



DECEMBER 2024

Welcome to our Summer Edition Newsletter

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Planning Ahead for the Christmas - New Year Break

If you are planning to lodge applications over the next couple months, please factor in the following dates when estimating processing timeframes. Council offices will be closed from Tuesday 24 December 2024 at Noon. Council offices will re-open on Monday 6 January 2024 at 8.30 am. Resource Management Act 1991 (RMA) non-working days are from 20 December 2024 until 10 January 2025 which means that from end of day Thursday 19 December 2024 until the end of the day on Friday 10 January 2025 the RMA clock will be stopped. RMA timeframes are excluded during this period. It will be business as usual from Monday 13 January 2025 at 8.30 am. Council officers will however continue processing applications during the holiday period, if available.



This Resource Consent Team Newsletter provides information to assist those in the industry and their clients with respect to resource consent matters. It is not an exhaustive explanation of the matters that may be covered but a starting point for better understanding. If you seek specific information or advice you should consult a professional for bespoke guidance for your situation, or feel free to contact Council via the Duty Planning service on Council's website.

***Wishing you all a very Merry Christmas and
a safe and prosperous New Year***

Transfer of Consent Reminder

Some resource consents need to be transferred when there is a change to the person or entity that is operating the consent. For example, if a property changes ownership or if a consent or permit holder is deceased some consents will need to be transferred to the new owner or the beneficiary of the estate.

The transferable consents are water permits, discharge permits, use of the river or lake bed, coastal permits and some land use consents. Subdivision and most land use consents remain with the land rather than the consent holder and therefore do not need to be transferred. This means that for subdivision and most land use consents if the land is sold the new landowner can carry out the activity under the resource consent for the land. The new landowner will be automatically liable for any fees or costs incurred and to ensure compliance with the consent conditions. If a land use consent does need to be transferred it will be specified in the consent conditions.

All 'Notice of transfer' forms are available on the Council website. The notice must be completed by both parties to the transfer and provided to Council for processing with the application fee. The fee for transferring a water permit or a marine farm coastal permit is \$430. The fee for other transfers (coastal permits excluding marine farms, discharge permits and land use consents) is \$139.00.

It is also important to check the consent decision for any conditions relating to permit transfers. In some cases, conditions will dictate who and when the consent can be transferred to. For example, a coastal permit associated with adjacent land may only be transferred to an owner of that adjacent land.

If the consent is not transferred the permit holder will continue to be responsible for the on-going compliance of the consent and the monitoring fees. If the new property owner does not want to operate the consent and therefore a transfer is not sought, the consent holder should apply to Council to surrender the consent.

