WDC STAFF

LaBonté submission #430 - Summary
presented at Hearing on 5 July 2017

My name is André LaBonté, my wife is Robin.
By way of introduction, my wife and I are both ocean and coastal engineers. We are not planners; however, we are experienced with resource consenting processes, especially in the coastal environment. I have appeared as an expert witness at numerous Resource Consent Hearings and Environment Court Hearings. I am not appearing as an expert witness at this hearing. As engineers, we are used to quantifying information in order to make decisions on various projects.

Along with the Hearing Committee, we were impressed by the quantification of actual parameters presented by Federated Farmers in relation to truly productive land use and how proposed controls will affect the farming community. We also believe that Frank Newman's presentation for the Land Owner's Coalition thoroughly summarized problems with non-complying activities, the subjectivity of proposed rules or the planners' opinion on the day, and increased control by the Councils over private land. The proposed degree of control associated with the proposed plan changes causes us to feel like we will be living in a Home Owners' Association even though the land we have occupied for over 32 years is freehold.

We have found the process of reviewing these proposed plan changes challenging, confusing and frustrating. There is a high degree of subjectivity and very little quantification.

On 15 June 2017, in an attempt to obtain answers to questions that had arisen after reviewing the S42A and other reports, we met with a WDC planner who was unable to answer any of our questions. However, it was pointed out that there is a designation DW 119 associated with our land that appears on maps 59B and 60, yet it wasn't on the operative Plan 60 as shown in Figure 1 in our October 2016 submission, but is shown on Figure 2 in our submission for some properties, but not ours. We thought the line shown seaward of our boundary was just another mistake. We don't recall being given the opportunity to submit on this designation. Just like we weren't given the opportunity to submit on the ONF when it was added to the RPS. We don't understand why, as Mr Mortimer told the Hearing Committee on 3 July 2017, notification is not a statutory requirement for a change of this significance, especially when one considers that the Whangarei District Council is now required to apply rules to that identified feature.

EVIDENCE 17
TOPIC PC85A-D 86A-B, 87, 102, 114
SUB# Rural Plan changes
DATE 05-07-2017

The WDC Designation DW119 is a "*Proposed Public Reserve" for "Land along MHWM*". Along our shoreline this could be interpreted as the ONF area for coastal access, which would require rock climbing skills. If "*Land*" implies where our pasture is located, then there is the potential for even more loss/confiscation of private property.

On 16 June 2017, we asked another planner what this designation meant and not until the evening of 3 July were we provided with a copy of a Whangarei District Council Memo dated 16 December 1994 (Refer to copy attached, including 3 July 2017 email and RMA sections) which in summary states "*There are now a series of options available with which to satisfy the designation requirements which do not necessarily involve purchase.*" Followed by paragraph 452 which states "*Inherent in a proposed public reserve designation is the intention to buy the land concerned or at least initiate steps to enforce some semblance of*

protection." What is even more confusing is that the memo states *"All designations...that have not yet been given effect to, automatically lapse on the expiry of 5 years after the date on which it is included in the new district plan..."*. Which in this case, was 1995. This begs the question of why this designation is still showing on a plan covering our land 17 years after it seems it should have expired and why we are now being informed that infrastructure planners will be reviewing the designations sometime in the future.

The revelation of Designation DW119 makes us even more uncomfortable with the proposed overlays on our property. We are forced to question whether or not the proposed overlays (Coastal, ONF and HNC) are the mechanism for enforcing protection which would effectively confiscate our freehold land. This causes us to question whether the loss of guaranteed public access along the coastline associated with the inability to subdivide our land, which is less than 20ha, under the proposed RPE, would become inconsequential.

Inaccuracies leading to confusion

The next few slides present examples of the inaccurate and confusing nature of the information with which we are dealing.

The purported green area along our shoreline is intended to be the area of HNC. Scaling off the drawing suggests this is approximately 60 m in width with no definite boundaries obvious. It gives us the impression that an aerial photograph was used with no ground truthing to identify this area.

Figure 5 from our Primary Submission has multiple incorrect boundaries as shown.

Figure 6 from our Primary Submission – hand drawn lines measure about 10 m in width when related to the ground.

Adjustment to ONF figure from the S42A PC 114 Report does not show the ONF (limestone blocks), uses straight lines to identify a very irregular shoreline and equates to approximately 1.5 ha of oceanfront property.

