



1.1 AFFORESTATION (REGULATIONS 8 - 17)

1.1.1 Overview of the plantation forestry activity

Afforestation is a regulated activity under Regulation 5(1)(a) of the NES-PF. The NES-PF regulations relating to ancillary activities (Part 2, subpart 9)¹ and the general provisions of the NES-PF (Part 2, subpart 10) must also be complied with as relevant when undertaking *afforestation*.



Afforestation is defined in the NES-PF as:

- (a) *planting and growing plantation forestry trees on land where there is no plantation forestry and where plantation forestry harvesting has not occurred within the last 5 years; but*
- (b) *does not include vegetation clearance from the land before planting*

The *afforestation* regulations apply to new planting where there has been no previous *plantation forest*, or where there was a previous *plantation forest* and 5 years has lapsed since the last harvest. The *replanting* regulations apply if less than 5 years has lapsed since the last harvest.

Planting forestry trees is usually done manually, although mechanical tree planters may be used where site conditions permit – which is typically low gradient, level terrain. In some cases, *vegetation clearance* may be required before *afforestation* can occur. *Vegetation clearance* prior to *afforestation* is not regulated under the NES-PF and this continues to be managed under the relevant plan rules (Regulation 5(3)(a)).

1.1.2 Potential adverse environmental effects

Afforestation can have a variety of environmental benefits and some potential adverse environmental effects. The potential adverse effects are generally not related to planting but to the longer-term effects relating to the location in which the *plantation forest* is established. Potential adverse environmental effects from *afforestation* are:

- Soil slip erosion caused by the weight of trees established on steep sites with shallow soils.
- Landscape and amenity effects, such as shading, or modification of *outstanding natural features and landscapes*.
- Potential for *wilding conifer* spread into vulnerable areas which can have adverse effects on landscapes and affect the productivity of other land uses.

When establishing a new *plantation forest*, consideration of its location and design is also needed to avoid long-term environmental, safety and operational issues (e.g. the ability to safely harvest the crop with limited effects on neighbouring properties and receiving waterbodies).

Consideration of the future effects from *afforestation* is also a relevant consideration when *afforestation* of more than 2ha is proposed on *red zone* land (Regulation 17(4)). A key

¹ Slash traps, indigenous vegetation clearance, and non-indigenous vegetation clearance in subpart 9, Part 2 of the NES-PF.



potential adverse effect in this respect relates to the potential for shallow landslides in severe storms after *harvesting* entraining stumps and *slash*, with the woody debris creating destructive debris flows.

1.1.3 Permitted activity and conditions

Afforestation is a permitted activity if:

- **Territorial authority** – regulations 10, 11, 12, 13, and 14(1) and (2) are complied with; and
- **Regional councils** – regulations 10, 11, 12, and 14(3) are complied with, in any:
 - *Green, yellow or orange zone*; or
 - *Red zone* where the land proposed for *afforestation* is 2ha or less in any calendar year.

A summary of the permitted activity conditions for *afforestation* is provided in Table 1. Sections 1.1.5 to 1.1.9 provide more detailed guidance on these conditions to assist with interpretation and implementation. For the exact wording of the conditions, refer to the NES-PF which can be accessed through the hyperlinks below.

Table 1: Summary of permitted activity conditions for *afforestation*.

Condition	Territorial Authority	Regional Council
Notice (Regulation 10)	<ul style="list-style-type: none"> • Written notice must be given of proposed <i>afforestation</i> location, proposed setbacks, and planned start and end date of planting; and • Notice must be provided to council at least 20 and no more than 60 working days before the planned start date. 	
Wilding tree risk and control (Regulation 11)	<p><i>Calculator</i></p> <ul style="list-style-type: none"> • The <i>Wilding Tree Risk Calculator</i> must be applied by a <i>suitably competent person</i> using <i>the wilding tree risk guidelines</i> when planting a <i>conifer species</i>; • <i>Afforestation</i> must not be carried out in an area with a <i>Wilding Tree Risk Calculator</i> score of 12 or more; and • The wilding tree risk calculation sheet and score must be supplied to council at the same time as notice is given and must have been completed no more than six months prior to notice. <p><i>Control measures</i></p> <p>All <i>wilding conifers</i> resulting from the <i>afforestation</i> activity must be eradicated at least every 5 years after <i>afforestation</i> if established in <i>wetlands</i> or <i>significant natural areas</i>:</p> <ul style="list-style-type: none"> • On the same property as the <i>afforestation</i>; and • On adjacent properties under the same ownership or management as the property where the <i>afforestation</i> occurs. 	
Significant natural areas and outstanding natural features and landscapes (Regulation 12)	<i>Afforestation</i> must not occur within a <i>significant natural area</i> or an <i>outstanding natural feature or landscape</i> .	
Visual amenity landscapes (Regulation 13)	<i>Afforestation</i> must not occur within a <i>visual amenity landscape</i> if rules in the relevant plan restrict	N/A