Requirement for a Record of Title

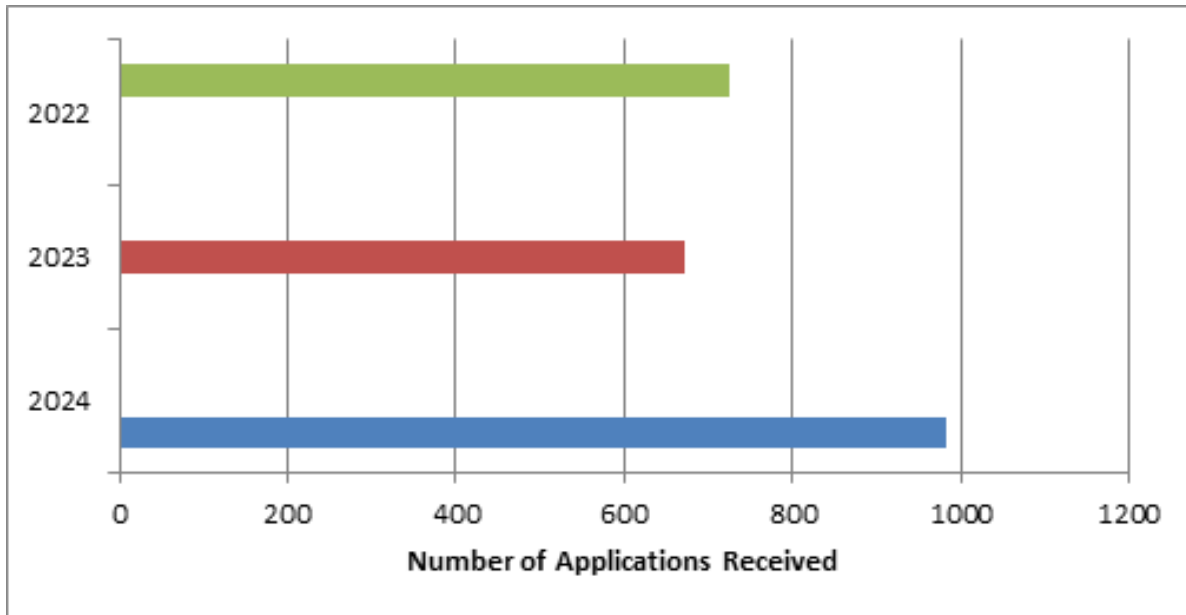
A copy of an up-to-date Record of Title (less than three months old) is required to be attached when you are lodging any application for Resource Consent except for moorings and marine farms. The provision of a Record of Title is a basic requirement under Section 88. Recently agents and applicants have not been consistently providing this information. This omission has the potential to create a problem for both the applicant and Council. For example, in the absence of an up-to-date Record of Title a resource consent could be issued in contravention to a Consent Notice on a site.

However, we do not see any merit in completely rejecting an application because it does not include a Record of Title. To avoid rejecting an application under section 88 and to address the informational requirements if an application does not include an up-to-date Record of Title Council staff will provide a copy. There is a charge for this service of \$21 per title search.