Photos 1 and 2 from our Secondary Submission show the non-linear form of the ONF. Photo 2 gives a more accurate idea of the approximate location of the MHWM listed in DW 119. This raises the question as to what is considered *"Land along MHWM"?* As coastal engineers, we would interpret this to mean the entire ONF which is effectively useable as an esplanade reserve offering public access along the shoreline.

Figure 7 from our Original submission presents another version of lines drawn along our shoreline.

RPE vs RLE

Being engineers, we decided to quantify the average size of the proposed Rural Production Environment sections adjacent to our land along the coastal strip. We compared this to the average size of the proposed Rural Living Environment section along the same Waipu Cove coastal strip (i.e. all seaward of Cove Road). What we found was the average section sizes

for the existing subdivisions either side of our land in the proposed RPE are 1.53ha (east) and 1.43ha (west) being effectively equivalent to the average section sizes in the nearby, coastal Proposed RLE at 1.413ha, which are all less than one-half the 4ha average referred to for RLE by Ms McGrath.

It can also be observed from this simple analysis that the outlier is obvious at 14.5ha, our land. Therefore, with the proposed RPE stating subdivision under 20 ha is to be avoided, in combination with the King Salmon decision, in our opinion, effectively prohibits subdivision.

In addition, our clay soil and topography do not lend themselves to highly productive agricultural or horticultural use as envisioned by the RPE. The subdivided properties surrounding us are not in productive use, as they are often second or third homes. These properties were likely purchased for the sought-after sea views, and their rural ambiance, not for a perceived productive use.

Consequently, we are unable to identify justification for our zoning being changed to Rural Production and believe the more appropriate designation is RLE.

In addition, the disadvantage to the Council and public arising from the effective prohibition of subdivision associated with the proposed RPE for our land is the loss of guaranteed public access to the coastline.

As indicated in our submissions, we have permitted access along our shoreline. However, as expressed in those same submissions, it comes at a cost to us in loss of privacy, damage to property, verbal abuse by the public, a complaint made to Council regarding a member of the public bumping their head on a pohutukawa branch, and lack of respect for the environment of our proposed Outstanding Natural Feature and proposed High Natural Character coastal strip resulting from the accumulation of rubbish left by the public. In addition to photos 7 to 11 in our secondary submission of June 2017, the following is a physical example of what we collected during six weeks of the summer season. As a result, we are being forced to question whether or not to continue permitting public access.

In summary, after many hours studying plans, alterations to plans, drawings, altered drawings, inaccurate maps or drawings, etc., and making a submission that was rejected, as were the majority of submissions, we remain frustrated and confused by what we perceive as a misguided planning agenda which seeks to idealistically preserve privately owned sections of the coast with little or no consideration of cost to the owner, or ultimately prohibition of additional coastal habitation.

This conflicts with Heritage New Zealand's verbal submission in which they stated New Zealand is a country of historical coastal habitation.

Robin and I both grew up in the USA state of Florida where population growth continued at the rate of 1000 people per day for the last 40 years. People often ask us why we moved to New Zealand. My short answer is that we over-reacted to getting out of South Florida, since what I knew as home does not exist anymore due to uncontrolled growth. In 1985 when we moved to Waipu Cove, we soon recognized the need for sewage reticulation scheme along

