



Understanding national direction

1.3



Disclaimer

Although every effort has been made to ensure that this guide is as accurate as possible, the Ministry for the Environment will not be held responsible for any action arising out of its use. If you are uncertain about issues raised in this guide then direct reference should be made to the Resource Management Act and further expert advice sought if necessary.

This document may be cited as: Ministry for the Environment. 2021.
Understanding national direction. An everyday guide to the Resource Management Act: 1.3. Wellington: Ministry for the Environment.

Published in February 2021 by the
Ministry for the Environment
Manatū Mō Te Taiao
PO Box 10362, Wellington 6143, New Zealand

ISBN: 978-1-99-003320-9

Publication number: ME 1532

© Crown copyright New Zealand 2021

This document is available on the Ministry for the Environment website:
environment.govt.nz.

Contents

- Introduction 4
 - Resource management in New Zealand 4
 - National direction to support the RMA 4
 - About this guide 4
 - About the everyday guides 5
- About national direction 6
 - National environmental standards 6
 - National policy statements (NPS) 8
 - National planning standards 10
 - Water conservation orders 12
- Glossary 13

Introduction

Resource management in New Zealand

The Resource Management Act 1991 (usually called the RMA) is the main piece of legislation that sets out how we should manage our environment. It's based on the idea of the sustainable management of our resources, and it encourages us (as communities and as individuals) to plan for the future of our environment.

The RMA means councils set rules and requirements to manage activities ranging from building houses, clearing vegetation and moving earth to taking water from a stream. The purpose is to ensure activities won't harm our neighbours or communities, or damage the air, water, soil and ecosystems that we and future generations need to survive.

National direction to support the RMA

The RMA is largely implemented by local authorities (regional councils, unitary authorities, territorial authorities (city and district councils)). Central government can support implementation on national, regional or local issues, using a range of tools we call **national direction**.

MORE INFORMATION

- environment.govt.nz/acts-and-regulations/national-direction

About this guide

This guide is the third in a series of 13 guides called *An Everyday Guide to the RMA* (see more details about the series below).

It will help you understand national direction, particularly:

- **national environmental standards**
- **national policy statements**
- **national planning standards.**

It also covers:

- water conservation orders
- how you can be involved in national direction RMA processes.

This guide does not cover setting regulations for administration and procedural matters under section 360 of the RMA.

The guide has a glossary of RMA terms at the end. Words defined in the glossary are coloured [light green](#).

About the everyday guides

These guides are intended to help people work with their councils. If you're dealing with the Environmental Protection Authority (EPA), a board of inquiry, or the Environment Court (see the glossary to learn more about these), you might need more technical advice from the EPA (www.epa.govt.nz) or the Environment Court (environmentcourt.govt.nz).

For more information about specific parts of the RMA process, see the [full set of guides](#) on our website.

About national direction

Central government has an important role in supporting [local authorities](#) to implement the RMA, through a combination of guidance, policy and regulation.

‘National direction’ is a term used to describe [national environmental standards](#) (NES), [national policy statements](#) (NPS) and the [national planning standards](#).

For an issue to be considered for new national direction, it should involve one of the following:

- significant national-level benefits, costs or values
- significant benefits of a consistent, nationwide approach
- technical complexity that makes it more efficient or effective to address at a national level.

Central government can also provide guidance through **other** tools. These include good-practice guidelines and economic instruments like funds, which can encourage certain decisions over others.

National environmental standards

[National environmental standards](#) (NES) are regulations that can prescribe standards, methods and requirements (rules) for:

- land use and subdivision
- use of the coastal marine area and beds of lakes and rivers
- water take and use
- discharges
- noise
- monitoring.

Every NES specifies different standards, methods or rules depending on the issue it regulates. It’s a good idea to be familiar with NES that affect activities you are undertaking or wish to undertake, to ensure you comply with the rules. Your [local authority](#) can help you understand whether a NES impacts you.

What an NES can do

An NES can apply generally, or to a specified region, district or part of New Zealand.

It can set technical and non-technical standards, methods or other requirements. For example, the NES for air quality sets limits on acceptable discharges to air.

An NES can prohibit, allow or restrict activities on specific matters. For example, the NES for plantation forestry permits some plantation forestry activities, subject to conditions.

In some instances, the Government may decide the regulations for an issue must allow some flexibility for local authorities. In these cases, the NES can permit a local authority to retain or make rules that are stricter or more lenient.

The impacts of an NES

Some NES apply immediately. Others may have a transition period that delays their legal effect or have different dates for when various requirements apply.

Impact on plans

Local authorities must observe and enforce an NES through planning and decisions on [resource consents](#). Unless local authorities are allowed more stringent or more lenient rules, they must amend their plans to remove any duplication or conflict between an NES and their own rules.

