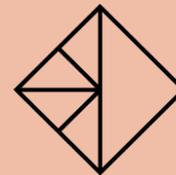


# Implications of covid-19 for consenting and planning processes



As we get further into the COVID-19 lockdown period we are starting to get a clearer picture of the status of consenting and planning processes around New Zealand. We have collated the following updates and guidance from the Environment Court, Ministry for the Environment and various local authorities.

## Environment Court

The Environment Court issued a COVID-19 Protocol on 25 March 2020 and subsequent directions on 3 April 2020, [see here](#). These documents outline that the Environment Court is not a Category 1 essential service court. As such, there will be no physical hearings, mediation or expert conferencing held during the Alert Level 4 lockdown period. All hearings scheduled until the end of May 2020 have been adjourned. Members of the Court are working from home and issuing procedural minutes and reserved decisions where hearings have already been held.

The Environment Court is allocating current cases into three tiers. Urgent cases involving important issues in the public interest may be the subject of remote activity and case management. Remote activity will primarily be on the papers or via tele-conference as video-conferencing facilities have been prioritised for the Category 1 courts. Cases of less urgency may be the subject of directions to keep them moving, and lowest priority cases are likely to remain fully adjourned.

The Environment Court is establishing a remote mediation pilot and will use three groups of cases and small participant numbers to trial this. All filing is now required to be electronic.

## Ministry for the Environment

The Ministry for the Environment (**MfE**) has published a series of “frequently asked questions” on COVID-19 to support local authorities to fulfil their Resource Management Act 1991 (**RMA**) obligations. They are [available here](#). On the whole, the guidance from MfE is that local authorities are to exercise their discretion as to what can and can’t be done during the lockdown period and local authorities and consent holders and operators should be communicating about the status of their sites and operations.



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Local authorities should be reasonable, prioritise public health and safety, and consider alternatives to their usual processes, such as carrying out contactless inspections or undertaking “site visits” using satellite images.

MfE has clarified that any work that is necessary to address immediate health or safety risks, or to prevent serious environmental harm, is an essential service. This could include the maintenance of control devices on mining sites and urban and rural earthworks, such as existing tailings dams, sediment and erosion devices, silt retention ponds, earth bunds, silt fences, and clean water diversions. Maintaining these features remains the responsibility of consent holders, while appropriate monitoring and enforcement remains the responsibility of councils. In some cases, the emergency works provisions in the RMA will be able to be relied on. MfE has also advised that consent holders unable to comply with their consent conditions or plan rules, or essential service providers needing to alter their operations or undertake new activities, should first notify the relevant local authority to discuss their situation.

The “frequently asked questions” provide guidance on iwi engagement and consultation, encourage alternative (ie virtual) hearing arrangements, in line with the measures enabled by the COVID-19 Response (Urgent Management Measures) Legislation Act 2020, and advise local authorities to take a pragmatic approach to consenting timeframes, including by communicating openly with applicants about extensions. MfE has indicated that it will publish more information relating to plan change processes in due course.

## Local Authorities

**Queenstown Lakes District Council's (QLDC)** resource and building consent teams are working from home. The duty planner service remains available by phone and Skype. All pre-application meetings will be conducted via Skype.

For resource consent applications, QLDC has helpfully clarified what will happen depending on whether the application is notified or non-notified and what stage it has got to, [see here](#). Where site visits and hearings have been undertaken, processing will continue and decisions will be issued. QLDC is considering options for remote hearings, whether current submission periods should be extended, and whether consents ready for notification can fairly be notified during the lockdown period. All building consent and code compliance processing will continue as normal although there will be no site inspections, [see here](#). QLDC is taking bookings for site inspections from 28 April 2020 and is considering options for virtual inspections in the interim.



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All Proposed District Plan hearings have been cancelled until further notice and parties will be consulted before new dates are set. QLDC will also contact parties regarding possible remote mediation proposals.

At the request of the **Dunedin City Council**, all Environment Court timetabling directions relating to the Dunedin 2nd Generation District Plan appeals have been vacated and the appeals are adjourned until June 2020.

