



Exclusion of the hierarchy of obligations from resource consenting

Update following the Resource Management (Freshwater and Other Matters) Amendment Act 2024 that came into force on 25 October 2024

The hierarchy of obligations contained in clauses 1.3(5) and 2.1 of the National Policy Statement for Freshwater Management 2020 is now excluded from resource consenting (applications and decisions).

Context

Clause 1.3 of the National Policy Statement for Freshwater Management 2020 (NPS-FM) contains the concept of Te Mana o te Wai. This concept recognises the fundamental importance of freshwater and that protecting the health of freshwater protects the health and wellbeing of the wider environment and people. Te Mana o te Wai includes a hierarchy of obligations, as outlined in clause 1.3(5) of the NPS-FM, setting out in priority order the need to protect:

- first, the health and wellbeing of water bodies and freshwater ecosystems
- second, the health needs of people (such as drinking water)
- third, the ability of people and communities to provide for their social, economic and cultural wellbeing, now and in the future.

Managing freshwater in a way that prioritises the hierarchy of obligations is the stated (single) objective of the NPS-FM (at clause 2.1).

Exclusion of the hierarchy of obligations from resource consenting

The Resource Management (Freshwater and Other Matters) Amendment Act 2024 (the Amendment Act) amended sections 92,¹ 104,² and Schedule 4³ of the Resource Management Act 1991. The amendments exclude consideration of the hierarchy of obligations contained in clauses 1.3(5)

¹ Further information, or agreement, may be requested.

² Consideration of applications.

³ Information required in application for resource consent.

and 2.1 of the NPS-FM from resource consent applications, and from resource consent decisions. This applies to all resource consent applications, including those already lodged with a consent authority that have not yet been decided.

Consideration of the hierarchy of obligations is excluded from resource consenting as follows.

- Resource consent applicants no longer need to include an assessment against clause 1.3(5) or clause 2.1 of the NPS-FM in applications for resource consent.
- Consent authorities (usually the local council) can no longer request information about or have regard to clause 1.3(5) or clause 2.1 of the NPS-FM when deciding resource consent applications.

The hierarchy of obligations continues to apply to resource consenting where it is contained in a regional policy statement, plan, or other statutory document (such as an iwi planning document).

What applicants need to do

From 25 October 2024, when you are preparing an application for resource consent requiring an assessment of the relevant provisions of the NPS-FM, you no longer need to include an assessment against clause 1.3(5) or clause 2.1 of the NPS-FM.

If you lodged an application with an assessment against clause 1.3(5) or clause 2.1 of the NPS-FM before 25 October 2024, it will not be considered by your council when your consent is decided.

What consent authorities need to do

Consent authorities must not have regard to the hierarchy of obligations contained in clause 1.3(5) or 2.1 of the NPS-FM when deciding resource consent applications. This applies to:

- resource consent applications lodged with a consent authority from 25 October 2024
- resource consent applications lodged with a consent authority before 25 October 2024, provided the consent authority has not advised the applicant of the decision on the application.

Resources

For more information about the NPS-FM, including factsheets and a link to the regulations: see Ministry for the Environment: [National Policy Statement for Freshwater Management](#).

For more information, including background information, on the Amendment Act, see Ministry for the Environment: [Resource Management \(Freshwater and Other Matters\) Amendment Act 2024](#).

To view the Amendment Act, see New Zealand Legislation: [Resource Management \(Freshwater and Other Matters\) Amendment Act 2024](#).