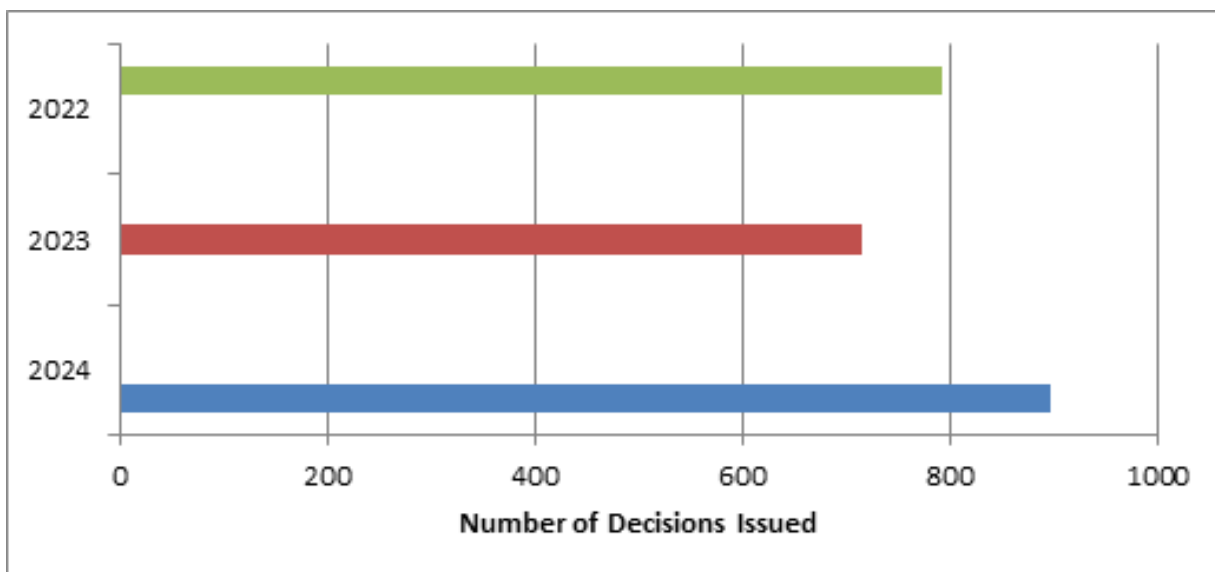


Resource Consents Team 2024 Calendar Year Update

The number of applications being received by the Resource Consent (RC) Team has picked up considerably this year. To date in the 2024 year the Council has received **981** applications which is more than in both 2023 and 2022. Of the total received, **911** were new applications for resource consent. Council also received **58** applications for variations to resource consent conditions under section 127 and **11** applications under section 125 for an extension to lapse date. In the same period in 2023 Council received **671** applications and in 2022 Council received **707** applications.



To date in 2024 Council has issued **897** decisions. Of that total, **819** were for new applications for resource consent. Council has also issued **67** section 127 decisions (variations to resource consent conditions) and **11** section 125 decision (extension to lapse date). In the same period in 2023 Council issued **715** decisions and in 2022 Council issued **793** decisions.



Applications in processing were at **606** by end of October 2024. This is more than the numbers in processing in 2023 (**563**) and 2022 (**597**).

5G Cell Phone Towers on Road Reserve

Cell phone technology has evolved over the years as the numbers of users and demand for data has increased. 5G, the latest cell phone technology has been developed to increase the capacity of cell phone networks by allowing more efficient and faster data transmission.

In 2016, the Government introduced the National Environmental Standard for Telecommunications Facilities Regulations 2016 (NESTF) under the Resource Management Act 1991 (RMA). The NESTF provides a national planning framework that allows network operators to install a wide range of low impact telecommunications infrastructure, such as cell phone towers, in road reserves without the need to apply for resource consent, provided they meet certain conditions. The conditions that need to be met for a telecommunication infrastructure to get the go ahead are around specified size, location, noise and radiofrequency.

Section 44A of the Resource Management Act 1991 (RMA) requires Council to observe and work within the statutory requirements of the (NESTF) with any application to install 5G infrastructure.

RMA 44A Local authority recognition of national environmental standards

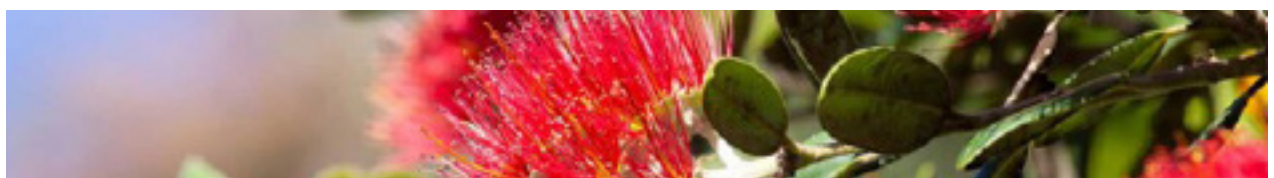
(7) Every local authority and consent authority must observe national environmental standards.

(8) Every local authority and consent authority must enforce the observance of national environmental standards to the extent to which their powers enable them to do so.

The NESTF allows the Council district and regional plans to have more stringency only for the following matters:

- Noise limits for cabinets not in road reserve.
- Trees and vegetation in road reserve.
- Significant trees.
- Historic heritage values.
- Visual amenity landscapes. (**visual amenity landscapes rules** means district rules about the protection of landscape features (such as view shafts or ridge lines) identified as having special visual amenity values)
- Significant habitats for indigenous vegetation.
- Significant habitats for indigenous fauna.
- Outstanding natural features or landscapes. (**outstanding natural features or landscapes rules** means district rules about the protection of outstanding natural features or landscapes)
- Places adjoining coastal marine area.
- Rivers and lakes.
- Earthworks associated with certain antennas.
- Earthworks: regional rules.

Council has included the following matters of stringency in the proposed Marlborough Environment Plan (pMEP) for network utility infrastructure.