this coastal strip, especially during the summer. We played a significant role in organising the community to accept a sewage reticulation scheme running from what was to become Langs Cove to Waipu. In 1995, after we were confident that our design and the Mangawhai Harbour Restoration Society's (MHRS) efforts to restore their inlet and harbour were going to be successful, I began advising the MHRS that a vision for Mangawhai's future development was needed since more people would be drawn to this coastal community because of its restored harbour and inlet. Based on that advice, they formed the "Futures Committee" which developed a long-term plan sustainable management plan for the Mangawhai Harbour. Around this same time, I met with Bream Bay's new Councillor, Craig Brown and suggested that our community of Langs Beach, Waipu Cove and Waipu, also needed to be thinking about a vision for future growth because I recognized that this coastal area would grow in population as more people discovered its amenities and natural beauty. In future years, I found myself mentioning to then Mayor Brown and ultimately Northland Regional Council Chairman Brown that the carrying capacity of these communities needed to be recognized so that the very amenities and qualities that attracted people to these communities would not be overwhelmed by the growth that would be occurring. I was encouraged by Ms McGrath's presentation at the beginning of the Hearing which described a vision being developed for this District for the next 30 to 50 years. On the other hand, I am quite unsettled by the fact that I feel a need to appear before this Hearing Committee because of some of the Policies and Rules being proposed in these new District wide plans. For example, a 14.5 ha block of coastal land will no longer sub-dividable so that a few others could share the experience of living in this wonderful environment. I am concerned that we find ourselves using words like confiscate, inaccurate, rushed, uncomfortable in our submissions. I find rules that dictate the size of a house, the colour of a house, the location of a house to be an indication of the desire of some to in the extreme, make it appear no one lives in New Zealand, especially along the coast. Restrictions that are proposed to be placed upon individual land owners such as Mr Edge, the District's productive farmers and effectively summarized by Mr Newman for the Land Owner's Coalition are compelling and indicative of the pendulum having swung so far in the direction of protection that it has the potential to severely limit the rights of private land owners.

Respectfully submitted,

André and Robin LaBonté

LABONTE' SUMMARY 5 JULY 2017

ID	Name and location of Site	Designation Purpose	Legal Description Area	Underlying Environment	Map
DW 106	UPTLIFED 29 11/04				
DW 107	Proposed Public Reserve, Tutukaka	Proposed Public Reserve	Phillip Island, within Tutukaka Harbour Blk IV Whangarei SD	Coastal Countryside	29
DW 108	Proposed Public Reserve, Ngunguru	Proposed Public Reserve	Pt Kopipi Blk Between Te Maika Rd and MHWM Blk IV Whangarei SD	Living 1	30
DW 109	Proposed Public Reserve, Pataua	Proposed Public Reserve	Pt Pukahakaha East 4D2A Blk, Blk XII Whangarei SD	Living 1	32A
DW 110	Proposed Public Reserve, Pataua	Proposed Public Reserve	Pukahakaha East 5B27 Blk, XII Whangarei SD	Living 1	32A
DW 111	Proposed Public Reserve, Ocean Beach	Proposed Public Reserve	Pt Allot 131 Manaia Parish Blks 1and 11 Taranga SD	Open Space	62C
DW 113	Proposed Public Reserve, One Tree Point	Proposed Public Reserve	Pt Allot 2 Ruakaka Parish, Lot 6 DP 207727	Living 1	51
DW 114	Proposed Public Reserve, One Tree Point	Proposed Public Reserve	Pt Lot 4 DP 21771 Blk III Ruakaka SD	Living 1	51
DW 115	Uplifted 18 11/04				
DW 116	Proposed Public Reserve, Ruakaka River	Proposed Public Reserve	Pt Lots 1 and 13 Deeds Plan 92 Blk XI Ruakaka SD	Living 1	56, 57
DW 118	Proposed Public Reserve, Waipu River	Proposed Public Reserve	Pt Lots 1 and 2 DP 27889 Blk III Waipu SD	Living 1	59A
DW 119	Proposed Public Reserve, Waipu Cove	Proposed Public Reserve	Land along MHWM being Pt Allot 301 Waipu Parish Pt Lot 1 DP 69511 Pt Lots 1, 2 and 3 DP 67636 and Pt Lot 2 DP 58601 Blk VII Waipu	Coastal Countryside	59B, 60
DW 120	Proposed Public Reserve, Langs Beach	Proposed Public Reserve	Pt Allot 38 Waipu Parish Blk VII Waipu SD	Open Space	60
DW 121	Proposed Public Reserve, Taurikura Bay	Proposed Public Reserve	Pt Allots 15 and 15D Pt Lot 2 DP 24907 Manaia Parish, Blk IV Ruakaka SD	Living 1	53
DW 122	Proposed Esplanade Reserve, Taurikura	Proposed Esplanade	Part Lot 1 DP 32 543	Living 1	53
DW 123	Proposed Recreation Reserve, Park Avenue, Whangarei	Proposed Recreation Reserve	Lots 22, 23, 24, 25, 26, 27, and 28 DP 38056 and Pt 1 SO 996 CT 522/96	Living 1	37, 38
DW 124	Whangarei Airport	Aerodrome (refer to conditions)	Various	Airport	46
DW 125	Airport flight approach paths (refer to Diagram DW 125)	Airport flight approach paths (refer to conditions)	Various	Living 1	46