	<i>plantation forestry activities</i> within that landscape.	
Setbacks (Regulation 14)	<p><i>Afforestation</i> must not occur:</p> <ul style="list-style-type: none"> • Within 10m of any adjoining property boundary that is not owned by the owner of the <i>plantation forest</i> or the owner of the land the forest is located on (unless the adjoining land is also used for <i>plantation forestry</i>) • Except where a <i>dwelling</i> is located on the same property as the proposed <i>afforestation</i>, within the greater of: <ul style="list-style-type: none"> ○ 40m of a dwelling; and ○ A distance where the <i>forest species</i> when fully grown would shade a dwelling between 10 am and 2 pm on the shortest day of the year, except where topography already causes shading. • Within 30m of the boundary of land zoned in a district plan as a <i>papakāinga</i> or <i>urban area</i>; • Within 10m of a <i>significant natural area</i> • Where a <i>plantation forest tree</i>, when fully grown, could shade a paved public road between 10 am and 2 pm on the shortest day of the year, except where the topography already causes shading. 	<p><i>Afforestation</i> must not occur within:</p> <ul style="list-style-type: none"> • 5m of a: <ul style="list-style-type: none"> ○ <i>Perennial river</i> with a <i>bankfull channel</i> width of less than 3m; or ○ <i>Wetland</i> larger than 0.25ha. • 10m of a: <ul style="list-style-type: none"> ○ <i>Perennial river</i> with a <i>bankfull channel</i> width of 3m or more; ○ Lake larger than 0.25ha; or ○ <i>Outstanding freshwater body</i>; or ○ <i>Water body</i> subject to a water conservation order; or ○ <i>Significant natural area</i>; or • 30m of the coastal marine area.

1.1.4 Determining whether a resource consent is required

The flow chart in Figure 1 shows the process to determine whether *afforestation* requires resource consent, the activity status when resource consent is required, and whether consent is required from the relevant regional council and/or territorial authority. *Afforestation* is also required to comply with the ancillary activity regulations (Part 2, subpart 9) and the general provisions (Part 2, subpart 10) as relevant to be a permitted activity.

