

The National Policy Statement for Freshwater Management 2020 (NPSFM 2020) and the Resource Management Act's National Environmental Standards for Freshwater 2020 (NES-FW 2020) took effect on 3 September 2020.

## Consent applications and the NPS

Applications for resource consent lodged **on or after** 3 September 2020 must include an assessment of the relevant provisions to be accepted under s88 of the RMA. Where applications are already in process, but have not considered the new NPSFM 2020, we are likely to require this under s92 of the RMA. However, in most cases we may be able to do this ourselves and will not ask you for this information unless necessary.

Relevant provisions in the NPSFM 2020 will include:

- The objective and policies (Part 2 NPSFM) which give effect to the fundamental concept of Te Mana o te Wai (Part 1.3 NPSFM) and the associated hierarchy of obligations;
- Some of the implementation provisions (Part 3 NPSFM) that apply to consenting of specific types of activities
- How and why the applicant considers the proposed activity is consistent with the hierarchy of obligations (expressed in the NPSFM 2020 Objective), and with managing freshwater in accordance with the concept of Te Mana o te Wai (Policy 1).

We acknowledge this may be difficult as the local approach to Te Mana o te Wai is yet to be developed, however careful consideration of the relevant Iwi Management Plans will be useful in determining how certain NPSFM 2020 policies should be applied in any given situation.

If an application was lodged prior to 3 September 2020 it is unlikely to have considered the NPSFM 2020 or NES-FW 2020, as they wouldn't have had legal effect. Irrespective of that, it is a requirement of the RMA (i.e. s104(1)(b)) to have regard to these documents when making the substantive decisions on applications.

We may be able to do some of the assessment ourselves, but we may need to come back to seek additional information from people. In most cases we will request this assessment under s92 of the RMA which allows us to request further information. In situations where a s92 request has already been made and/or where the impact of the NPSFM 2020 is complex, an extension of timeframes (under s37 of the RMA) is likely to be appropriate as it is in "the interests of the community in achieving an adequate assessment of the effects of a proposal, policy statement or plan" (s37A(1)(b) RMA).

We will typically ask applicants to agree to this extension in the first instance (i.e. under

s37A(2)(b) RMA) as we consider that it will benefit both them, and the community. The use of a s37 extension for applications already in process is to provide time to determine how applications sit against the new national direction and/or how they might need to be modified to better address the hierarchy of obligations and Te Mana o te Wai.

### **NES and applications**

The [NES-FW 2020](#) has introduced new provisions which may require additional consents prior to proposals currently in process being able to proceed. As decision makers must have regard to the NES-FW 2020 when making their decisions, where a consent is required under the NES-FW 2020 and is necessary to determine whether a

proposal can proceed, the extra application will be requested using s91 of the RMA. This will place the current application 'on hold' until the new application has been received.

Where the NES-FW 2020 application is not necessary in order to process the current application (i.e. it could be processed independently), but will still be needed, we will ask whether applicants would like to make the additional application now so that it can be considered at the same time as the current proposal. This is likely to be cheaper for the applicant (as the applications can be considered together in one report), but will require that the applicant agree to extend the timeframes of the current application (under s37 of the RMA) until they can proceed together.