Evan Cook <evan.cook@wdc.govt.nz> 3/7/2017 16:27

FW: Emailing: PROPOSED PUBLIC RESERVE DESIGNATIONS WITHIN WHANGAREI DIS [06-143111]

To ANDRE & ROBIN LA BONTE <labonte@xtra.co.nz>

Hi Andre and Robin,
Here is the document regarding the designation along the water front of your property. From talking to the infrastructure planners they are reviewing the designations in the district plan and you may have an opportunity to have input into that process. She did not have any timeframes for this project at this stage but it was likely to be later this year or next year. The designation means that S176 of the RMA would apply in this area.
Hope that helps.

Regards

Evan

- PROPOSED PUBLIC RESERVE DESIGNATIONS WITHIN WHANGAREI DIS [06-143111].rtf (384 KB)

WHANGAREI DISTRICT COUNCIL

Memo to: PARKS AND RECREATION MANAGER

From: PARKS AND RECREATION OFFICER

Subject: PROPOSED PUBLIC RESERVE DESIGNATIONS WITHIN WHANGAREI DISTRICT

Date: 16 December 1994 **Ref:** BLANK

This report is part of the ongoing review process of the Whangarei District Scheme.

BACKGROUND

This exercise has been primarily concerned with any existing reserves belonging to WDC and more importantly, any proposed reserves that fall under the jurisdiction of the WDC.

The `proposed public reserve' designations are currently the most pressing concern with regard to the District Scheme Review Process. This is because the designated areas are still at an intermediate stage in terms of reserve status. Invariably, these proposed reserves are on private land.

All designations under the new Resource Management Act that have not yet been given effect to, automatically lapse on the expiry of 5 years after the date on which it is included in the new district plan, although there are exceptions to this which are outlined in Section 184. This five year period will date from the implementation of the new district scheme which is scheduled at this stage for 1995.

The most crucial aspect of proposed public reserve designations is whether or not they have been given `effect to' for the purpose for which they were intended. Traditionally, this has implied that the designated area be purchased by the requiring authority. Although ultimately this is the most preferable option, it is no longer the most practical. This is due to either the financial constraints involved or the reluctance of the landowner concerned to sell his/her property. There are now a series of options available with which to satisfy the designation requirements which do not necessarily involve purchase.

Another factor to be considered is the history of the designation and the requiring authority. The considerable restructuring in recent years of both government departments

Commented [RL1]: What were these options, or what are these options?

Commented [RL2R1]:

and local authorities has in many cases created much confusion as to who the original requiring authority was and who that same authority now is. This has been due mainly to poor records transfer between the various parties involved. There are a few examples of this occurring which obviously need to be clarified as soon as possible.

This report consists of an analysis of proposed public reserve designations for which the WDC are deemed to be responsible. Thus, a brief history of each is provided along with recommendations for any actions to be taken.

LEGAL DESCRIPTION: Part 301 Waipu Parish, Blk VII, Waipu S.D.

VALUATION REFERENCE: 390/547/01 **MAP REFERENCE:** 390/6

OWNER: Douglas & Marvyn Smith, **OCCUPIER:**
10 Hawera Rd,
Kohimarama,
Auckland

STATUS: Proposed Public Reserve

Commented [RL3]: Subdivided into five section in late 1990s – Environmental Benefit – cleared pine trees for tea tree regeneration, set up QEII Covenant.

LEGAL DESCRIPTION: Lot 1 DP 69511, Blk VII, Waipu S.D.

VALUATION REFERENCE: 390/547/02 **MAP REFERENCE:** 390/6

OWNER: Andre & Robin La Bonte, **OCCUPIER:**
P.O.Box 60,
Waipu.

STATUS: Proposed Public Reserve

Commented [RL4]: No Subdivision – Non complying under RPE

LEGAL DESCRIPTION: Lot 3 DP 67636, Blk VII, Waipu S.D.

VALUATION REFERENCE: 390/548/02 **MAP REFERENCE:** 390/6

OWNER: Jenningjie Visser, **OCCUPIER:**
C/- Connell, Risworth & Gerard,
Whangarei.

STATUS: Proposed Public Reserve

Commented [RL5]: Wildermoth Trust – No Subdivision – Non complying under RPE

LEGAL DESCRIPTION: Lots 1 & 2 DP 67636, Blk VII, Waipu S.D.

