

Resource Legislation Amendments 2017

RESOURCE LEGISLATION AMENDMENTS 2017 – FACT SHEET 12

Alignment of Conservation Act 1987 and Reserves Act 1977 processes with the Resource Management Act 1991

This is part of a series of 16 fact sheets that give an overview of recent resource legislation amendments.

These changes come into effect at various times, as detailed in this fact sheet.

Conservation Act application processes have been aligned with the resource consent process

Four key changes have been made to the Conservation Act 1987, which are detailed below.

The intent of these changes is to more closely align the application process for concessions and access arrangements with resource consents under the Resource Management Act 1991 (RMA).

The changes come into effect on 18 October 2017 but do not affect any applications lodged before that date.

These changes do not necessarily mean that decisions on a resource consent application and concession application for the same activity will be made at the same time, even if applications are lodged at the same time, as the steps and information requirements for each process remain separate.

Return of non-compliant concession applications

Previously there was no clear stage in the concessions process whereby an application was accepted and continued for processing.

The Conservation Act has been amended to add a new step to the concession process, allowing the Minister to determine if an application meets the minimum standards for acceptance, within 10 working days of receipt. This is the same period within which councils may reject an incomplete resource consent application under the RMA.

The minimum standards themselves have not changed as a result of these amendments, as set out in section 17S of the Conservation Act 1987.

If the concession application contains all the information required by section 17S, the process continues. If not, the application may be returned to the applicant with reasons why. If an applicant then decides to resubmit their application, it becomes a new application and the process begins again.

Concession applications publicly notified

Previously the Minister of Conservation or DOC would receive a concession application and then make a preliminary decision. If this preliminary decision was to grant and the criteria for public notification was met, this 'intention to grant' would be notified for public submissions before a final decision is made.

The Conservation Act has been amended so that any concession applications that require public notification are notified, rather than the intention to grant, allowing any submissions to be considered as part of the substantive assessment of the application.

Submission period for notified applications changed

Previously the minimum submission period for notified concession and access arrangement applications was 40 working days.

The Conservation Act and Crown Minerals Act have been amended to reduce the minimum submission period for these applications to 20 working days. The due date for submissions will be specified in the public notice, and submissions must be sent to the Director-General of Conservation. This is the same period that councils have for resource consent applications under the RMA.

The minimum submission period for other public notices under the Conservation Act remains 40 working days.

Statutory stand-down period

Previously the statutory Christmas–New Year stand-down period for processing concession applications ran between 25 December and 15 January (inclusive).

The Conservation Act has been amended to change the definition of 'working days', so that the statutory stand-down period runs from 20 December to 10 January (inclusive). This is the same stand-down period that councils have for processing resource consent applications under the RMA.

Processing recreation reserve exchange requests and RMA applications together

From time to time councils will exchange land that is part of a reserve for another piece of land (for example, as part of an urban redevelopment project), to enable a certain project or development to proceed.

Previously an applicant would need to seek any resource consents or plan changes for a project separately to requests for an exchange for other land under the Reserves Act 1977, even if they were for the same overall proposal. The standard RMA and reserve exchange processes do not generally align well if done separately, however.

The Reserves Act and RMA have been amended to establish an optional joint process of public notification, submissions and hearings for exchanges of recreation reserves and resource consent applications and/or plan change requests.

The intent of this change is to reduce process duplication for projects that require both RMA and recreation reserve exchange approvals but preserve the integrity of the decision-making framework under the Reserves Act.

These changes come into effect on 19 April 2017. The standard reserve exchange process continues to apply to any recreation reserve requests made before that date.

The criteria for making substantive decisions on recreation reserve exchanges are set out in the Reserves Act, not the RMA, and are unchanged as a result of these amendments.

Details of the new joint process are set out below.

Criteria for joint process

While the applicant may seek to use the joint process, the authority (usually a council) has full discretion over whether to use a joint process, so long as the following entry criteria are met:

- the reserve is a recreation reserve (for example, the joint process cannot be used to exchange historic or scenic reserves for other land)
- the authority is both the:
 - administering body for the reserve
 - consent authority (for a resource consent application), or authority responsible for the district or regional plan (if a change to that plan is requested).

If a resource consent is applied for, a joint process can only be used if the recreation reserve exchange must occur for that resource consent to be implemented.

Joint process

If the authority decides to use the joint process, the joint application must be publicly notified, and processed in accordance with:

- the notified resource consent process
- Schedule 1 of the RMA (if it includes a plan change request).

Once any appeals under the RMA have been resolved or if there are no appeals on the RMA application, the authority must make its decision on the request. In doing so, the authority must:

- consider any submissions received on the application
- only decide to approve the exchange if approval would result in a net benefit of recreation opportunities for the community that benefits from or enjoys the existing reserve.

The authority must advise the applicant and the Minister of Conservation of its decision on the reserve exchange request.

Electronic notification

The new electronic notification provisions in the RMA, which are detailed in Fact Sheet 13, apply to any joint applications that are lodged after 18 October 2017 (when those provisions take effect).

Resource consent commencement

If the authority has made a decision on a resource consent, but the exercise of that consent is subject to approval of a recreation reserve exchange that is still being processed, the authority must notify the applicant of when its decision on the reserve exchange request will be made. The resource

consent will commence on the date that the notice is sent, or any other later date specified in the notice.

Fixing charges for joint processes

Councils can already fix charges for processing resource consent applications and plan change requests. Section 36 of the RMA has been amended so that councils can also fix charges for recreation reserve exchange requests that are part of a joint process.

Fact sheets in this series

This is one of a series of 16 fact sheets providing an overview of amendments to the:

- Resource Management Act 1991
- Conservation Act 1987
- Reserves Act 1977
- Public Works Act 1981
- Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

The full set of fact sheets is available on our website:

<http://www.mfe.govt.nz/publications/rma/resource-legislation-amendments-2017-fact-sheet-series>

Find out more

Contact the Ministry for the Environment by emailing info@mfe.govt.nz, or visit www.mfe.govt.nz/rma.

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