



Applying to the EPA

Amendments made in 2009 to the Resource Management Act 1991 (RMA) provided for the establishment of an Environmental Protection Authority (EPA). The EPA was established to centralise and streamline the decision-making process relating to nationally significant proposals.

Who can apply to the EPA?

- As of 1 October 2009, any matter can be lodged with the EPA. 'Matters' are limited to:
 - applications for resource consent and changes or cancellation of consent conditions
 - notices of requirement for designations or heritage protection orders (including alterations)
 - requests for private plan changes or a regional plan.

The point of applying to the EPA, instead of to the relevant council, is to obtain a more streamlined decision-making process. The Minister for the Environment can only direct a matter be referred to a board of inquiry or the Environment Court that is, or is part of, a proposal of national significance. You should only lodge a matter with the EPA if you think it qualifies as such.

The EPA can also issue certificates of compliance for activities that are related to proposals of national significance that have already been referred to a board of inquiry or the Environment Court by the Minister.

The Minister can direct any matter that is, or is part of, a proposal of national significance be referred to a board of inquiry or the Environment Court for consideration. The Minister can consider any relevant factor when deciding whether the matter is, or is part of, a proposal of national significance, including whether the matter:

- has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment), or
- involves or is likely to involve significant use of natural and physical resources, or
- affects or is likely to affect a structure, feature, place, or area of national significance, or
- affects or is likely to affect or is relevant to New Zealand's international obligations to the global environment, or
- results or is likely to result in or contribute to significant or irreversible changes to the environment (including the global environment), or

This information sheet provides information about:

- » who can apply to the EPA
- » how to apply
- » what happens after you have applied (post-lodgement).



"The single-stage process and limited timeframes for these applications means that it is especially important that applications are complete and well supported before being lodged. Substantial pre-application liaison will help ensure applications can be efficiently processed within the statutory timeframes."

- (f) involves or is likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment, or
- (g) is or is likely to be significant in terms of section 8, or
- (h) will assist the Crown in fulfilling its public health, welfare, security, or safety obligations or functions, or
- (i) affects or is likely to affect more than one region or district, or
- (j) relates to a network utility operation that extends or is proposed to extend to more than one district or region.

How to apply

The single-stage process and limited timeframes for these applications means that it is especially important that applications are complete and well supported before being lodged. Substantial pre-application liaison will help ensure applications can be efficiently processed within the statutory timeframes.

If you are considering lodging a matter with the EPA you should make contact with the EPA as soon as possible, so you can receive guidance about the application process. In addition, you should inform local authorities of your intent to lodge an application directly with the EPA. It can be helpful to meet with the relevant local authority of the EPA before lodging a matter. This allows the local authority or EPA to inform you about the process and help you decide on the information to include with the matter. Note that you may be charged for the costs that the EPA incurs in providing such assistance.

The EPA will only accept comprehensive and complete applications that meet the requirements of the Resource Management Act 1991. As the EPA has 20 working days to assess an application and make a recommendation to the Minister, it is imperative that you submit all relevant information at the outset.

When lodging a matter with the EPA, you must use the correct forms. Electronic copies of the forms are available on the website www.epa.govt.nz. A matter can be lodged by post (registered mail) or in person at our Head Office in Wellington. Both a hard and electronic copy of the matter must be lodged.

The information requirements for a matter are specified in the Resource Management Act. All matters must be accompanied by an assessment of environmental effects and there are additional requirements for notices of requirement and requests for regional plans or plan changes. You should contact the EPA to discuss whether other information is required (for example, as a result of rules in plans) or would assist in processing a matter.

What happens post-lodgement

The EPA has 20 working days to make a recommendation to the Minister from the day it receives a matter.

If you lodge a matter, the EPA will acknowledge receipt of the matter and will firstly assess it for completeness/adequacy. If the matter passes this check it will remain with the EPA for processing, if not it will be returned to you.

The EPA can request further information or commission a range of reports during this stage. If the EPA requests further information from the applicant or commissions a report, the timeframe within which the EPA must make a recommendation to the Minister is extended. The EPA will have 20 working days from receipt of the information (or expiry of the deadline for receipt of the information) or report to make its recommendation to the Minister. Any request for further information must be in writing and the applicant can agree or refuse to provide the information requested. If the applicant refuses to provide the additional information, the EPA must make a recommendation to the Minister anyway.

Minister's direction

The EPA will make a recommendation to the Minister for the Environment on whether a matter is of national significance and should be referred to a board of inquiry or the Environment Court. A copy of the EPA's recommendation to the Minister will be served on both the applicant and the local authority. The Minister then makes the decision on whether to direct that the matter be referred to a board of inquiry or the Environment Court.

If the Minister decides to refer the matter to a board of inquiry or the Environment Court, the EPA will serve a copy of the Minister's direction on the local authority and the applicant. The EPA will publicly notify the application and call for submissions. The EPA will pass all submissions to the board of inquiry or the Environment Court. The board or Court will hold a hearing if necessary, consider the matter and submissions received, and make a decision on the matter.

There is another step in the process for requests for regional plans or private plan changes. If a request is lodged with the EPA and the Minister decides to direct the request to a board of inquiry, the board will make a preliminary decision on whether to accept or reject the request. This is what a local authority would normally do if the request was made to the council. The board must seek the views of the local authority before deciding whether to accept or reject the request.

If the request is accepted by the board, the relevant local authority and the applicant will have four months to work up the proposed plan or change. The authority must provide the proposed plan or

change to the EPA and at that point, the EPA will give public notice and call for submissions.

Board of inquiry

A board of inquiry will have nine months from the time of public notification to consider and deliver its decision on a matter. This timeframe can be extended by the Minister in special circumstances. A board's final decision may only be appealed on points of law.

A board of inquiry is appointed by the Minister for the Environment but acts independently of the Minister. A board sets its own procedure for the hearing and typically publishes its operating procedures in advance of the hearing. If a matter is referred to a board of inquiry, the EPA will continue its involvement in the process by providing administrative support to the board. This ranges from organising the logistics of the hearing to commissioning specialist advice to assist the board.

Environment Court

If the Minister directs that a matter be referred to the Environment Court for consideration and decision, the applicant is required to file a notice of motion with the Court and a supporting affidavit. This is served on the local authority and everyone who made a submission. The EPA must provide the Court with material relevant to the matter that it has gathered. The same decision-making criteria which apply to the board of inquiry will apply to the Environment Court. However, the Court will determine its own procedure and has all its usual powers in this respect.

Unlike the board of inquiry process, the nine-month timeframe for deciding the matter does not apply. A decision by the Environment Court can only be appealed on points of law.

What if the Minister decides not to direct the matter to a board of inquiry or the Environment Court?

If the Minister decides not to refer a matter to a board of inquiry or the Environment Court that was lodged with the EPA, it will be sent to the local authority for processing in the normal way. In this case, the EPA would provide the council with the matter and all the relevant information received by the EPA.

Will the existing call-in process still be available?

Yes. If a matter has been lodged with the local authority the Minister can call it in if he considers that it is, or is part of, a proposal of national significance. The Minister can do this of his or her own accord or in response to a request from the applicant or local authority.

If the Minister decides not to call in a matter that had already been lodged with a local authority, it will continue to be decided by that local authority.

Want to know more?

Contact the EPA by phoning 0800 CALL EPA (0800 2255 372) or emailing information@epa.govt.nz or check out our website www.epa.govt.nz

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- » 0800 CALL EPA
- » INFORMATION@EPA.GOV.T.NZ
- » WWW.EPA.GOV.T.NZ

» Resource Consent Applications for Proposals of National Significance

