



# Resource Legislation Amendment Bill 2015

On 26 November 2015 the Minister for the Environment Nick Smith announced the introduction of the [Resource Legislation Amendment Bill 2015](#) (the Bill). The purpose of the Bill is to create a resource management system that achieves the sustainable management of natural and physical resources in an efficient and equitable way.

To this end, the Bill makes amendments to the Resource Management Act 1991 (RMA) as well as five other Acts:

- The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act);
- The Environmental Protection Authority Act 2011;
- The Conservation Act 1987;
- The Reserves Act 1977; and
- The Public Works Act 1981 (PWA).

## WHAT THE BILL PROPOSES

The Bill makes changes in eight key areas:

- National direction
- Plan-making
- Consenting
- Courts and appeals
- Process alignment
- Process improvement
- Exclusive Economic Zone Act
- Public Works Act

The changes, while not insubstantial, are not the wide-reaching overhaul of the Resource Management Act previously proposed by the Government. The changes will however have tangible effects on planning, consenting and land development processes and should assist in increasing Māori participation in these processes.



# KEY CHANGES

## 1 NATIONAL DIRECTION

The Bill seeks to provide stronger national direction in the RMA in a number of ways.

The processes for developing National Policy Statements and National Environmental Standards are sharpened to address current limitations on the (joint) development of these tools and to broaden what they can provide for.

A new regulation-making power is introduced, effectively to avoid unnecessary and unreasonable restrictions on land (particularly land for residential development). This power includes the ability to permit specified land uses, and to prohibit and remove plan provisions that duplicate or are contrary to other legislation.

A new matter of national importance, “the management of significant risks from natural hazards” is proposed to ensure that such risks are considered in planning and consenting processes.

Changes are proposed to the functions of councils under sections 30 and 31 of the RMA. Housing affordability issues are placed front and centre through a new requirement to ensure sufficient residential and business development capacity is available to meet long-term demand. Hazardous substances are removed from the councils’ remit in order to remove the duplication with the Hazardous Substances and New Organisms Act 1996.

## 2 PLAN-MAKING

In terms of planning changes there are two main categories of changes – those relating to planning templates and those relating to planning processes.

In terms of planning templates, national planning templates are proposed. The templates aim to improve consistency between plans and policies, make them easier to use, and reduce their complexity and ambiguity. The structure and format of plans will be the same across the country.

In terms of planning processes, the Government has recognised that one process does not fit all and has introduced two new “planning tracks” for Councils – the streamlined planning process and the collaborative planning process.

The streamlined process provides more flexibility in terms of both the process and time frames and effectively allows a bespoke approach to address specific local issues and conditions. The collaborative planning process aims to encourage greater front-end public engagement to produce plans that better reflect community values and reduce the risk of subsequent litigation. Different interests are encouraged to work together on finding resource planning solutions and as a consequence participants have more input and buy-in to the plan.

Other changes to planning processes include:

- (a) limiting notification to only those people who are directly affected (when it is easy to identify who will be affected);
- (b) requiring the Council to seek Ministerial approval for any extension of the two year time limit for plans; and
- (c) a new requirement to invite iwi to form an iwi participation arrangement that will establish the engagement expectations when consulting during the early stages of the Schedule 1 plan making processes.

## 3 CONSENTING

In terms of consenting, the Bill narrows the parties that must be consulted on a resource consent application to those directly affected. It gives councils discretion to not require resource consent for minor issues. For simple resource consent applications, a 10-day fast-track application is proposed. Clarification is provided around the scope of conditions that can be imposed, and a new regulation making power is introduced which will require Councils to have fixed fees for standard consents. This is in order to give certainty around costs to those seeking such consents.

## **4 COURTS AND APPEALS**

The Bill allows the Environment Court to require people to participate in alternative dispute resolution activities and judicial conferences first, rather than go straight an Environment Court hearing. The matters that an Environment Judge and Environment Commissioner sitting alone are able to consider is increased.

The Bill provides the Environment Court with a new ability to direct councils to acquire land (where planning provisions have rendered land incapable of reasonable use and placed an unfair and unreasonable burden on the landowner) as an alternative to the existing approach of amending planning provisions.

