

APPENDIX 3: COMPLIANCE WITH THE DISTRICT PLAN**SECTIONS 9, 10 AND 10A OF THE RESOURCE MANAGEMENT ACT 1991****9. Restrictions on use of land—**

- (1) No person may use any land in a manner that contravenes a rule in a district plan or proposed district plan unless the activity is—
 - (a) Expressly allowed by a resource consent granted by the territorial authority responsible for the plan; or
 - (b) An existing use allowed by [section 10 or section 10A].
- (2) No person may contravene [section 176 or section 178 or section 193 or section 194 (which relate to designations and heritage orders)] unless the prior written consent of the requiring authority concerned is obtained.
- (3) No person may use any land in a manner that contravenes a rule in a regional plan or a proposed regional plan unless that activity is—
 - (a) Expressly allowed by a resource consent granted by the regional council responsible for the plan; or
 - (b) Allowed by section 20 (certain existing lawful uses allowed).
- (4) In this section, the word “use” in relation to any land means—
 - (a) Any use, erection, reconstruction, placement, alteration, extension, removal, or demolition of any structure or part of any structure in, on, under, or over the land; or
 - (b) Any excavation, drilling, tunnelling, or other disturbance of the land; or
 - (c) Any destruction of, damage to, or disturbance of, the habitats of plants or animals in, on, or under the land; or
 - (d) Any deposit of any substance in, on, or under the land; or
 - [(da) Any entry on to, or passing across, the surface of water in any lake or river; or]
 - (e) Any other use of land—
 and “may use” has a corresponding meaning.
- (5) In subsection (1), “land” includes the surface of water in any lake or river.
- (6) Subsection (3) does not apply to the bed of any lake or river.
- (7) This section does not apply to any use of the coastal marine area.
- [(8) The application of this section to overflying by aircraft shall be limited to any noise emission controls that may be prescribed by a territorial authority in relation to the use of airports.]

10. Certain 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 and 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 20 (certain existing lawful activities allowed).
- (6) In this section, “use of land” has the same meaning as in section 9(4)(a) to (e) [(except (da))] and “land may be used” has a corresponding meaning.

[10A. Certain 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 being notified, 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 plan becomes operative, or the proposed plan is notified, if—
 - (a) The activity was lawfully established before the rule in the plan became operative or the rule in the proposed plan was notified; 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 was notified; 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.]