

Plan Change 2 (Existing Intensive Farming Land Uses) – Interim Effect of Plan Change FAQs

What effect will the rules of Plan Change 2 (PC2) have after notification on 22 July 2019?

Because the PC2 rules relate to or protect water, they will have 'legal effect' under the Resource Management Act as soon as the plan change is notified. This means the PC2 rules have to be complied with. However, the rules in the operative version of the One Plan will also remain in effect until PC2 is finally decided (including any appeals being resolved), or until they have been superseded by PC2 rules deemed to be operative.

Can I apply for resource consent under the rules of PC2?

Yes – but you still need to apply for consent under the operative rules as well. Once PC2 is notified, any resource consent application for an existing intensive farming land use (IFLU) will need to be considered under both the PC2 rules and the current (operative) rules in the One Plan. This means an application needs to address both sets of rules, and will also affect the 'activity status' that applies under the RMA (i.e. whether the application is for a Controlled, Restricted Discretionary, or Discretionary activity).

What activity status applies to a resource consent application under PC2?

If an activity needs resource consent under both the operative One Plan and PC2, and has a different activity status under each, then (while there are two plans in effect) the activity status is 'bundled' so that the more stringent activity status applies. This means that if an activity is Restricted Discretionary under the One Plan but Controlled under PC2, then the application still needs to be made as a Restricted Discretionary activity. On the other hand, if an activity is Restricted Discretionary under the operative One Plan but would be Discretionary under PC2, then it needs to be treated as a Discretionary activity.

The activity status for an IFLU will depend on whether the cumulative nitrogen leaching maximums (Table 14.2) in the Operative Plan and/or PC2 can be met. There are three different possibilities, as summarised in the table below.

Scenario	Operative One Plan activity status	PC2 activity status	Resource consent application will be treated as
Activity complies with operative version of Table 14.2	Controlled	Controlled	Controlled (i.e. consent must be granted, but conditions can be imposed on matters set out in the rules)
Activity complies with PC2 version of Table 14.2, but not operative version	Restricted Discretionary	Controlled	Restricted Discretionary (i.e. consent can be declined, or granted with conditions, but only in relation to matters set out in the rules)



Scenario	Operative One Plan activity status	PC2 activity status	Resource consent application will be treated as
Activity complies with neither version of Table 14.2	Restricted Discretionary	Discretionary	Discretionary (i.e. the power to decline consent or impose conditions is not limited by the rules)

Will the policies and other provisions of PC2 apply to any application after notification on 22 July 2019?

Yes. However, the objectives and policies in the operative One Plan will still apply as well. Under the RMA, the objectives and policies in proposed plans are not given the same weight as those in operative plans when deciding a resource consent application, but are given progressively more weight as they proceed through the plan change process and the opportunity for challenge reduces. The weight to be given to the objectives and policies in PC2 (relative to those in the operative plan) is ultimately a question for the consent authority (decision maker), at the time that an application for resource consent is decided.

How does PC2 impact on applications already lodged with Horizons before the date of notification?

If an application has been lodged (but not yet determined) at the time PC2 is notified, PC2 being notified will not change the activity status. This means the application will continue to be processed, considered, and decided as a Controlled or Restricted Discretionary activity (as the case may be). An exception could arise where the activity status becomes less onerous once the rule in PC2 becomes operative and we recommend you take advice if this is the case. Even where the activity status does not change as a result of PC2 being notified, the objectives and policies of PC2 and the operative plan will still need to be considered in determining the application (as described above).

When will PC2 become operative?

PC2 will likely progress to a hearing in early 2020. Depending on whether there are any appeals, PC2 is expected to become formally operative in either mid or late 2020. However, particular PC2 provisions (rules) can be treated as operative before that time if either there are no submissions (or appeals) opposing the provisions, or any submissions (or appeals) have been determined. In that case the corresponding current (operative) provision falls away and ceases to have effect.

How can I get further information on what is required by PC2?

Horizons will provide regular updates and guidance on the status of PC2 as it proceeds through the plan change process. Applicants for resource consent are encouraged to seek advice on how the PC2 provisions will apply to the particular circumstances of their proposed land use, including in terms of the relative weight that can be given to the new policies as PC2 progresses.

Horizons will also continue to work with industry groups and stakeholders on non-regulatory initiatives, with a view to assisting applicants to get ready to make an application for resource consent (or progress an existing application) under the new planning framework.