**Otago Regional Council's (ORC)** customer service and consents teams are working from home and processing consents as usual as long as they are received electronically. They can be contacted via phone, email and social media, [see here](#). ORC's essential services areas that are still operating include natural hazard monitoring and response, pollution response, environmental monitoring, and water quality issues that affect human health. ORC meetings are being held via video-conference and being streamed on YouTube. ORC has extended the submissions period to 4 May 2020 for the Water Permits Plan Change (Plan Change 7), which provides for short-term water take permits based on current usage. ORC's Annual Plan is also open for submissions until 24 April 2020, with ORC Chairperson Marian Hobbs indicating that circumstances have changed drastically since the Plan was notified and that its form will likely change through the submissions process.

**Christchurch City Council's (CCC)** resource and building consent staff are working from home processing consent applications electronically and providing planning advisory services as usual, [see here](#). Staff are available for video meetings, including pre-application meetings, and a duty planner is available on 03 941 8999. CCC is also conducting a virtual inspection service for newly installed log burners so they are able to be used for winter. Consultation on CCC's Draft Annual Plan has been extended for a week to Thursday 9 April, you can [give feedback here](#).

**Selwyn District Council (SDC)** will continue to process existing and new resource and building consent applications, [see here](#). SDC is not undertaking any building inspections and not making bookings for future building inspections at this stage. Consultation on SDC's Annual Plan was due to open on 3 April 2020 but this has been deferred and no new timeframe set. SDC Mayor Sam Broughton has advised that COVID-19 and its economic impacts are likely to result in significant changes to the Draft Annual Plan. Consultation will predominantly be undertaken online. SDC's District Plan Review is still expected to be the subject of formal consultation from mid-2020.

**Environment Canterbury (ECan)** staff are working remotely and there may be some delay to normal response times. ECan has advised that the following work areas are included in its list of essential services and these



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will continue during the lockdown period: incident/pollution response and related enforcement, air quality monitoring, and compliance monitoring programmes for high risk activities, [see here](#)). Hearings on ECan's Annual Plan scheduled for 21 and 22 April 2020 are not going ahead and ECan is considering options to minimise the impact of rate requirements on its communities following COVID-19. Hearings on Plan Change 7 due to be held on 18 May 2020 and Water Zone Committee and Regional Committee meetings have similarly been postponed. ECan has established an Emergency Committee to enable delegated decision-making to occur while its members are unable to physically meet.

**Marlborough District Council** has classified its services and operations as either critical or non-critical, [see here](#). Staff working in non-critical areas may be asked to work in a critical area if required either because of sickness or community need. Critical services include environmental monitoring, resource and building consents, consents advice and technical support, subdivision engineering, LIMs and PIMs, and environmental policy, including the Proposed Marlborough Environment Plan appeals. On 26 March 2020 Environment Court issued a minute extending the Marlborough Environment Plan appeal period by 15 working days to 8 May 2020.

**Wellington City Council's (WCC)** resource and building consent teams are operating at limited capacity. WCC is prioritising consenting and compliance issues relating to essential services or public health and safety and site visits are not being conducted unless they relate to these areas. All public hearings have been cancelled until end of April 2020. WCC's LIM services department is closed during the lockdown and information requests are operating at limited capacity and prioritising requests relating to essential services and public health and safety, [see here](#).

On behalf of the **Waikato District Council**, the Hearings Commissioners for the Proposed Waikato District Plan have directed that the hearings scheduled for the month of April 2020 will proceed as scheduled via Zoom – a video-conferencing platform. Parties can elect whether to attend via Zoom or whether they wait to attend an in-person hearing. Further consideration will be given to the remaining topics at the end of the month. The **Waikato Regional Council (WRC)** has also advised that decisions on the Proposed Waikato Regional Plan Change 1 - Healthy Rivers/Wai Ora will be notified this month. At this stage WRC is seeking waivers to the usual procedure for appeals, including an extension for filing of appeals from 30 days to 50 days.

**Auckland Council** staff are also working from home. Online and phone service centres are still available and Auckland Council is operating an online service for LIMs and property files. The resource and building



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consent teams are processing consents as usual but are only able to accept electronic applications. There may be some delay in providing consent status updates while the systems are being transitioned to remote working, [see here](#). All meetings and advice will be done via email, phone or video conferencing. No site visits will be undertaken during the lockdown period, but consent processing will continue using photographs and videos provided by applicants and aerial images. Building inspections are being carried out only where they relate to construction for an essential service or business, and regulatory and compliance activities required to maintain health and safety and home or work and environmental health are also being continued.

If you have any questions or would like to discuss the implications for your current operations or planned projects, please contact the Lane Neave Resource Management team: Joshua Leckie, Rebecca Wolt, Annabel Linterman or Kelsey Barry.

