



Te Tai o Poutini

PLAN

Existing Use Rights

New Rules in the proposed Te Tai o Poutini Plan (TTPP) do not affect the ability to continue existing lawfully established activities.

The ability to continue doing what you're doing, where you're doing it, is protected by the Resource Management Act (s10, 10a, and 20a). This "existing use right" applies where the activity has been "lawfully established". Lawful establishment means it either didn't need a resource consent under a previous plan, or if consent was needed it was granted. Also, the effects of the use will continue to be the same or similar in character, intensity and scale. The activity must not have stopped for more than twelve months.

Existing Use Rights for Buildings and Structures

Existing use rights mean that the building can continue to be maintained and occupied without the need to get a resource consent under TTPP.

If the building is destroyed or damaged, then provided it is replaced within 12 months it can be replaced or reconstructed with a building of a similar size, location and purpose without any need for a resource consent, provided that the replacement building does not increase the degree to which the building fails to comply with the rules in TTPP. For example, if an existing building breached height rules by 1m, a replacement building could not breach height rules by 2m.

The legal requirement for replacement is within 12 months, but in the case of natural hazard overlays in TTPP it is proposed that this timeframe be extended to 2 years in the severe hazard overlays or 5 years for other natural hazard overlays. This recognizes that recovering from an event, and availability of materials and tradespeople can mean it takes far longer.

The building that replaces a destroyed or damaged building does not have to be identical to the original building, just has to be "the same or similar in character, intensity and scale". This generally means the bulk (height, building coverage, length of external walls) and location should be largely the same as what previously existed on site.

If the building was established by a resource consent, then it can be rebuilt subject to the same conditions of the resource consent.

Existing Use Rights for Land Use Activities

Existing use rights can also apply to lawfully established land use activities. For example, if TTPP rules introduce restrictions on visitor accommodation, but it has already been legally established under the old district plan, then it can continue. As long as the activity continues at the same scale as previously, then this can continue under existing use rights. If the activity stops for more than 12 months, then the existing use right stops.

Existing Use Rights for Activities on the Surface of Water

Existing use rights for activities on the surface of water are different for those on land. Rules for the activities on the surface of the water have immediate legal effect – they apply now. If the proposed TTPP requires a resource consent for an activity that is an existing use, an application must be made for consent within six months of the relevant rule becoming operative. The activities can continue until the application has been decided and any appeals determined.

Confirming Existing Use Rights

If you are seeking to rely on existing use rights in relation to works or use that would otherwise be a breach of TTPP permitted activity standards, or require a resource consent, then you may wish to seek an Existing Use Certificate from your District Council. In order for the District Council to grant that certificate you will need to prove that the use was lawfully established, and the effects of on-going use are the same or similar in character, intensity and scale. The District Council may charge you a fee for this Certificate under their fees and charges. If you would like the Council to confirm whether you have existing use rights for an existing building or activity, you can apply for an Existing Use Certificate from your District Council. An Existing Use Certificate has the same effect as a resource consent.



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