The Bill also enables applicants to request that their objections to a council's decision be heard by an independent commissioner rather than by the Council.

## **5 PROCESS ALIGNMENT**

The Bill aims to reduce overlaps and duplications between various statutes within the resource management system. It provides for an optional joint process of public notification, hearings, and decisions for proposals that involve publicly notified plan changes or resource consents under the RMA and recreation reserve exchanges under the Reserves Act 1977. It also aligns the notified concessions process under the Conservation Act 1987 with notified resource consents under the RMA.

## **6 PROCESS IMPROVEMENT**

The Bill ensures that serving of documents to parties via online platforms will occur more often — where a document has been provided electronically, a hard copy version will not be required unless specifically requested or required by a court.

All RMA public notices will need to be written clearly and concisely and be made publicly accessible via the internet. Only summaries of public notices will be required to be published in newspapers.

The Bill enables regulations to be made to prescribe how councils undertake monitoring. Such regulations could include what information must be collected, what methodologies must be used, and how these would be reported.

The Bill aims to reduce board of inquiry cost and complexity by incorporating electronic provision of information in the process, requiring boards to have regard to cost effectiveness, and changing the composition of boards to improve their efficiency.

The Bill enables the EPA to provide secretarial and support services to decision makers appointed under any Act that amends or overrides RMA processes where major hearings are held.

New requirements in Part 3 of the RMA are introduced to ensure decision makers apply procedural principles to minimise the costs of implementing RMA processes and financial contributions are proposed to be removed from the RMA.

The Bill removes the ability for heritage protection authorities to give notice of a heritage order over private land. It would also allow for ministerial transfer of heritage orders.

## **7 THE EXCLUSIVE ECONOMIC ZONE ACT**

The Bill proposes both substantive and procedural changes to the EEZ Act.

In terms of substantive changes it enables greater national direction to be provided through the development of EEZ policy statements. Such statements are intended to both support and guide decision-making on marine consents. It also includes new requirements in relation to the decommissioning of structures once they reach the end of their productive life. Owners or operators will be required to prepare a decommissioning plan in accordance with requirements set out in regulations.

In terms of procedural changes, it makes a number of changes to provisions – particularly transitional and enforcement provisions to make sure the Act can be implemented effectively and efficiently. It also aligns the processing of certain notified discretionary marine consents under the EEZ Act with the board of inquiry process for nationally significant proposals under the RMA. Greater consistency between the EEZ Act and the RMA will enable the Environmental Protection Authority (EPA) to make efficiency gains by standardising business processes.

## 8 PUBLIC WORKS ACT

The Bill changes the PWA to give incentives for landowners to enter into agreements with the Crown more readily by increasing the non-land-related compensation for landowners whose home is acquired under the PWA (up to \$50,000) and by introducing new compensation ( up to \$25,000) for landowners whose land, but not their home, is acquired.

The Bill also seeks to align the objections process for land acquisition cases under the PWA with that which operates under the RMA and enables delegation of administrative functions from the Minister for Land Information to the chief executive of Land Information New Zealand.

## ENTRY INTO FORCE

The entry into force of the Bill's provisions would be staggered, with some provisions commencing on the day after the Bill receives royal assent, and others commencing six months, or in the case of financial contribution amendments, five years, after the date of royal assent.

## RESPONSES TO DATE

Response to the Bill so far has been largely positive, including from key stakeholders such as the Environmental Defence Society and the Resource Management Law Association. The reforms were long-awaited and moderate compared to what was originally indicated by the Government earlier in the year.

## NEXT STEPS

The Bill has been referred to the Local Government and Environment Select Committee for consideration. Public submissions close on 14 March 2016 and the Select Committee Report is due by 3 June 2016. Expectations at this stage are that the Bill will pass into law by the end of 2016.



## AHM CHRISTMAS HOURS

We would like to take this opportunity to wish you a very Merry Christmas and a happy New Year. We hope you have a great holiday season and look forward to a wonderful 2016.

AHM closes on 23 December 2015 and reopens on 5 January 2016. However, you can reach our staff on mobile for any urgent matters—see our website for contact numbers.

## QUESTIONS, COMMENTS AND FURTHER INFORMATION

If you have any questions, comments or would like any further information on any of the matters in this report, please contact the authors:

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