Network utility infrastructure permitted activity standards

2.40.1.1. The utility must not be in the Coastal Marine Zone.

2.40.1.2. The utility must not be in the White Bluffs Outstanding Feature and Landscape.

2.40.1.6. On land within the Wairau Dry Hills High Amenity Landscape the maximum height of a utility structure (including any associated aerial, antennae mounting or aerial antennae, mast tower, pole cable or line) must not exceed 15m above the associated building platform.

2.40.1.12. Excavation, filling, earthworks within the National Grid Yard, vegetation clearance (indigenous and non-indigenous) and noise rules for the relevant zone in which the network utility is located must be complied with (except where those activities are managed under the National Environmental Standards for Telecommunication Facilities 2016).

In the event the activity is not permitted, a resource consent is required but Council can only consider the effects relating to the rule breach(es).

Provided a cell phone tower meets the NESTF and the pMEP rules and does not impact the integrity of the road reserve or existing infrastructure Council cannot exert any control over the location of the tower. If a resource consent is required, Council can only process the application for the location that has been applied for and has no ability to direct the telecommunications company to an alternative location even if the local community is not in favour of a particular application. Council is legally bound to accept the application for processing and can only consider the specific location identified in the application and the effects relating to the rule breach(es).

The obligation to consult is on the telecommunications provider. It is good practice for them to consult with the community so residents can raise their concerns and have their say. Following consultation, the telecommunications provider can decide if they should consider alternative locations. The telecommunications provider not Council makes the final decision over location.

If it is a permitted activity, Council cannot stop cell phone towers being erected on public road reserves if they comply with NESTF standards and the pMEP. Where a resource consent is required, Council can only consider the effects relating to the rule breaches.



Who can apply for a Resource Consent?

The Resource Consents Team have recently received an increasing number of applications for resource consent from applicants who are not individuals or a legal entity. These applications are unable to be accepted under section 88 as a resource consent applicant can only be applied for by a fully named individual(s) or a legal entity. A legal entity includes a registered limited company, incorporated group or registered trust.

If the applicant is a Trust, the full names of all Trustees are required. If the applicant is not a limited company, incorporated group or trust, then it must be fully named individual(s).

Celebrating the Planning Profession



World Town Planning Day is celebrated annually on November 8th. It is a day to champion the planning profession and celebrate the work planners do. It started in Buenos Aires 75 years ago and is now a global event celebrated in 30 countries.

It is a day to recognise how good planning improves the lives of people and benefits society at large.

To celebrate the 75th World Town Planning Day the Global Planners Network (which includes the New Zealand Planning Institute) released the following statement:

“Today, November 8, the Global Planners Network (GPN)—the largest gathering of national and international planning associations—proudly recognizes the 75th anniversary of World Town Planning Day (WTPD). As dedicated champions of the profession, we take this important occasion to celebrate the achievements of planning, while also acknowledging the present challenges that our world is facing.

This annual observance is a time for celebration and reflection on how good planning improves people’s lives and benefits society at large – creating places to live, work, and play. Since 1949, WTPD has been commemorated in over 30 countries worldwide, with planners and the public participating in activities such as lectures, conferences, competitions, fundraising, charity events, planning awards, and street festivals.

The GPN believes that there can be no sustainable development without sustainable urbanisation and no sustainable urbanisation without effective planning. Together we champion the role of planning in creating a sustainable future for all and in providing homes for our communities.

We also reaffirm that homes start with planning, as decision-makers and professionals gather in Cairo, Egypt for the World Urban Forum and respond to this and other global challenges.

For while we recognize that many of our member nations are facing significant housing adequacy and affordability crises, we champion the role of planning and planners in delivering housing that meets diverse needs and in helping to create equitable, inclusive, and sustainable solutions for all.

We also acknowledge that while regulations have sometimes been perceived as barriers to this work, our profession is committed to promoting policies and practices that support the timely delivery of these much-needed homes in a sustainable and equitable manner.

