

# Roanga mōrahi hou mō ētahi whakaaetanga ā-wai māori

## New maximum duration for some freshwater-related consents

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.

During the transition to the new resource management system, there is a new maximum duration for some freshwater-related resource consents (defined as “affected resource consents”).<sup>1</sup>

In each region, the new maximum duration applies to some freshwater-related consents applied for between:<sup>2</sup>

- the day after the NBA receives Royal assent (24 August); and
- the date that allocation methods in a region’s first Natural and Built Environment Plan (NBE plan) have legal effect.

The new maximum duration doesn’t apply to freshwater-related consents applied for on or before 23 August 2023.

### This fact sheet covers:

- new maximum duration
- activities the new maximum duration applies to
- what applicants need to do
- the exemption process
- your right of objection
- notification requirements.

<sup>1</sup> Schedule 12 clause 38 of the Resource Management Act 1991 (RMA).

<sup>2</sup> Schedule 12 clause 38 of the RMA (definition of “applicable interim period”).

## New maximum duration

During the “applicable interim period”, some freshwater-related consents can only be granted for a duration that will not exceed **five years** after the date that allocation methods<sup>3</sup> in a region’s first NBE plan have legal effect.<sup>4</sup>

Allocation methods in a region’s first NBE plan will have legal effect at different times:

- the comparative consenting process and market-based allocation methods will have legal effect when any appeals have been determined and the associated rules are deemed beyond legal challenge<sup>5</sup>
- all other allocation methods will have legal effect at a region’s NBEA date.<sup>6</sup>

Freshwater-related consents for exempt activities (see table below) are not captured by the new duration requirements.

## Activities the new maximum duration applies to

The following tables set out which activities are subject to the new maximum duration, and which are exempt.

### The new maximum duration will apply to

Water permits for activities that take, use, dam, or divert freshwater.

Discharge permits for activities that discharge any contaminant or water into freshwater.

Discharge permits for activities that discharge any contaminant onto or into land and may lead to that or a resulting contaminant entering freshwater.

Land use consents for activities that would contravene section 15(1)(b) of the Resource Management Act 1991 (RMA) (freshwater only).

### The new maximum duration will not apply to activities primarily for (exempt activities)<sup>7</sup>

Construction, operation, upgrading, or maintenance of:

- local authority or community reticulated water supply networks
- infrastructure that forms part of a public wastewater or stormwater network
- specified nationally significant infrastructure activities.

Operation, upgrading, or maintenance of any existing hydroelectricity generation schemes.

An activity specified in regulations as exempt by the Minister for the Environment; the Minister can introduce a new exemption in certain circumstances.

Replacement, repair, or removal activities for all exempted activities listed above.

<sup>3</sup> Section 11 and section 194 of the NBA.

<sup>4</sup> Schedule 12 clause 39 of the RMA.

<sup>5</sup> Schedule 1 clause 6(9) of the NBA.

<sup>6</sup> Schedule 1 clause 6(4) of the NBA.

<sup>7</sup> Schedule 12 clause 40(3) of the RMA.

## What applicants need to do

If you're applying for a freshwater-related consent from the day after Royal assent, you'll be applying under the RMA, and any consent will be granted under the RMA as well.

Use Form 9, Resource Management (Forms, Fees and Procedures). It will require you to:

- indicate whether your application is an 'affected resource consent'; that is, a freshwater-related consent applied for from the day after Royal assent of the NBEA
- if so, whether you're seeking an exemption from the new maximum duration for a freshwater-related consent.

## The exemption process

If you're seeking an exemption from the new maximum duration, your application must:

- seek a determination from the consent authority (usually your council)<sup>8</sup>
- show that it's primarily for a specified exempted activity.<sup>9</sup>

Within 10 working days of receiving your application the consent authority must let you know whether it is an application for an 'affected resource consent' and whether it is primarily for a specified exempt activity.<sup>10</sup>

If your application is not complete, the consent authority doesn't need to make a determination.

If your consent application is complete and is eligible for an exemption, the consent authority will determine the duration of your consent up to a maximum of 35 years.<sup>11</sup>

## Your right of objection

The ability to make an objection on a decision of a consent authority is provided for in section 357A. If you have the right to, you must make your objection in writing no later than 15 working days after you receive the decision on your consent application.<sup>12</sup>

## Notification requirements

If your application is for a **replacement** freshwater-related resource consent and its duration would be determined in accordance with clause 39 if granted, it can only be publicly notified if you request it.<sup>13</sup> The consent authority can still give limited notification or non-notify your consent application.

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<sup>8</sup> Schedule 12 clause 40(1)(a)(ii) of the RMA.

<sup>9</sup> Schedule 12 clause 40(1)(a)(iii) of the RMA.

<sup>10</sup> Schedule 12 clause 39(3) of the RMA.

<sup>11</sup> Schedule 12 clause 40(2) of the RMA.

<sup>12</sup> Section 357C(1) of the RMA.

<sup>13</sup> Schedule 12 clause 41 of the RMA.

If your application is limited notified, a submitter may only appeal if the Environment Court is satisfied that they have a greater interest in the application than any interest the general public may have.<sup>14</sup>

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<sup>14</sup> Schedule 12 clause 42 of the RMA.

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