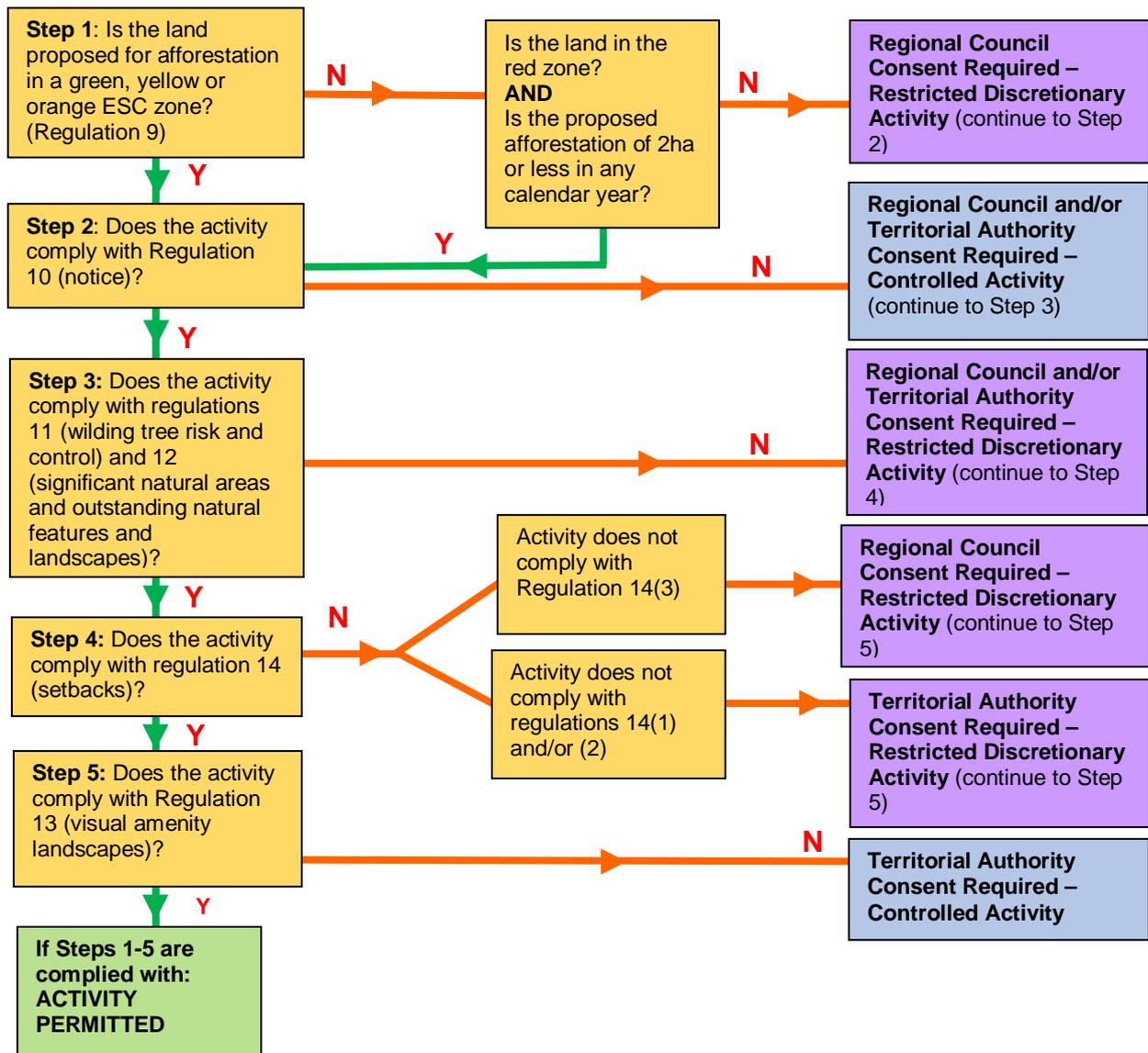


Figure 1 - Flow chart to determine when resource consent is required for afforestation.

1.1.5 Regulation 10 – notice

The relevant regional council and territorial authority must be provided with notice for *afforestation* at least 20 and no more than 60 working days before *afforestation* is planned to begin. This notice must be provided in writing and include the following information:

1. **Location of *afforestation*:** this should include a legal description of the land that *afforestation* is to occur on, and/or a map showing the boundary of the area proposed to be planted; and
2. **Proposed *setbacks*:** this must be accompanied by the description of how the *setbacks* were calculated. It should contain sufficient information to give the relevant councils confidence that the *setback* conditions will be complied with (refer to section 4.3 of the [NES-PF User Guide](#) for general guidance on calculating *setbacks*); and
3. **Timeframes for *afforestation*:** dates that *afforestation* is planned to begin and end on.



Section 5.2 of the [NES-PF Consenting and Compliance Guide](#) provides more detailed guidance on the notice provisions in the NES-PF, including formally receiving and acknowledging notice.

1.1.6 Regulation 11 – *Wilding Tree Risk Calculator* and control

Regional councils and territorial authorities both have functions relating to Regulation 11 as each council has functions in relation to indigenous biodiversity (sections 30(1)(ga) and 31(1)(b)(iii)) of the RMA).

If *afforestation* meets all the permitted activity conditions in Regulation 11(1)-(3), foresters must provide the relevant regional council and territorial authority with a copy of the *Wilding Tree Risk Calculator* calculation sheet and score at the same time they provide them with notice under Regulation 10 (Regulation 11(4)). Both councils require this information to confirm compliance.

If *afforestation* does not meet any of the permitted activity conditions in Regulation 11, a resource consent is required from both councils as a restricted discretionary activity under Regulations 16(1) and 16(2)(a). In this situation, it is expected that regional councils and territorial authorities will work together to reduce duplication and focus their considerations on the *wilding conifer* risk effects most relevant to their respective RMA functions (e.g. biodiversity, landscape effects, effects on regionally significant land).

