



3 April 2020

20-B-06602

Dear Mayors, Council Chairs and Chief Executives

Resource management responsibilities for councils during COVID-19 response

1. I want to join Local Government Minister Hon Nanaia Mahuta (letter of 24 March 2020) in acknowledging the leadership you are showing under COVID-19 Alert Level 4. Councils have an important role to play in the immediate response, as well as in our recovery. Thank you particularly for the great efforts being made by council staff to continue essential services, including three waters provision and kerbside rubbish collection.
2. The country's main concern at this time is ensuring that health and other essential services are delivered. We need you to continue prioritising your functions relating to human health, public safety and the environment, so that the most vital are attended to first.
3. I am therefore writing to provide you with advice about your resource management responsibilities during this challenging time.

Emergency Works

4. During the response to COVID-19, there may be activities where urgent action is required. It is possible that some works may be carried out under the emergency works provisions of the Resource Management Act 1991 (RMA), especially ss 330 and 330B.

Planning and consenting functions

5. Control over planning and consenting functions rests almost entirely with councils. These functions have essential service status because of the crucial role they play in the operation of the economy. I appreciate that you will be doing your utmost to ensure that planning and consenting processes continue apace.
6. The Ministry for the Environment (MfE) has prepared guidance for how resource consenting processes can continue under current constraints. I encourage your officials to contact MfE if your council is experiencing any significant barriers.
7. I urge you to address any consenting backlogs you have, so projects that employ people are not unnecessarily delayed once the COVID-19 restrictions are relaxed. I encourage Chief Executives and governing bodies to pay special attention to backlogs, and to thereby play an important part in getting the economy rolling again.

Compliance and monitoring services

8. It is likely that many actions normally required to achieve compliance with RMA rules, standards and consent conditions will be disrupted. The normal level of service councils and other regulatory agencies can provide will also be diminished.
9. I expect consent authorities to exercise their discretion wisely in relation to non-compliance and continued operation of essential services. I acknowledge that many of you are already doing this. For example, supermarkets or other essential services may need to operate outside their normal consented hours of operation or other resource consent conditions.

10. However, normal enforcement tools, up to and including prosecution, remain available to councils if the circumstances warrant their use. Crown Law issued guidance to prosecutors on 24 March 2020 to reflect the current circumstances.
11. For environmental monitoring tasks, I expect these services to continue as long as they do not compromise health and safety and are in compliance with applicable COVID-19 requirements. If it is not practicable to continue environmental monitoring, these tasks should be suspended. I encourage you to have your staff communicate with the MfE to advise of any tasks you intend to suspend.

Timeframes for resource consent services

12. I invite you to take a pragmatic approach to timeframes. Consent authorities have broad discretion to extend timeframes for the processing of consents under ss 37 and 37A of the RMA, and under clause 1 of Schedule 1 for policy statement and plan change processes. Also, hearings committees have the power to direct the order of business under s 41C. I encourage you to make use of these provisions where appropriate.
13. Processing consent applications relating to the delivery of essential services should be prioritised. Lifeline utilities and others may elect to exercise the emergency provisions in the RMA (such as s 330B which applies during a state of emergency).
14. I draw your attention to the discount provisions for consents which exceed the normal statutory processing timeframes. The Resource Management (Discount on Administrative Charges) Regulations 2010 sets out that certain working days may be excluded from a discount calculation. Whilst you have this flexibility, I would overall not want delays to occur for employment rich projects.
15. In particular, I refer you to Regulation 3 and the interpretation of “excluded days”. Working days where consents are not processed due to “a reason based on any rule of law” may be excluded from discount calculations. This would include reasons relating to COVID-19 Alert Level 4. Further information is available in a guidance document on the MfE website:

<https://www.mfe.govt.nz/sites/default/files/media/RMA/discount-on-administration-charges.pdf>

Rights and interests of Māori

16. It is important that we all continue to uphold obligations to our Treaty partners. As per the Part 2 and other provisions of the RMA, I expect you will continue to engage and consult with mana whenua in your rohe to the full extent practicable, particularly when exercising your discretion on issues affecting Māori.

Continuing to communicate

17. Many of your staff have been alerting my officials to potential difficulties. Please continue to alert MfE to issues as early as possible so that information may be shared, problems triaged, and solutions designed where required. I acknowledge that councils are already acting in a pragmatic way and are communicating clearly with consent holders and other stakeholders. I thank you for this. We are all grateful for your service.

Yours sincerely



Hon David Parker
Minister for the Environment

Cc: Hon Nanaia Mahuta, Minister of Local Government