

Transitional consenting

Worked scenarios for the resource consent process

This factsheet expands on guidance for transitional consenting provisions of the Resource Management Act 1991 (RMA) that were introduced by the Planning Act 2026.

Visit our website for further information on transitional consenting and the latest updates on New Zealand's new planning system.

[Planning.govt.nz](https://planning.govt.nz)

These consenting scenarios provide examples of how an applicant and decision-maker may implement changes at different stages of the consenting process following changes to section 104(1A) of the RMA.

The two consenting scenarios are for district land-use activity. The provisions are not from a real district plan but are intended to provide an example of the kinds of provisions that may be out of scope with the updated scope of effects. These scenarios focus on examples of consent applications where effects related to residential activities (section 104(1A)(a)) and retail distribution (section 104(1A)(c)) may now be out of scope for assessment.

The scenarios and accompanying diagrams only relate to the identified key steps of the consenting process. Other aspects of this process may still be impacted by the changes made to the RMA through the Planning Act.

This factsheet is based on a high-level review of district plan provisions and is intended as general guidance only. The application of provisions will depend on the circumstances of a particular proposal and a detailed assessment of the plan. Different outcomes may arise following a full planning assessment of a proposed activity.

Transitional consenting scenario 1

Scenario 1: A six-unit residential development is proposed in a medium density residential zone

Consent for this activity is required for:

- the number of dwellings on a single application site
- non-compliance with the minimum outdoor living space requirements
- non-compliance with the minimum landscaped area requirement
- non-compliance with land disturbance area, volume and cut depth.

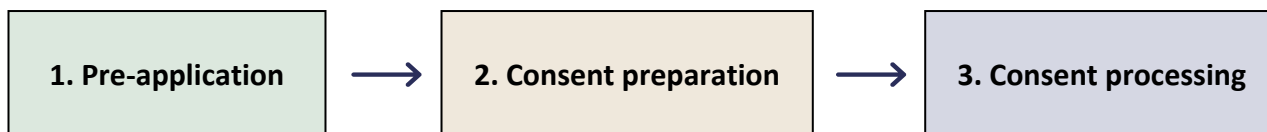
The development complies with all other requirements and rules in the district plan.

The activity is restricted discretionary. The matters of discretion are:

- shading and dominance effects (due to exceeding the permitted number of dwellings on a site)
- the effects on amenity for residents of the site (due to non-compliance with outdoor living space)
- the amenity provided by proposed landscaping (due to non-compliance with landscaped area)
- topography effects and amenity values (due to non-compliance with land disturbance).

The effects related to minimum outdoor living space and minimum landscaped area are now out of scope under s104(1A)(a) of the RMA.

How the changes apply to Scenario 1 at each stage of the consenting process



1. Pre-application

Pre-application phase

Applicant	Preliminary design work does not need to consider the out-of-scope effects. Matters for discussion with council will be limited to those remaining plan provisions that are in scope of assessment through transition.
Council	Applicant may not be required to amend their design/proposal to manage an out-of-scope effect, even if the rule remains in the district plan. Based on this scenario that would include the provision of outdoor living space (s104(1A)(iii)) and landscaped area (s104(1A)(vi)). May still consider any potential effects which remain in scope, such as permeable areas.

2. Consent preparation

Preparation of consent application (Schedule 4)

Applicant	Any s104(1A) effects need not be assessed as part of Schedule 4 application (Assessment of Environmental Effects) (AEE). The AEE submitted with the application may wish to explain how s104(1A) has been interpreted and applied in preparing the consent application.
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3. Consent processing

Council checks for completeness (s88)

Council	The council planner will not be able to consider the matters relating to outdoor living space and size of landscaped area when considering whether the application is complete. Any other matters which are out of scope may not be assessed when considering whether the application is complete.
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Council	The council may not request further information relating to outdoor living space or landscaped area (or any other out-of-scope effect). Information requested may only relate to an in-scope matter of discretion. This would include shading and dominance effects, topography effects and amenity effects relating to land disturbance (not relating to landscaped area).
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Council notification decision (ss95–95E)