Calculator

An overview of the *Wilding Tree Risk Calculator* is provided in section 2.5.2 of the [NES-PF User Guide](#) and on the MPI webpage². The *Wilding Tree Risk Calculator* must be used by a *suitably competent person* in accordance with the *wilding tree risk* guidelines to comply with Regulation 11(1)(b). For the purposes of completing the calculator, a *suitably competent person* is defined in the NES-PF as:

‘...a person with -

(a) tertiary qualifications in silviculture and forest ecology and at least 2 years’ experience in the field of silviculture; or

(b) at least five years’ experience in silviculture that includes forest establishment.’

It is expected that most large forestry companies will have staff or contractors who will meet this definition and are capable of using the *Wilding Tree Risk Calculator*. For smaller operators or farmers seeking to establish woodlots, they may have to engage specialist assistance to complete the calculator.

Council staff should not use the calculator on behalf of foresters in the role of a *suitably competent person* as this is a conflict of interest (i.e. council staff should not act as both the original assessor and the consent authority determining compliance). However, qualified council staff may provide assistance and advice to foresters to help them comply with Regulation 11.

Foresters are required to submit a copy of the wilding tree risk calculation sheet to both the regional council and the territorial authority at the same time as they provide notice (Regulation 11(4)). If a council is concerned about who did the calculation or how it has been carried out, the forester should be contacted to discuss the score and obtain further clarification where required. However, foresters are not obligated to recalculate or resubmit the score and sheet if they comply with the requirements in Regulation 11.

² Refer: <https://www.mpi.govt.nz/growing-and-harvesting/forestry/national-environmental-standards-for-plantation-forestry/wilding-tree-risk-calculator/>



If the calculator score is 12 or over, resource consent will be required as a restricted discretionary activity from both the regional council and territorial authority. Both councils can only consider those matters that discretion is restricted to in Regulation 17(1) when processing the consent application and imposing any consent conditions. Regulation 17(1)(a), (b) and (d) are relevant as follows:

- (a) *The level of wilding tree risk*: how will wilding trees affect the surrounding environment managed under each council's separate functions under sections 30 and 31 of the RMA? Are there any particularly sensitive receiving environments that would be adversely affected by *wilding conifers*?
- (b) *The mitigation proposed to restrict wilding conifer spread, including the species to be planted*: are the mitigation options proposed fit for purpose or are there other options to reduce the risk?
- (c) ...[only relevant where Regulation 12 is not complied with because *afforestation* is located in a *significant natural area* or *outstanding natural features or landscapes*]...
- (d) *The information and monitoring requirements*: will these enable the potential adverse effects of *wilding conifers* to be monitored and addressed in the future?

Control measures

Regulation 11(5) states:

All wilding conifers resulting from the afforestation activity must be eradicated at least every 5 years after afforestation where established in wetlands or significant natural areas -

- i. *on the same property on which the afforestation activity occurs; and*
- ii. *on any other adjacent properties under the same ownership or management as that of the property on which the afforestation activity occurs.*

The purpose of this condition is to control the spread of *wilding conifers* into sensitive and valued receiving environments. *Wilding conifer* is defined in Regulation 3 as “*self-established conifer species tree resulting from seed spread from plantation forestry, shelter belts, amenity planting, or an already established wilding conifer species tree population*”.

The five year timeframe is intended to provide some flexibility to foresters as to when these control measures are implemented and enables this to be tied in with other *plantation forestry activities*, such as *pruning and thinning to waste*. It also recognises that *wilding conifers* can come within three years so it is effective to remove them within five years (generally the sooner they are removed the better).

Wilding conifer control is only required for *wilding conifers* that result from that *afforestation* activity – not historical wilding issues that may be on the same or adjacent properties. The reference to all *wilding conifers* being 'eradicated' is to ensure the *wilding conifer* is killed and unable to result in further wilding spread. This may be achieved through a range of means (e.g. poisoning, felling). It does not necessarily require the *wilding conifer* to be physically removed from the *wetland* or *significant natural area*. Killing the *wilding conifer* but leaving it in situ may be a preferable technique for both environmental and cost reasons.