If they need to amend a plan to remove duplication or conflict, they can do this without using the standard plan change process.

Impact on resource users

A new NES does not immediately apply to existing resource consents. However, local authorities can review the conditions of existing water, coastal and discharge permits, or a land-use consent granted by a council.

National policy statements (NPS)

A [national policy statement \(NPS\)](#) sets objectives and policies on matters of national significance, and may include more specific direction on how to apply these (eg, by stating methods or requirements that apply). Unlike an NES, an NPS does not contain rules.

MORE INFORMATION

- For details of each NES, including guidance materials see the [Regulations web page](#) on our website (search under National environmental standard).

The impacts of an NPS

The RMA requires local authorities to give effect to an NPS by amending planning documents ([regional policy statements](#), proposed plans, plans and variations) or taking other actions (like publishing information) to meet the requirements.

What each local authority has to do will differ, depending on their existing planning documents and the requirements of the NPS. In some cases, they might only need to amend high-level objectives in regional policy statements. In other cases, it could mean setting new objectives, policies and rules in their plans.

Because an NPS does not state rules, there is room for local authorities to apply it in a way that best reflects its relevance to their region. This means there may be some variation between local authorities. For example, two local authorities implementing the NPS for freshwater management will follow the same processes to implement the NPS, but their local objectives, policies and rules may differ. This also means implementing an NPS will not always lead to identical outcomes across the country.

Decision-makers on resource consent applications must also have regard to an NPS when making decisions. A territorial authority must have particular regard to an NPS when making a recommendation on a [notice of requirement](#) for a [designation](#).

Amending regional policy statements and regional/district plans

If a local authority has to change a plan to give effect to an NPS, it must do this within the timeframes specified within the NPS, or as soon as practicable if no timeframes are given.

There are two ways for local authorities to put an NPS into practice:

1. amend their policy statements and plans using the standard plan-making process, or
2. if directed by an NPS, incorporate NPS objectives and policies straight into their policy statements and plans without using the standard RMA process, giving public notice of the amendments within 5 working days.

The standard plan-making process involves notifying the public of the amendment, receiving [submissions](#) and holding [hearings](#). This is not an opportunity for local authorities to change the NPS – rather, it makes them focus on how their policy statements or plans will give effect to the NPS.

Anyone can be involved in the standard plan-making process.

MORE INFORMATION

- For details of each NES, including guidance materials see www.mfe.govt.nz/rma/rma-legislative-tools/national-policy-statements
- [Making a submission about a proposed plan or resource consent guide](#)

How you can get involved

There may be two opportunities to become involved in the development of an NES or NPS:

1. Scoping

When deciding whether to prepare national direction, the Minister for the Environment may seek early input and comments from [local authorities](#) or Māori/iwi, stakeholders, technical specialists or anyone else they consider appropriate.

In some cases, this early engagement may be with specific audiences; at other times, anyone can contribute. The Ministry for the Environment carries out this initial consultation on behalf of the Minister. There may be workshops or options papers for the public to comment on.

2. Consultation

The formal consultation phase is where you may have an opportunity to make a written submission on the proposed NPS or NES. During the consultation phase there may be workshops, hui or public meetings at which allow Māori/iwi, stakeholders and technical specialists to engage with Ministry officials.

If you want to find out when there will be an opportunity to get involved in the scoping or public consultation stages, check the Ministry's website for updates. See environment.govt.nz/acts-and-regulations/national-direction.

Alternatively, you can contact the Ministry to ask when consultation will be taking place, and how you can be involved.

National planning standards

The [national planning standards](#) are a form of national direction. They aim to make RMA plans (policy statements, regional plans and district plans) more consistent and easier to use.

Planning standards can cover how to set out plans and what to include in them. They can:

- direct the structure, form and content of local plans to improve consistency between plans
- support the implementation of NPS, NES, the New Zealand Coastal Policy Statement and other regulations under the RMA
- specify the objectives, policies and methods (including rules) within a plan, and requirements for regional policy statements.

The [Ministry for the Environment](#) and [Department of Conservation](#) (DOC) worked with councils, iwi and sector groups to develop the first set of planning standards. These address the structure and form of plans, set some national definitions and require plans to be accessible through an online interactive plan (e-Plan).

The Ministers for the Environment and Conservation released these first planning standards on 5 April 2019.

The final standards and supporting material (including recommendations on submissions reports, advice to ministers, RIS and section 32AA report) are on the Ministry's website: environment.govt.nz/acts-and-regulations/national-planning-standards.

Timeframes for implementing the first set of planning standards

Local authorities are responsible for implementing the first set of planning standards.

The *Implementation Standard* specifies the timeframes that apply to the first set of planning standards. Different timeframes apply to different planning standards and different local authorities. If a council undertakes a full plan review within these timeframes, the new plan must meet the planning standards when it is notified for submissions.

