

Practice and Guidance note

Rainwater tanks

Plan Change 54 introduced provisions for rainwater tanks to improve the opportunities for these to be established without the need for resource consent. This has been achieved by adding rainwater tanks to the exclusions within the definition of 'Building' and defining them as a stand-alone activity within the residential and rural zones. They are permitted activities within these zones where compliance with standards to protect amenity outcomes are met.

This Practice and Guidance Note (PGN) sets out the council's interpretation of what qualifies as a 'rainwater tank' as many tanks provide for both stormwater detention and retention for reuse. It further covers how to assess discretions from the permitted rainwater tank standards.

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1 Introduction

Plan Change 54 to the Auckland Unitary Plan (Operative in Part) (AUP (OP)) was notified in October 2020 as part of a package of measures to help limit the demand on municipal water supplies following several record dry years. The Plan Change now more easily enables rainwater tanks in residential and rural areas without the need and cost of a resource consent. This is balanced by applying appropriate permitted minimum standards for amenity purposes to the rainwater tank exemptions. The Plan Change became operative on 10 June 2022.

At the same time Plan Modification 13 was introduced to the Auckland Council District Plan - Hauraki Gulf Islands Section (HGI DP) and these provisions are also now operative. They primarily exclude rainwater tanks from the definition of 'building' where a list of defined criteria in the definition are met. This practice note does not therefore need to reference matters under the HGI DP.

The AUP (OP) rainwater tank provisions predominantly apply only to the residential and rural zones:

'Retention' means to retain – as to hold water for reuse.

'Detention' means to detain for a period, as in a stormwater device that holds back the flow for gradual release to a stormwater system.

2 Relevant building and rainwater tank definitions

Plan Change 54 introduced a definition for rainwater tank and modified the definition of 'Building' as it relates to tanks. The AUP (OP) provides a definition of rainwater tank and building, as set out below:

Rainwater tank

A tank used for collecting and storing rainwater.

Note: If a rainwater tank is to be used for firefighting please refer to the Firefighting Water Supplies Code of Practice as mandated by the Fire and Emergency New Zealand Act)

Building

Any permanent or temporary structure.

On land for the purposes of district plan provisions, "building" includes the following types of structures listed in Table J1.4.1, only where they meet the qualifying dimensions or standards:

Table J1.4.1: Buildings

Type of structure	Qualifying dimension or standard (for height the rolling height method is be used)
<i>Tanks including retention tanks other than Rainwater tanks excluded below.</i>	<i>Over 1m in height from ground level, inclusive of the height of any supporting structure or More than 25,000l capacity, where any part of the tank is more than 1m above ground level</i>

and excludes the following types of structures:

Rainwater tanks in the following zones and overlays:

- *Single House Zone*
- *Large Lot Zone*
- *Rural and Coastal Settlement Zone*
- *Mixed Housing Suburban Zone*
- *Mixed Housing Urban Zone*
- *Terrace Housing and Apartment Buildings Zone*
- *Special Character Areas Overlay - Residential and Business*
- *Rural Production Zone*
- *Mixed Rural Zone*
- *Rural Conservation Zone*
- *Countryside Living Zone*
- *Waitakere Foothills Zone*
- *Waitakere Ranges Zone*
- *Special Purpose - Māori Purpose Zone*

Note: For the avoidance of doubt, rainwater tanks outside of the above listed zones and overlay are NOT exempt from the definitions of ‘buildings.’

Note: Rainwater tanks remain defined as a building under the Building Act. A building consent may still be required under the Building Act.

In the coastal marine area for the purposes of the regional coastal plan, “building” includes any covered or partially covered permanent or temporary structure, whether or not it is enclosed.

Within these zones, rainwater tanks are excluded from the wider definition of building that includes all other forms of tanks that meet the qualifying dimension or standard.

The wider definition does include retention tanks but that does not make those separately defined rainwater tanks a subset of building. There will be many retention tanks in other zones such as the business zones where the rainwater tank exemption does not apply. In the other zones where retention tanks meet the definition of 'Building', they will be under the Development sub-heading in the activity table.

The inclusion of retention tanks within the building definition acknowledges that there are other forms of tanks that may have a retention purpose but that may not be their sole purpose of retaining water for reuse.

3 Stormwater tanks vs rainwater tanks

It is common for tanks to have both a detention and retention purpose. While both capture rainwater a dual-purpose tank will not meet the rainwater tank definition or the intended purpose of the rainwater tank exemptions. Detention tanks are not for the defined purpose of '*for collecting and storing*', nor the rainwater tank intent for reuse in a manner that avoids or limits rainwater discharging to a stormwater system.

