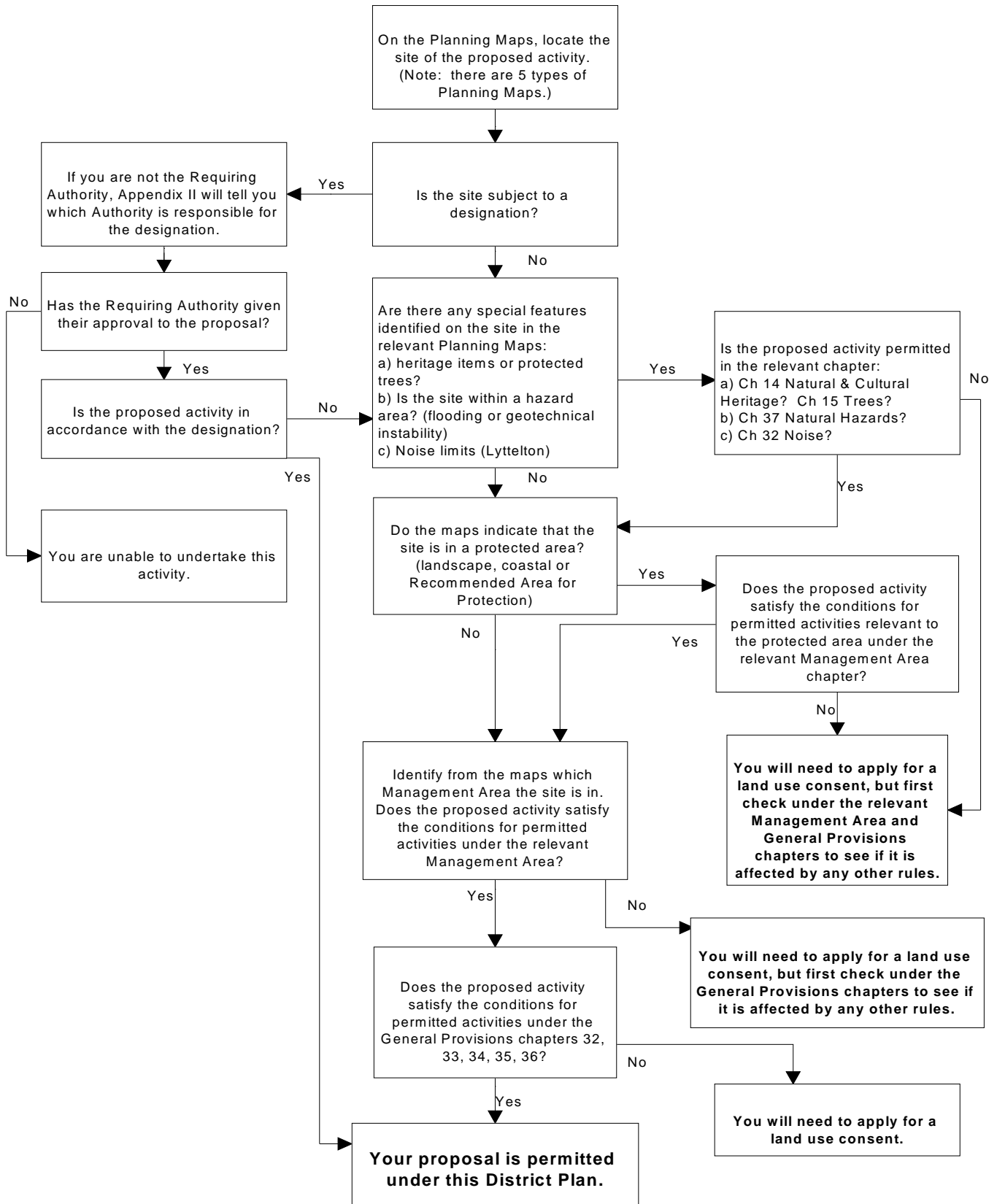
Under Section 32 of the Resource Management Act the Council has to consider which methods to use to best achieve the purpose of the Act. This Plan uses a range of methods to implement its objectives and policies. Where possible, methods other than rules are used. These include education, support, liaison with other agencies or parties, the use of guidelines, and the use of economic instruments. Economic instruments may include measures such as rates relief in certain circumstances, a structured approach to financial contributions in respect