VALUATION REFERENCE: 390/548/02 **MAP REFERENCE:** 390/6

WHANGAREI DISTRICT COUNCIL

OWNER: Tim Murdoch & Travers Southwell, **OCCUPIER:**
77 Cliff Rd,
Torbay,
Auckland.

STATUS: Proposed Public Reserve

LEGAL DESCRIPTION: Lot 6 DP 134030, Blk VII, Waipu S.D.

VALUATION REFERENCE: 390/764/00 **MAP REFERENCE:** 390/6

OWNER: WDC **OCCUPIER:** WDC

STATUS: Local Purpose (Esplanade Reserve)

452: A marginal strip type designation affecting several blocks of land in Waipu Cove. Only one of the six properties concerned has so far had an esplanade reserve vested with the District Council, this being upon subdivision in 1989. The other blocks of land remain unsubdivided and in private ownership. Extensive efforts have obviously already been made by Council to protect both the coast and public access along the Waipu Cove coastline and this policy should be continued. Again, it is a case of deciding whether to actively pursue the vesting of the esplanade reserves or waiting until subdivision occurs. Inherent in a proposed public reserve designation is the intention to buy the land concerned or at least initiate steps to enforce some semblance of protection. The Whangarei District Council has a responsibility to do so in this case and should either purchase the designated areas or create esplanade strips instead to satisfy the proposed public reserve requirements. Failing this, the designation should be uplifted.

RECOMMENDATION: Initiate steps to acquire esplanade reserves on all designated properties. Esplanade strips are a minimum requirement.

Commented [RL6]: Subdivided into six sections late 1990s – early 2000s. Environmental Benefit – planted native bush, set up QEII Covenant

Commented [RL7]: Is this the intention of Coastal, ONF, HNC overlays?

176 Effect of designation

(1)

If a designation is included in a district plan, then—

(a)

section 9(3) does not apply to a public work or project or work undertaken by a requiring authority under the designation; and

(b)

no person may, without the prior written consent of that requiring authority, do anything in relation to the land that is subject to the designation that would prevent or hinder a public work or project or work to which the designation relates, including—

(i)

undertaking any use of the land; and

(ii)

subdividing the land; and

(iii)

changing the character, intensity, or scale of the use of the land.

(2)

The provisions of a district plan or proposed district plan shall apply in relation to any land that is subject to a designation only to the extent that the land is used for a purpose other than the designated purpose.

(3)

This section is subject to section 177.

Section 176(1): replaced, on 1 August 2003, by section 65 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 176(1)(a): amended, on 1 October 2009, by section 107(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 176(1)(b)(i): amended, on 1 October 2009, by section 107(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 176(2): amended, on 17 December 1997, by section 37(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 176(2): amended, on 7 July 1993, by section 90(2) of the Resource Management Amendment Act 1993 (1993 No 65).

184 Lapsing of designations which have not been given effect to

(1)

A designation lapses on the expiry of 5 years after the date on which it is included in the district plan unless—

(a)

it is given effect to before the end of that period; or

(b)

the territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period for the purposes of this subsection; or

(c)

the designation specified a different period when incorporated in the plan.

(2)

Where paragraph (b) or paragraph (c) of subsection (1) applies in respect of a designation, the designation shall lapse on the expiry of the period referred to in that paragraph unless—

(a)
it is given effect to before the end of that period; or

(b)
the territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period for the purposes of this subsection.

(3)
A requiring authority may object, under section 357, to a decision not to fix a longer period for the purposes of subsection (1).

Section 184(1): amended, on 7 July 1993, by section 98 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 184(3): inserted, on 10 August 2005, by section 90 of the Resource Management Amendment Act 2005 (2005 No 87).

Part 3Duties and restrictions under this Act

Land

9Restrictions on use of land

(1)
No person may use land in a manner that contravenes a national environmental standard unless the use—

(a)
is expressly allowed by a resource consent; or

(b)
is allowed by section 10; or

(c)
is an activity allowed by section 10A; or

(d)
is an activity allowed by section 20A.

(2)
No person may use land in a manner that contravenes a regional rule unless the use—

(a)
is expressly allowed by a resource consent; or

(b)
is an activity allowed by section 20A.