Applicants may raise the benefits of dual detention / retention tanks and rainwater tanks will still discharge if they overflow. But the interception of rainwater that will otherwise still discharge to a stormwater system will not meet the definition of 'rainwater tank.'

Simply, if a tank is required as a stormwater management device, such as in a SMAF overlay or to mitigate for impervious surface areas, it cannot be a rainwater tank even if it is voluntarily upsized to meet a dual purpose.

4 What standards apply to rainwater tanks?

Within the AUP (OP) zones and overlays where rainwater tanks are exempt from the definition of building, and separate rainwater tank standards are set, there are no other standards for buildings or dwellings that are applicable. That includes those non-building development standards such as impervious surface area and landscaping as these are only invoked by 'buildings'. However, there are rainwater tank limitations within the definition of 'Outdoor living space' additional to the permitted rainwater tank standard.

For the non-urban zones, the planner will need to check the specifics of the provisions.

For example, in the Rural zones where rainwater tanks are under 'development' in the activity table, and all standards apply to development, look out for the specific exclusion for rainwater tanks at the start of the standards, e.g., for the Rural zones

H19.10 Standards

(3) Notwithstanding the above Rainwater tanks must comply with rainwater tank standard H19.10.17.

Or in the Waitakere Foothills and Waitakere Ranges zones the permitted rainwater tank standards are associated with those for dwellings.

It is a matter of applying the particular standards set for rainwater tanks within the relevant zone where rainwater tank exemptions apply.

The yard setback and height limits, and limits for rainwater tanks within outdoor living and outlook space areas are included for amenity reasons and common across the urban residential zones where applicable. The Large lot and Rural and Coastal Settlement zones also add additional standards over discharges that acknowledge these locations outside of the water reticulated areas.

Some of these may appear to be quite liberal such as the 3-meter maximum height within the residential and rural zone side or rear yards, however that is the compromise that has been provided to promote the establishment of rainwater tanks.

5 What if the permitted standards are not met?

Within the fourteen AUP (OP) zones in which rainwater tank are included as a defined activity, their activity status is permitted if the standards for that zone are met.

However, within all zones and the overlays where the standards for rainwater tanks are not met, **Rule C1.9 Infringements of Standards** applies.

This rule C1.9(2) states:

*An activity that is classed as a **permitted**, controlled or restricted discretionary activity but that does not comply with one or more of the standards applying to that activity is a **restricted discretionary activity**. (Bolded for emphasis only)*

Further rule C1.9(3) sets out the matters to consider as part of the planner's assessment of that restricted discretionary activity. In brief, this limits the planner's assessment to any relevant objective or policy, the purpose of the standard, any unusual site characteristics, and the effects of the infringement. Not all the zones contain a purpose statement for rainwater tanks such as that in the urban zones that reads,

Purpose: To enable rainwater tank installation while maintaining amenity values.

The planner's assessment will need to acknowledge that a more enabling set of provisions has been set for rainwater tanks than the standards that apply to other buildings in the same zone. Adverse effects will likely occur if these more liberal permitted standards are not met.

Importantly, the status of a rainwater tank that does not meet the permitted standards will not default elsewhere in the zone activity table. There are no separate entry lines for rainwater tanks that do not meet the standards in any of the zone activity tables.

For example, within the residential and Waitakere zones it does not default to rule (A1) as a non-complying '*activity not provided for*'. Rain tanks are provided for in these zone activity tables; it is just that they are not meeting the permitted standards.

Neither do rainwater tanks default to a zone activity of 'new building' or 'accessory building', where an incorrect assessment could otherwise be undertaken against the standards set for those activities.

Likewise for the rural zones, a rainwater tank that is not a permitted activity due to not meeting the set standards, does not default to a discretionary activity under Rule C1.7 as an activity not provided for.

It will be important that an AEE that covers rainwater tanks as part of a wider application correctly identifies the proper activity status and applicable rules.

In summary, where rainwater tanks do not meet the permitted standards, Rule **C1.9 Infringements of Standards** will always apply.

6 Conclusion

The AUP (OP) and HGI DP encourage the installation of rainwater tanks. For applicants to make use of the exemption standards, a rainwater tank must meet the rainwater tank definition and the intention of being solely for a retention and reuse purpose. A stormwater or dual-purpose tank will not meet the rainwater tank definition and will be considered as a building if it is of a size that exceeds the qualifying dimensions for such.

Be aware of the different means by which rainwater tanks are provided across the relevant zones and overlays in which the exemptions apply. If the permitted standards are not met, the activity will become a restricted discretionary activity under Rule C1.9(2) with the limitations for that discretion as set out in Rule C1.9(3).