## **CHAPTER 3            DISTRICT PLAN ADMINISTRATION**

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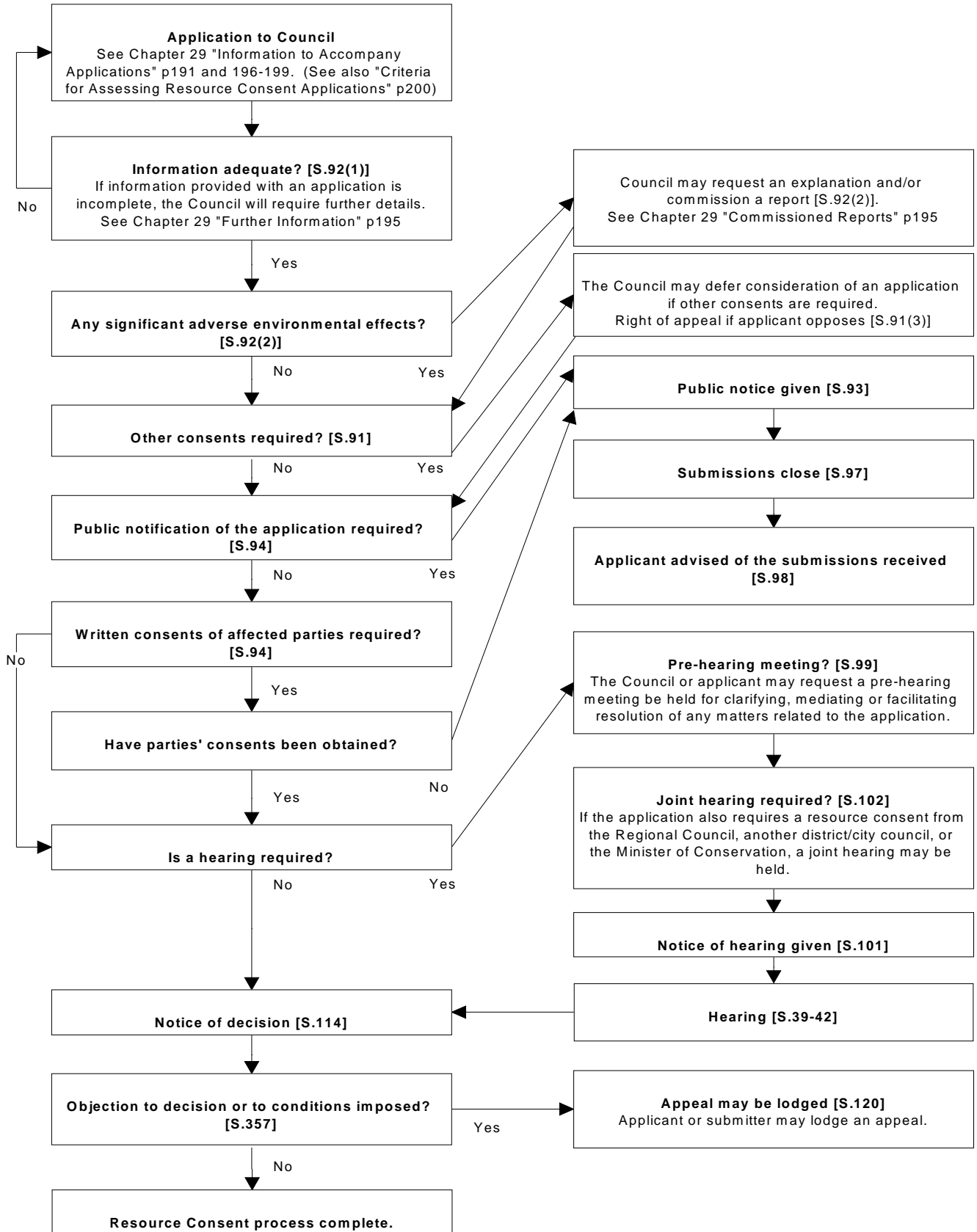
of subdivision or activities which may affect the environment, or incentives to preserve important elements of the natural environment.

**GUIDE TO WHETHER A PROPOSED ACTIVITY  
REQUIRES A LAND USE CONSENT**



NOTE: THIS CHART IS NOT PART OF THE DISTRICT PLAN

**RESOURCE CONSENT PROCEDURES**



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