The condition is limited to *wilding conifers* on the same property or adjacent properties under the same ownership or management. The NES-PF cannot require foresters to implement control measures on land in different ownership or management.

In summary, the requirement to eradicate *wilding conifers* in Regulation 11(5) applies to *wilding conifers* that:

- Result from the *afforestation* activity



- Have established in a *significant natural area* or *wetland* (i.e. removing wildings from surrounding areas of land is not required)
- Are on the same property as the *afforestation* activity or adjacent properties under the same ownership or management.

1.1.7 Regulation 12 – Significant natural areas and outstanding features and landscapes

Regulation 12 states '*Afforestation must not occur within a significant natural area or an outstanding natural feature or landscape*'. *Outstanding natural feature or landscape* and *significant natural area* are both defined in Regulation 3 of the NES-PF and are areas recognised under sections 6(b) and 6(c) of the RMA respectively.

Regulation 8 states that both regional councils and territorial authority have functions in relation to Regulation 12. However, Regulation 16(3) states:

Relevant local authority for afforestation within significant natural area or outstanding natural feature or landscape

(3) If the land proposed for afforestation is within a significant natural area or an outstanding natural feature or landscape, a resource consent for the activity is required from the local authority that has identified that area, feature, or landscape within its plan or policy statement.

This ensures that resource consent is only required from the council that has identified the *significant natural area* or *outstanding natural feature or landscape* in their plan or policy statement. For example, if *afforestation* is proposed in an area of terrestrial biodiversity that is identified as a *significant natural area* in a district plan, and there is no corresponding *significant natural area* or *outstanding natural feature or landscape* in the relevant regional plan, there is no requirement to obtain resource consent from the relevant regional council under Regulations 12 and 16(3).

Where a resource consent is required because Regulation 12 is not complied with, the relevant council's discretion in consideration of the application and imposition of any conditions is restricted to those matters set out in Regulation 17(1). Regulation 17(1)(c) is the relevant consideration, as follows:

“the effects of afforestation on the values of the significant natural area or outstanding natural feature or landscape”.

1.1.8 Regulation 13 – Visual amenity landscapes

Regulation 13 states '*afforestation* must not occur within a visual amenity landscape if rules in the relevant plan restrict *plantation forestry activities* within that landscape'. A *visual amenity landscape* is defined in Regulation 3 of the NES-PF as:

visual amenity landscape means a landscape or landscape feature that -

(a) is identified in a district plan as having visual amenity values, however described; and

(b) is identified in the policy statement or plan by its location, including by a map, a schedule, or a description of the area.

Regulation 13 ensures that where a district plan has identified *visual amenity landscapes* and contains rules to restrict *plantation forestry activities* in these landscapes, resource consent is required for *afforestation*. This provides a level of protection and regulatory oversight for these landscapes. It is recognised that not all *visual amenity landscapes* would be adversely affected by *afforestation* and some plans do not restrict *plantation forestry activities* within these landscapes. Regulation 13 therefore only applies where there are rules in place to restrict *plantation forestry activities* within the identified landscape.



When determining which rules ‘*restrict plantation forestry activities* within that landscape’, an existing visual amenity landscape rule does not have to specifically refer to ‘*plantation forestry*’ or ‘*plantation forestry activities*’ to qualify. However, the rules do need to restrict a *plantation forestry activity* as defined in the NES-PF (i.e. the activities in Part 2, subparts 1-9). The *plantation forestry activity* most likely to be restricted in a *visual amenity landscape* is *earthworks*. However, it is important to ensure that the *earthworks* rules are specific to the landscape and are not simply underlying zone *earthworks* rules. This equally applies to rules relating to any other *plantation forestry activity*.

If Regulation 13 is not complied with then resource consent is required as a controlled activity under Regulation 15(3). The matters of control in Regulation 15(4) allow territorial authorities to impose consent conditions as appropriate to manage the effects on the values of the *visual amenity landscape*. Any consent conditions imposed must be reasonable and cannot negate the consent being granted – there is extensive case law on this point³. The types of valid conditions that would allow *afforestation* to occur but mitigate the adverse effects of the *afforestation* on the values of the visual amenity landscape will necessarily be site specific. Conditions may focus on restricting planting in certain key areas of the landscape (e.g. on a prominent ridgeline or within a view shaft).