You can check with your council on the progress it has made towards implementing the planning standards.

Mandatory and discretionary directions

Most planning standards are mandatory directions. This means local authorities will implement these without going through the standard plan-change process. The local authority may also make consequential amendments without following the standard plan-change process.

Consequential amendments

Local authorities may also make consequential amendments (required as a result of implementing the standards) without going through standard plan-change processes. These additional changes (under RMA section 581(3)(d)) remove any duplication or conflict with the planning standards.

Other amendments

Any amendments needed beyond consequential amendments must follow a standard plan-change process.

Amendments required to implement the planning standards that do not go through a standard plan-change process must be publicly notified once they have been made.

Submitters are unable to submit on, or request changes to, some matters that are set by the planning standards during plan-making and review – such as some definitions, the range and names of chapters, sections, where provisions are set out and how they are displayed. Councils will identify which parts of plans are set by the planning standards and can't be changed.

Water conservation orders

A water conservation order (WCO) is a tool for protecting specific water bodies that have outstanding values. WCOs restrict regional councils' decision-making powers over a water body. WCOs can be used to protect characteristics such as:

- the water body's value as a habitat or fishery
- its wild and scenic nature
- its recreational, historic, spiritual or cultural value.

WCOs can apply to rivers, lakes, streams, ponds, wetlands or aquifers. They can cover freshwater or geothermal water.

The impact of a water conservation order

A WCO can prohibit or restrict a regional council from issuing new water and discharge permits, although it cannot affect existing permits. Once a WCO is made, councils need to ensure their regional policy statements and regional and/or district plans are consistent with it. Councils cannot grant water, coastal or discharge permits that are contrary to the restrictions, prohibitions or provisions of a WCO.

Getting involved

Anyone can make a submission to a special tribunal considering a WCO application. Once the tribunal has issued its report, anyone who made a submission can choose to make a further submission to the [Environment Court](#) on that report. The Environment Court must hold a public inquiry (like a hearing) if it receives one or more submissions.

For information on current applications for new water conservation orders and amendments to existing orders see the Ministry's website: environment.govt.nz/acts-and-regulations/water-conservation-orders.

Alternatively, you can contact the Ministry with any questions you have about water conservation orders. Contact us at: Freephone: 0800 499 700; phone: +64 4 439 7400 or email: info@mfe.govt.nz.

Glossary

The purpose of this glossary is to help you understand the meaning of terms used in this guide. Some of these terms have specific legislative definitions in section 2 of the RMA.

Designation	Provisions in a district plan that provide notice to the community of an intention by the council or a requiring authority to use land in the future for a particular work or project.
Department of Conservation (DOC)	Administers land under the Conservation and National Parks Acts, and under the RMA, oversees the management of the coastal environment.
Environment Court	A specialist court where people can appeal decisions, including those made by councils on a policy statement or plan, or on a resource consent application; or where they can apply for an enforcement order.
Hearing	Gives people who have already written submissions the chance to speak to the decision-maker about what a council or an applicant is proposing.
Local authority	Means a regional council or territorial authority (and a council which acts as both a regional and district council).
Ministry for the Environment	Advises the Government on policies, laws and other means to improve environmental management in New Zealand.
National direction	Supports local decision-making under the Resource Management Act 1991 (RMA). This is provided using national policy statements (NPS), national environmental standards (NES) and national planning standards (planning standards).
National environmental standard (NES)	Regulations that prescribe technical and non-technical standards, methods or other requirements for land use and subdivision, use of the coastal marine area and beds of lakes and rivers, water take and use, discharges or noise. Each regional, city or district council must enforce the same standard. In some circumstances where specified in the NES, councils can impose stricter or more lenient standards.

National Planning Standards	Are issued by the Minister for the Environment or the Minister of Conservation (for coastal marine area matters) to standardise elements of RMA plans and policy statements.
National policy statement (NPS)	Enable Government to prescribe objectives and policies for matters of national significance, which are relevant to achieving the sustainable management purpose of the RMA. A NPS may also give particular direction to local authorities as to how they need to give effect to the policies and objectives of the NPS.
Notice of requirement	A proposal for a designation, which may be notified or non-notified.
Regional policy statement	Must be prepared by all regional councils. They help set the direction for managing all resources across the region.
Resource consent	Permission from the council for an activity that might affect the environment, and that isn't allowed 'as of right' under a plan, a national environmental standard, regulation and the RMA.
Resource Management Act 1991 (RMA)	New Zealand's main piece of environmental legislation. It provides a framework for managing the effects of activities on the environment.
Standard plan-making process	The regular process for a council to develop a plan or plan change, involving notifying the public, receiving submissions and holding hearings.
Submission	Written comments, opinions, concerns, support or opposition about a proposed development, a designation or a proposed policy statement or plan.