(3)
No person may use land in a manner that contravenes a district rule unless the use—

(a)
is expressly allowed by a resource consent; or

(b)
is allowed by section 10; or

(c)
is an activity allowed by section 10A.

(4)
No person may contravene section 176, 178, 193, or 194 unless the person obtains the prior written consent of the requiring authority or the heritage protection authority.
(5)
This section applies to overflying by aircraft only to the extent to which noise emission controls for airports have been prescribed by a national environmental standard or set by a territorial authority.
(6)
This section does not apply to use of the coastal marine area.
Section 9: replaced, on 1 October 2009, by section 7 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

10Certain existing uses in relation to land protected

(1)
Land may be used in a manner that contravenes a rule in a district plan or proposed district plan if—
(a)
either—
(i)
the use was lawfully established before the rule became operative or the proposed plan was notified; and
(ii)
the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified:
(b)
or—
(i)
the use was lawfully established by way of a designation; and
(ii)
the effects of the use are the same or similar in character, intensity, and scale to those which existed before the designation was removed.
(2)
Subject to sections 357 to 358, this section does not apply when a use of land that contravenes a rule in a district plan or a proposed district plan has been discontinued for a continuous period of more than 12 months after the rule in the plan became operative or the proposed plan was notified unless—
(a)
an application has been made to the territorial authority within 2 years of the activity first being discontinued; and
(b)
the territorial authority has granted an extension upon being satisfied that—
(i)
the effect of the extension will not be contrary to the objectives and policies of the district plan; and
(ii)

the applicant has obtained approval from every person who may be adversely affected by the granting of the extension, unless in the authority's opinion it is unreasonable in all the circumstances to require the obtaining of every such approval.

(3)

This section does not apply if reconstruction or alteration of, or extension to, any building to which this section applies increases the degree to which the building fails to comply with any rule in a district plan or proposed district plan.

(4)

For the avoidance of doubt, this section does not apply to any use of land that is—

(a)

controlled under section 30(1)(c) (regional control of certain land uses); or

(b)

restricted under section 12 (coastal marine area); or

(c)

restricted under section 13 (certain river and lake bed controls).

(5)

Nothing in this section limits section 20A (certain existing lawful activities allowed).

(6)

[Repealed]

Section 10(1): replaced, on 7 July 1993, by section 7(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 10(2): amended, on 10 August 2005, by section 5 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 10(2)(b)(i): amended, on 7 July 1993, by section 7(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 10(3): amended, on 7 July 1993, by section 7(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 10(5): amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 10(6): repealed, on 1 October 2009, by section 8 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

10ACertain existing activities allowed

(1)

In respect of the use of the surface of water in lakes and rivers where, as a result of a rule in a district plan becoming operative, or a rule in a proposed district plan taking legal effect in accordance with section 86B or 149N(8), an activity that formerly was a permitted activity or that otherwise could have been lawfully carried out without a resource consent requires consent, the activity may continue to be carried on after the rule in the plan becomes operative, or the rule in the proposed plan takes legal effect in accordance with section 86B or 149N(8), if—

(a)

the activity was lawfully established before the rule in the plan became operative or the rule in the proposed plan took legal effect in accordance with section 86B or 149N(8); and

(b)
the effects of the activity are the same or similar in character, intensity, and scale to those which existed before the rule in the plan became operative or the rule in the proposed plan took legal effect in accordance with section 86B or 149N(8); and
(c)
the person carrying on the activity applies for a resource consent from the appropriate consent authority within 6 months of the rule in the plan becoming operative.
(2)
Any activity to which this section applies, and for which a resource consent has been applied for in accordance with subsection (1)(c), may continue to be carried on until the application has been decided and any appeals have been determined.

Section 10A: inserted, on 7 July 1993, by section 8 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 10A(1): amended, on 1 October 2009, by section 9(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009(2009 No 31).

Section 10A(1): amended, on 1 October 2009, by section 9(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009(2009 No 31).

Section 10A(1): amended, on 1 October 2009, by section 9(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009(2009 No 31).

Section 10A(1): amended, on 1 October 2009, by section 9(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009(2009 No 31).

Section 10A(1)(a): amended, on 1 October 2009, by section 9(5) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009(2009 No 31).

Section 10A(1)(b): amended, on 1 October 2009, by section 9(5) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009(2009 No 31).