

Changes to the QLDC resource consent requirements for earthworks applications

Reason for change

The QLDC is implementing changes to its earthworks resource consent process, during both the application and post approval phase.

The Otago Regional Council (ORC) is due to adopt Plan Change 8 on 3 September 2022. This introduces new requirements for regional resource consents in relation to residential earthworks activities. Further information regarding the new ORC consent requirements can be found at the bottom of this information sheet.

As part of the Plan Change 8 process, the QLDC was directed by the Environment Court to review its earthworks-related processes. This review was required across both the consent processing and compliance monitoring stages to work collaboratively and streamline areas of overlap with the ORC. The proposed changes are in response to this review and align our district with best practice approaches undertaken elsewhere across New Zealand.

What is changing?

The QLDC has been working closely with the ORC to establish processes that will provide a number of process efficiencies, including, but not limited to, the following:

- Joint site visits – at both the application processing and compliance monitoring stages;
- Peer reviews of earthworks information and draft Environmental Management Plans (EMPs) by the same expert;
- A suite of consent conditions that can be applied to both QLDC and ORC consents to enable consistency across both consents;
- A joint approach to compliance in order to avoid unnecessary monitoring.

The other key change QLDC is making is the requirement for draft EMPs to be submitted as part of a resource consent application for earthworks. Current practice is that they are required via a condition of consent. This change in practice will apply to all resource consent applications submitted to QLDC involving earthworks. Council recognises that there may occasionally be acceptable exceptions to this requirement, and these will be assessed on a case-by-case basis.

This requirement aligns with the current ORC practice to receive draft EMPs at application stage. It is also a necessary process improvement to ensure that QLDC is meeting its statutory requirements to assess adverse effects, and the methods proposed to mitigate these, during the application stage of the resource consent process.

The QLDC recognises that this is a significant shift in current practice. It is bringing forward work from the post approval stage to the processing stage. In some cases, this might require early contractor involvement.

Low risk sites

As per existing QLDC EMP Guidance, these sites require an EMP that is reflective of the scale of works proposed. Appendix 2 in the EMP Guidance (see link below), provides a simple form to fill out and submit with the application. It includes instructional diagrams to aid in the completion of the form. Council recognises that not all parts of the form will be able to be completed at application stage, i.e. contractor details. However, the parts of the form on how you are going to manage the adverse effects from undertaking the earthworks can be. This requires the checking of boxes to indicate the various methods that will be used to manage the adverse effects.

Council does not anticipate undertaking peer reviews on low-risk sites. Any that are requested will be because site specific circumstances warrant it.

Medium to high-risk sites

As per existing QLDC EMP Guidance, these sites require a draft EMP to be prepared. The guidance (see link below) contains information on appropriate content. For medium-risk sites the EMP will ideally be prepared by a Suitably Qualified and Experienced Practitioner (SQEP) to minimise delays in processing. High-risk sites require that a SQEP prepare the EMP. As with low-risk sites Council recognises that not all parts of the EMP will be able to be completed, but information on the adverse effects and how these are to be managed to be avoided, mitigated or remedied is a minimum requirement.

For high-risk sites Council will undertake a peer review of the draft EMP. This is also likely for the majority of medium-risk sites, though there may be cases where it is agreed that this is not necessary. The approval of the applicant will be sought for any peer review in accordance with section 92(2) of the RMA.

Where a QLDC and ORC resource consent is being processed concurrently and a peer review is required, the same peer reviewer will be commissioned by QLDC and ORC to provide comment on the applications.

It is important to note that EMPs are a living document. The QLDC EMP Guidance provides the ability for these to be updated and changed post consent approval where Council agrees the changes are within the scope of what has been consented.

Link to QLDC EMP guidance

<https://www.qldc.govt.nz/media/pf5ez5gf/6a-emp-guidelines-c.pdf>

Please note: the QLDC Earthworks EMP guidance is undergoing a review currently as part of these changes. The existing guidance is to be used until such time as the updated guidance is published.

Updated Application form

The QLDC land use resource consent application form (Form 9) has been updated and will be available on Councils website. Please ensure you use the new application form as it has new check boxes relating to the whether an ORC earthworks consent is required and has been applied for. It is important that we understand this to enact efficiencies between the two organisations (including joint site visits as per below).

Joint site visits

Please indicate on the application form if you would like a joint QLDC/ORC site visit, which if practicable, will be arranged.

When will the changes be taking effect?

These changes will take effect from **Monday 3 October 2022**.

For applications lodged with QLDC between the release of this practice change and 3 October 2022, the Council may request further information including a draft EMP, particularly for applications that fall within the medium to high-risk site categories.

For applications currently processing with QLDC at the time this practice change is released, in most cases Council will continue to process the consent and where applicable apply the previous practice of requiring an EMP as a condition of consent. There may be cases where Council requests further information including a draft EMP, particularly for applications that fall within the high-risk site category before processing of the consent is complete.

Information on ORC requirements

Information about ORC resource consent requirements can be found on its website: <https://www.orc.govt.nz/managing-our-environment/water/new-water-rules/earthworks-for-residential-development>

If you are unsure if you need a resource consent or not from ORC, please contact their consents team on public.enquiries@orc.govt.nz.