



Six-month processing of notified consent applications

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This is one of a series of fact sheets developed to provide an overview of the Resource Management Amendment Act 2013, the Local Government (Auckland Transitional Provisions) Amendment Act 2013, and the Local Government Official Information and Meetings Amendment Act 2013.

This fact sheet outlines changes to the resource consent process under the Resource Management Act 1991 (RMA) for applications that are notified and limited notified.

See fact sheet 2 for changes that relate to all applications for resource consents.

All section references are to the RMA unless stated otherwise.

When these provisions take effect

The changes to six-month processing of resource consents do **not** come into effect immediately following Royal Assent.

They will come into effect by an Order in Council at a later date that aligns with other changes proposed through the ongoing resource management reform process.

Why were changes needed?

The amendments address concerns about:

- » the time taken for resource consents to be granted for medium-sized projects
- » uncertainty about the actual period of time needed between lodgement with councils and decisions being made on notified and limited notified applications
- » the costs and risks this uncertainty creates for applicants, investors and communities.

How has the RMA been amended?

Overview

The amendments revise the timeframes for consent processing for notified and limited notified applications. These applications now must be processed in 130 and 100 working days, respectively. In addition, some of the exceptions to consent processing timeframes that previously applied to further information requests and to consent hearings have been removed. This means the statutory processing time more closely resembles the actual elapsed time between lodgement of applications and decisions being made.

The six-month timeframe (130 working days for notified applications and 100 working days for limited notified applications) comprises:

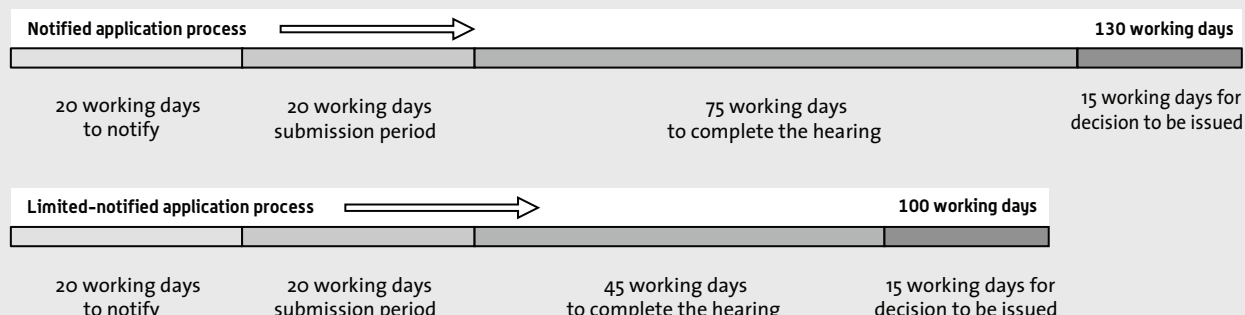
- » 20 working days to notify
- » 20 working days for submissions
- » either 75 working days (for notified) or 45 working days (for limited notified) from the close of submissions to complete the hearing
- » 15 working days for commissioners to prepare written decisions.

The diagram on the next page summarises these timeframes.

In summary, new provisions applying to notified and limited notified applications include:

- » more time to check and formally accept applications in section 88, now 10 working days, up from 5 working days (see fact sheet 2)
- » revised and clearer criteria for accepting applications in Schedule 4 (see fact sheet 2)
- » only one 'clock stop' for further information requests under section 92(1) (reduced from two), which may occur before notification

Six-month processing timeframes



- » no clock stops between notification and the decision (giving a fixed timeframe for decisions of 110 working days for notified applications and 80 working days for limited notified applications from notification to final decision), unless the applicant requests processing be suspended
- » more time to decide whether to notify applications and to serve notice (20 working days, up from 10 working days)
- » inclusion of the time for a hearing within the processing timeframe
- » pre-provision of evidence before a hearing is now mandatory
- » a new provision for applicants to request their application be put on hold for up to 130 working days (six months).

Further information requests and the ability to stop the clock

Section 88C allows the processing clock to be stopped only once when further information is requested under section 92(1). The clock can only be stopped in the period before a decision is made on notification (ie, during the first 20 working days from lodgement). Following the decision to notify, further information requests will not stop the clock.

This helps avoid time delays following notification of the application and helps achieve a fixed timeframe for decision-making. If applicants consider they need more time to be ready to prepare their case (for example, in response to submissions), they can request to have their application placed on hold.

While under Section 88C the processing clock can only be stopped once when further information is requested, section 92(1) has not changed which means consent authorities can still request further information any number of times. Section 104(7) also remains unchanged, so

consent authorities must consider when making a decision on the application whether requests to the applicant resulted in further information being made available.

Non-stop processing between notification and decision

Section 103A provides the time limits for the completion of hearings of notified or limited notified applications (rather than time limits for commencement of hearings). Hearings must be completed no more than 75 working days from the end of submissions for notified applications. For limited notified applications hearings must be completed within 45 working days. This timeframe includes all the time for a hearing to take place and be concluded.

Following the close of the hearing, there will still be 15 working days for a written decision to be issued.

Time limit for notification

Under section 95, the decision on whether or not to notify the application, and to serve notice, has been increased from 10 working days to 20 working days from lodgement.

Pre-provision of evidence

Section 103B makes pre-provision of evidence mandatory before consent hearings for notified and limited notified applications. The pre-reading of evidence by all parties can save time spent at the hearing. The new requirements are:

- » councils must provide the section 42A report and any other evidence to the applicant and submitters at least 15 working days before the hearing
- » applicants must provide all their briefs of evidence to the council at least 10 working days before the hearing and the council must make this available at its office

- » submitters calling expert evidence must provide that evidence to the applicant and the council at least five working days before the hearing and the council must make this available to other submitters.

Applicants can suspend applications for up to six months

Sections 91A, 91B and 91C provide a new process for applicants to place notified and limited notified applications on hold for up to six months (130 working days). This period includes any time the application may have been on hold for other reasons (section 88B).

The request is made under section 91A and:

- » can only be made during the period following notification and before the close of a hearing
- » councils must grant the request, and notify the applicant of the date on which the application was suspended
- » a request cannot be made if the council has already made a decision on the application without holding a hearing, or if the applicant lodges a notice of motion with the Environment Court for direct referral, or if the Minister calls in the application.

Sections 91B and 91C determine when the application ceases to be on hold and how the application is subsequently treated.

- » The applicant can make a written or electronic request under section 91B for the processing of the application to continue.
- » The application will cease to be on hold if the applicant lodges a notice of motion with the Environment Court, or if the Minister for the Environment calls in the application.

Once the 130 working day limit has passed, the council can choose to either return the application to the applicant (ie, cancel the application), or continue to process the application. This time limit helps keep resources available for those who are ready to progress their applications and avoids unnecessary uncertainty for affected communities.

The provisions of sections 91A, 91B and 91C do not apply to applications that are non-notified.

The limited notified submission period can be reduced

Councils can close the submission period early on limited notified applications once they are certain that all submissions or written approvals have been received.

Certain other provisions of the RMA remain unchanged

The provisions of sections 37 and 37A are unchanged and will continue to give councils the power to extend time periods in particular circumstances.

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