

# Ngā mana tāpui whenua, ngā pānui whakaritenga me ngā whakamanatanga: Te neke ki te pūnaha hou

## Requiring authorities, notices of requirement and designations: Moving to the new system

New laws are being phased in that aim to help Aotearoa New Zealand protect and manage the environment and its resources. The Spatial Planning Act 2023 (SPA) and the Natural and Built Environment Act 2023 (NBA) were enacted on 23 August 2023.<sup>1</sup>

### This fact sheet covers:

- when requiring authority and designation provisions commence, are saved or transitioned
- requiring authority status
- notices of requirement and designations.

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<sup>1</sup> The Climate Adaptation Act is also planned, which will address managed retreat, and funding and financing of climate adaptation. A date for introduction of the Bill is not yet confirmed.

## When requiring authority and designation provisions commence, are saved or transitioned

Schedule 1 subpart 8 sets out how the designation provisions apply as the system moves from the Resource Management Act 1991 (RMA) to the NBA.

In summary, unless there is an exception in the table below, RMA designation provisions apply until a region's NBEA date. This is the date 10 working days after a regional planning committee has notified the decisions version of its first natural and built environment plan (NBE plan). From that date, the NBA designation provisions apply.

Date	Provisions
<b>on enactment (Royal assent)</b>	<ul style="list-style-type: none"> <li>• RMA requiring authorities, including approved network utility operators, continue to be requiring authorities</li> <li>• notices of requirement under consideration continue to be processed under the RMA</li> <li>• the RMA applies to all new notice of requirement applications</li> <li>• outline plans are lodged under the RMA</li> <li>• designations in RMA plans and their associated conditions remain in place</li> </ul>
<b>three months after enactment</b>	<ul style="list-style-type: none"> <li>• council-controlled organisations automatically become requiring authorities<sup>2</sup></li> <li>• newly defined network utility operators (including ports and emergency services) can apply for requiring authority status under the NBA</li> <li>• "other applicants" that meet the NBA criteria can apply for requiring authority status</li> <li>• requiring authorities approved under the NBA can apply for a notice of requirement using the RMA provisions</li> </ul>
<b>on adoption of a regional spatial strategy (RSS)</b>	a regional spatial strategy becomes a consideration in decision-making on RMA notices of requirement
<b>40 days before NBE plan notification</b>	<ul style="list-style-type: none"> <li>• existing RMA designations are included in a proposed NBE plan</li> <li>• an application for a new notice of requirement to a territorial authority can be included in the NBE plan if the requiring authority and regional planning committee agree</li> </ul>
<b>on a region's NBEA date</b>	<ul style="list-style-type: none"> <li>• existing RMA designations become NBA designations</li> <li>• new NBA notice of requirement processes apply – a combined process, a design and build process and a spatial footprint process</li> <li>• applications for new notices of requirement and primary and secondary construction and implementation plans are made under the NBA.</li> </ul>

<sup>2</sup> Schedule 1, clause 38 of the NBA.

## Requiring authority status

**Existing RMA requiring authorities** (including approved network utility operators) retain their status under the NBA.<sup>3</sup>

Applicants continue to apply for requiring authority status under the RMA until three months after Royal assent. If the requiring authority application has not been determined by the time of Royal assent, it will continue to be processed under section 167 of the RMA.<sup>4</sup>

**Applications for requiring authority status commence under the NBA** three months after Royal assent. All new applications to become a requiring authority are processed under the NBA.<sup>5</sup> The list of those who may apply to become a requiring authority is expanded under the NBA. It includes port and inland port operations and emergency services as “network utility operators”,<sup>6</sup> as well as a new category of “other applicants”.<sup>7</sup>

A requiring authority approved under the NBA can lodge notices of requirement under the RMA as soon as it’s approved by the Minister for the Environment.<sup>8</sup>

Until the region’s NBEA date, the provisions of the RMA for **revocation and transfer of requiring authority status** continue to apply.<sup>9</sup>

## Notices of requirement and designations

At enactment **existing designations** confirmed under the RMA and their associated conditions remain in place. Until the region’s NBEA date, notices of requirement will continue to be processed under the RMA and included in district plans.

A requiring authority may **continue submitting outline plans** for an RMA designation until the region’s NBEA date.<sup>10</sup>

**Territorial authorities continue to process notices of requirement** (outside of the plan development process). Regional planning committees will be responsible for including existing designations in an NBE plan.

Once a **regional spatial strategy is adopted** in a region, the territorial authority must consider any of its relevant provisions<sup>11</sup> when making recommendations on a notice of requirement.

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<sup>3</sup> Schedule 1, clause 39(1) of the NBA.

<sup>4</sup> Schedule 1, clause 39(3) of the NBA.

<sup>5</sup> Sections 513–515 of the NBA apply.

<sup>6</sup> Section 11, definition of “network utility operator”.

<sup>7</sup> Section 514 (4)–(8) of the NBA.

<sup>8</sup> Schedule 1, clause 27 of the NBA.

<sup>9</sup> Section 180 of the RMA.

<sup>10</sup> Schedule 1, clause 43(4) of the NBA.

<sup>11</sup> This requirement is in addition to the provisions in sections 168A and 171 RMA that apply to a territorial authority when considering a notice of requirement and any submissions received.

The **RMA provisions relating to notices of requirement no longer apply** from a region's NBEA date.<sup>12</sup> Applications for notices of requirement lodged under the RMA but not confirmed before a region's NBEA date continue to be processed under the RMA, but are included in an NBE plan.<sup>13</sup>

From a region's NBEA date, **secondary construction and implementation plans** under the NBA must be applied for.<sup>14</sup>

The **RMA lapse period of five years** for a designation not given effect to, will continue to apply to designations in place before the region's NBEA date. The **NBA lapse period** of 10 years will apply to designations confirmed after the region's NBEA date.<sup>15</sup>

A regional planning committee **must include designations in an NBE plans** before notification, similar to the process under the RMA.<sup>16</sup>

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<sup>12</sup> Schedule 1, clause 43(6)(a) and (b) of the NBA.

<sup>13</sup> Schedule 1, clause 42(1) and 43(3) of the NBA.

<sup>14</sup> Construction and implementation plans (CIPs), Schedule 1, clause 43(6)(d) of the NBA.

<sup>15</sup> Schedule 1, clause 43(5) of the NBA.

<sup>16</sup> Schedule 6, clause 30 of the NBA.

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