Council	The council planner will not be able to consider effects on retail distribution when considering notification. Activity may no longer be publicly notified for special circumstances. Traffic effects and any other in-scope effects arising from the activity may still be considered.
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Council substantive decision (s104)

Council	When determining the acceptability of the proposed retail activity, the council will not be able to consider: - the appropriateness of the retail activity in terms of the centre's hierarchy - how the retail activity may affect other retail activities in nearby centres. NOTE: Any regional policy statement provisions relating to retail distribution effects would remain out of scope for consideration through s104(1B).
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Conditions imposed (s108)

Council	When imposing conditions on the consent any matters relating to retail distribution would be out of scope.
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Transitional consenting scenario 2

Scenario 2: A new retail activity in a commercial activity area

Consent is required for:

- a new retail activity greater than 3000m² gross floor area in a commercial activity area
- number of vehicle trips generated (as a high-trip generator) based on gross floor area.

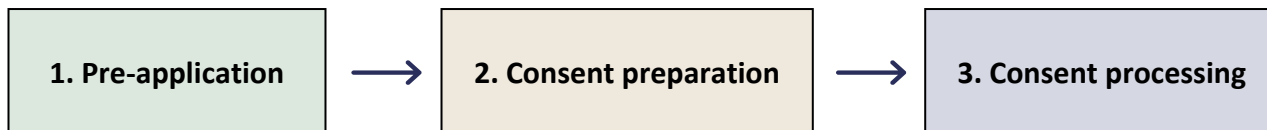
The activity complies with all other requirements and rules in the district plan.

Non-compliance with these two provisions means the activity will be assessed as a discretionary activity.

A provision in the district plan states that an assessment matter for discretionary activities in the commercial activity area is the economic effect of the proposed activity on the economic vitality and viability of the surrounding retail centre.

The effect which this assessment matter is intended to control is 'retail distribution effects', which are now out of scope under section 104(1A)(c) of the RMA.

How the changes apply to Scenario 2 at each stage of the consenting process



1. Pre-application

Pre-application phase

Applicant	Matters for discussion with council will be limited to those remaining district plan provisions that are in scope of assessment through transition. Economic analysis of impact of proposed retail activity on viability of other retail activities not required (s104(1A)(c)).
Council	Applicant may not be required to amend their design/proposal to manage an out-of-scope effect, even if the rule remains in the district plan.

2. Consent preparation

Preparation of consent application (Schedule 4)

Applicant	Any s104(1A) effects need not be assessed as part of Schedule 4 application (Assessment of Environmental Effects (AEE)). The AEE submitted with the application may explain how s104(1A) has been interpreted and applied in preparing the consent application. Suggest no economic analysis relating to effects of the retail activity on retail distribution would be submitted, as may have been previously required based on district plan assessment matters.
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3. Consent processing

Council checks for completeness (s88)

Council	The council planner will not be able to consider effects on retail distribution when considering whether the application is complete. Lack of analysis relating to economic effects on the viability of surrounding retail centres would not be a reason to return the application as incomplete under s88.
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Council	The council planner may still request information relating to effects arising from the size of the retail activity, so long as the information request is not related to effects on retail distribution specifically. If any economic analysis was required, would have to be clear on scope. May still request information relating to high-trip generator non-compliance.
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Council notification decision (ss95–95E)

Council	The council planner will not be able to consider effects on retail distribution when considering notification. Activity may no longer be publicly notified for special circumstances. Traffic effects and any other in-scope effects arising from the activity may still be considered.
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Council substantive decision (s104)

Council	When determining the acceptability of the proposed retail activity, the council will not be able to consider: - the appropriateness of the retail activity in terms of the centre's hierarchy - how the retail activity may affect other retail activities in nearby centres. NOTE: Any regional policy statement provisions relating to retail distribution effects would remain out of scope for consideration through s104(1B).
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Conditions imposed (s108)

Council	When imposing conditions on the consent any matters relating to retail distribution would be out of scope.
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