Table 2 below provides examples of district plan rules that restrict or do not restrict *plantation forestry activities* in a *visual amenity landscape*. These examples are current at the time of publication and district councils will need to determine how any *visual amenity landscape* in their plan meets the definition in the NES-PF.

Table 2: Example of plan rules within visual amenity landscapes.

Plan	Example
Selwyn District Plan 2016 (Operative)	<p><i>Visual amenity landscapes</i> are identified spatially on the planning maps. Chapter C2 of the district plan contains rules specific to <i>plantation forestry</i>, including the following:</p> <p style="padding-left: 40px;">2.2.1.1. “The planting or harvesting of any plantation shall be a permitted activity if all of the following conditions are met: The plantation is not located in the areas shown on the Planning Maps as the Port Hills, Malvern Hills, High Country or the Visual Amenity Landscape on the Port Hills, excluding vineyards and orchards located within the Visual Amenity Landscape”</p> <p>As the rule specifically restricts <i>afforestation</i> in a Visual Amenity Landscape, Regulation 13 will apply and consent for a controlled activity would be required under the NES-PF.</p>
Kaikoura District Plan 2008 (Operative)	<p>The Kaikoura District Plan contains ‘Significant Landscape Areas’ (the plan clarifies that this overlay is not an <i>outstanding natural feature or landscape</i>). Chapter 11 of the district plan contains the following commercial forestry rule:</p> <p style="padding-left: 40px;">’11.7.2.2b: Commercial forestry [is a restricted discretionary activity] where any part of the forestry activity is visible against the skyline, when viewed from a Strategic Arterial Road (State Highway 1 and the Inland Road), or from the Kaikoura Peninsula water reservoir.’</p> <p>As the rule specifically restricts <i>afforestation</i> in an overlay meeting the definition of a <i>visual amenity landscape</i>, Regulation 13 will apply and consent for a restricted discretionary activity would be required under the NES-PF.</p>

³ *Residential Management Ltd v Papatoetoe City* A062/86 (PT), *Taranaki RC v Willan EnvC* W150/96, and *Ravensdown Growing Media Ltd v Southland RC EnvC* C194/00).



<p>Taupo District Plan 2007 (Operative)</p>	<p>The Taupo District Plan has identified 'Amenity Landscape Areas' and the plan clarifies that this overlay is not an <i>outstanding natural feature or landscape</i>. There are no rules that apply to any of the <i>plantation forestry activities</i> in Amenity Landscape Areas – the rules generally apply to subdivision or performance standards such as building height. As such, Regulation 13 would not apply to <i>afforestation</i> in an 'Amenity Landscape Area'.</p>
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1.1.9 Regulation 14 – Setbacks

General guidance on *setbacks* is provided in section 4.3 of the [NES-PF User Guide](#). However, the following requirements are specific to *afforestation*:

- **Regulation 14(1)(a)** – this regulation recognises that the owner of a *plantation forest* may be different to the owner of the land the *plantation forest* is located on. The 10m setback will not apply if the owner of the adjoining property is either the *plantation forest* owner or the owner of the land it is located on. 'Adjoining property' means that property will be physically touching the land that the *plantation forest* is located on. Section 4.5 of the [NES-PF User Guide](#) provides more guidance on 'adjoining' and 'adjacent'.
- **Regulation 14(1)(b)(ii) and 14(2)** – both these regulations require a *setback* to a *dwelling* and paved public road based on the shade cast by a fully-grown forest specie between 10am and 2pm on the shortest day of the year, except where the topography already causes shading. *Dwelling* is defined in the NES-PF as having the same meaning as dwelling house under the RMA⁴ which is focused on buildings used for residential purposes. General guidance on calculating shade can be found in the Cancer Society's '*Under Cover – Guidelines for Shade Planning and Design*'⁵.

⁴ Defined in the RMA as '**dwelling house** means any building, whether permanent or temporary, that is occupied, in whole or in part, as a residence; and includes any structure or outdoor living area that is accessory to, and used wholly or principally for the purposes of, the residence; but does not include the land upon which the residence is sited'.

⁵ Refer: <https://cancernz.org.nz/assets/Sunsmart/Sunsmart-resources/Guidelines-Under-Cover.pdf>