We believe housing is a challenge that requires multi-level, collaborative, and holistic approaches bringing together communities, private and public sector actors, and all levels of government. And we know that planners and planning professionals stand ready to play their part in harnessing transformative changes for a better, fairer, more sustainable future.

The GPN recognises planners as proponents of innovation, collaboration, and participation. Planners are strategic thinkers who are committed to solving problems of all scales and across all aspects of society – from climate change and biodiversity loss to housing and healthy communities. Planners also play a critical role in advancing sustainable development and championing the principles of equity, diversity, and inclusion.”

PMEP Interpretations

Council has noted some different interpretations of standards 5.2.1.1 and 5.2.1.3 in the Urban Residential 1 & 2 Zone Chapter of the PMEP for the preparation and assessment of Resource Consent and Building Consent applications.

To clarify the intent of these standards, and to ensure that there is consistency with assessments, Council has prepared the following table that sets out Councils interpretation of these standards that should be adopted by both staff and applicants/agents.

There should be no concern with ‘scope’ of these standards from Council interpretation of them as set out in the table below because they are slightly more enabling of urban residential development than the approach that many of the staff and applicants/agents have been using to date.

Please contact Gina Ferguson if you have any questions or concerns with Councils interpretation of these standards as set out below.

Query Raised	Council Interpretation	Reasoning
<p><u>Standard 5.2.1.1:</u> <i>“5.2.1.1. Within the Urban Residential 1 Zone, the construction or siting of a dwelling must be on a Record of Title with a net site area no less than 290m².”</i></p> <p>Clarification of the interpretation of this standard is sought as there are different views and interpretations on it by applicants/agents and staff.</p>	<p>In UR1 multiple dwellings may be placed on a site of no less than 290m².</p> <p>However it is important to note that the standard does not require a minimum 290m² net site area per each dwelling.</p> <p>This means that if the site that is to have a dwelling or dwellings placed on it is greater 290m² the activity will meet this permitted standard.</p> <p>The other standards, such as 5.2.1.5 (max height), 5.2.1.6 (recession planes), 5.2.1.7 (1m setback from a site boundary), 5.2.1.9 and 5.2.1.10 (outdoor amenity area) will still apply.</p>	<p>The WARMP contained minimum site area standards of 290m² per dwelling, with a minimum 14m dia circle shape factor. This was to ensure that each dwelling contained a sufficient size and shape for amenity values.</p> <p>The PMEP brought in amenity standards 5.2.1.9 and 5.2.1.10 for each dwelling (50m² minimum outdoor amenity area, including a 5, dia circle shape factor). This meant that minimum net site area and shape factor standards in the Urban Res 1 zone were unnecessary and therefore were not retained in the PMEP Urban Residential standards.</p>

Query Raised	Council Interpretation	Reasoning
<p>Standard 5.2.1.3: <i>“Within the Urban Residential 2 Zone, the construction or siting of a dwelling must be on a Record of Title with a net site area for each dwelling no less than the relevant Minimum Net Allotment Area in Rule 24.3.1.2, and with access that complies with rule 24.3.1.3”</i></p> <p>Clarification is sought on whether the standard also requires consideration of the minimum building shape factor (15m dia circle) and minimum frontage that are also listed in standard 24.3.1.3, or whether it is only the net site area that applies.</p>	<p>The standards under 5.2.1.3 only require compliance with the <u>minimum net allotment area</u> in 24.3.1.2 and the access rules at 24.3.1.3.</p> <p>The other rules at 24.3.1.2 (minimum building platform shape factor and minimum frontage) do not apply to the construction and siting of a building, and only apply to subdivision applications.</p> <p>Other standards at 5.2 relating to UR2 continue to apply.</p>	<p>This is the literal meaning of the wording in the standard.</p> <p>The standard only refers to the need to meet the net site area specified in standard 24.3.1.3, it does not mention the need to also meet the minimum building Platform Shape Factor or Minimum Frontage.</p>



Seasons Greetings

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