

Existing use rights

This factsheet provides guidance on existing use rights. It has been prepared specifically to provide guidance on when a new rule in the Christchurch District Plan, as proposed under the Council's Industrial Plan Change (Plan Change 20), may or may not apply to existing industrial activities.

What are existing use rights (EUR)?

Existing use rights are an exemption under [Section 10](#) of the Resource Management Act (RMA) which allows for existing activities and buildings that breach new rules in the District Plan to continue without needing to get a resource consent if the requirements under Section 10 are met. Note that the government intends to revoke and replace the RMA in 2027. The new legislation might change the provision for EUR.

What are the requirements for EUR?

Section 10 of the RMA outlines that land may be used in a manner that contravenes a rule in a District Plan, or proposed rule, if:

- **the use was lawfully established** before the rule came into legal effect. 'Lawfully established' means that when the activity started, or the building was built, it was permitted by planning rules; and
- **the effects of the use are the same or similar in character, intensity and scale** to those which existed before the new rule came into effect.

EUR do not apply if:

- **a building is changed in a way that increases the extent of non-compliance with any District Plan rules;** or
- **if the existing use has been discontinued for more than 12 months** at any time since the activity was in breach of a rule in the District Plan.

Note: If the existing use has been discontinued for more than 12 months, people can apply to the Council, within two years of the activity ceasing, to extend it. They need the approval of anyone who might be affected by the extension. In considering the application, the Council needs to be satisfied that the effect of the extension is not contrary to the current objectives and policies of the District Plan.

Example scenarios where EUR may or may not apply (noting that these examples are generic only and should not be relied upon for the determination of EUR for any specific existing activity):

EUR example scenarios within industrial zones

Permitted

The use of industrially zoned land for existing or new buildings and/or activities that are permitted under the District Plan and do not trigger any rules (including new rules that are operative). EUR is not a necessary consideration, as the land use is permitted.

- Example 1 – The continued use of an existing industrial site and building for established warehousing operations which complies with all current District Plan rules (e.g. building setbacks, noise limits, trip generation, etc.).
- Example 2 – Changing the use of an existing industrial site from manufacturing to warehousing, and this new activity (and any associated new buildings or site works) will comply with all current District Plan rules.

EUR likely to apply (business as usual)

The use of industrially zoned land for existing buildings and/or unchanged established activities that were permitted under the District Plan but would not comply with a new rule.

- Example 1 – 'Like for like' rebuild of a demolished industrial building that breaches a new height limit rule and is constructed within 12 months of the building being demolished (and no change in the activity carried out within the building).
- Example 2 – An existing distribution business with established hours of operation, being 24 hours a day, and a new rule restricts operating hours to exclude the nighttime period.
- Example 3 – Noise from equipment in an industrial workshop that complied with previous District Plan noise limits but does not comply with new noise limits, and the noise does not increase in frequency, volume, type or change in location (e.g. the equipment is not moved closer to a residential boundary).

EUR may apply (change to business)

The use of industrially zoned land for existing or new buildings and/or activities that were previously permitted under the District Plan, but would not comply with a new rule, and include changes that do not increase the extent of adverse effects or building non-compliance.

- Example 1 – An existing industrial building breaches a new road boundary setback rule and a minor extension is proposed at the other end of the building, not visible from the street and not triggering any District Plan rules.

EUR unlikely to apply (change to business increasing non-compliance)

The use of industrially zoned land for existing or new buildings and/or activities that were previously permitted under the District Plan, but would not comply with a new rule, and include changes where the effects are worsened or the extent of building non-compliance is increased.

- Example 1 – An existing industrial building breaches a new height limit and an extension is proposed which continues the roofline of the existing building. Existing use rights would be lost. The changed activity would need resource consent.
- Example 2 – An existing activity opposite a residential zone generates, on average, 200 heavy vehicle trips per day and a new rule restricts this to 60 per day. There is a change to the activity which increases heavy vehicle trips to 300 per day. EUR would not apply, as the effects are not the same or similar in intensity and scale. Existing use rights would be lost. The changed activity would need resource consent.

What is the process to confirm EUR?

Facts and evidence are needed to establish EUR. Sources of information that can help confirm lawful establishment and continuity of an activity or development can include: information from the property file, consent documents, rating information, photographs, company accounts and records, correspondence, legal agreements and contracts, and records from public departments.

If it is likely that EUR apply, there is the option of applying for an Existing Use Certificate to confirm this. The application form can be found [here](#).

EUR can also be checked as part of the Project Information Memorandum planning assessment when applying for a building consent.

Do EUR apply if I have a resource consent?

A [resource consent](#) is a formal approval needed when a building or activity does not meet the rules in the [District Plan](#), or where the Plan states that resource consent is required for a particular activity. A resource consent allows you to build, or use your land, in accordance with the conditions of the consent, and you do not have to comply with all the rules in the District Plan.

The Section 10 requirements for EUR do not apply to activities or buildings that were established via resource consent. The activity can be undertaken, or the building reconstructed, at any time in accordance with the resource consent.

What if EUR don't apply and I can't rely on an existing resource consent?

If existing use rights do not apply, or there is not enough information to confirm this, and you cannot rely on an existing resource consent, then the activity or development needs to comply with the District Plan rules or a resource consent will be needed. In some cases, an application for resource consent can be quicker and less costly to process than an application for an Existing Use Certificate.

Other approvals and other duties

Existing use rights relate only to the Resource Management Act and the rules in the District Plan. They do not remove a property owner's obligation to obtain other consents or approvals that may be required (e.g. building consent, resource consent from Environment Canterbury, liquor license, etc) and do not change the operator's other duties under the RMA, such as the duty to avoid unreasonable noise (section 16), the duty to avoid, remedy or mitigate adverse effects (section 17), or the obligation to reduce excessive noise to a reasonable level (section 327).

Further information

For more information about EUR, email our Duty Planner at

DutyPlanner@ccc.govt.nz

or phone **941 8999**.

Establishing EUR can be complex, so we also recommend seeking your own advice from a planning consultant or lawyer.