



## Resource Management Amendment Act 2005 – Summary

This is one of a series of information sheets giving an overview of the amendments to improve the Resource Management Act (RMA).

### BACKGROUND

In May 2004, the Government announced a review of the RMA, focusing on ways to improve the quality of decisions and processes whilst not compromising good environmental outcomes or public participation. The review produced proposals for improvements to both the legislation and practice.

The Resource Management Amendment Act 2005 was passed in August 2005. The changes to the RMA are the result of dialogue with local government, industry, environmental organisations and the wider community over an 18 month period.

### FOCUS OF THE AMENDMENTS

The amendments will improve the operation of the Resource Management Act by addressing problems with delays, costs, inconsistencies, uncertainty and national leadership regarding the RMA's processes and in decision making.

The amendments focus on five key areas:

1. Improving national leadership
2. Improving decision making
3. Improving local policy and plan making
4. Improving certainty for consultation and iwi resource planning
5. Improving natural resource allocation.

### HOW HAS THE RMA BEEN IMPROVED?

#### Improving national leadership

The process for developing national policy statements and national environmental standards is improved. There is now an option of preparing national policy statements using an alternative process to a board of inquiry. This process is similar to that used for national environmental standards, which should enable them to be prepared more quickly. National environmental standards will be

able to set a nationally consistent standard throughout the country. In some cases a national environmental standard will allow councils to set a more stringent local standard. In this case councils must justify in section 32 reports why there should be tougher standards in their area.

There is a greater range of options for central government to show leadership and assist local government when making decisions on matters of national significance.

If the Minister decides to intervene, the options include: Ministerial call-in for projects of national significance with the decision made by either a board of inquiry or the Environment Court; making a Crown submission; appointing a project co-ordinator; appointing a hearings commissioner; and requiring a joint hearing to be held if the matter involves more than one consent authority.

#### Improving decision making

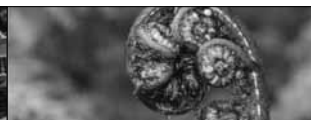
A number of improvements are made at the local authority level. These fine-tune existing procedures for resource consent hearings to provide clearer processes.

Consent authorities now have a range of new powers available to them. When deciding to employ these, they must consider whether the scale and significance of the hearing makes the exercise of the power appropriate.

There are changes to requests for further information. Where an applicant does not provide information that has been requested, the consent authority must proceed with the application and either grant or refuse it.

Decisions on notification may in the future be challenged in the Environment Court rather than the High Court. The amendment provides for this provision to commence by an Order in Council. The powers of the Environment Court for declarations on notification will be aligned with those of the High Court on judicial review.

With their agreement, parties may be referred to independent mediation. Councils may direct an applicant to provide briefs of evidence before a hearing. They may also invite or require attendance at pre-hearing meetings.



At hearings, the majority of decision-makers must be accredited. Consent authorities can direct the order of business including the order in which evidence and submissions are presented. They can refuse to consider a submission or to process an application if the party refuses to take part in pre-hearing meetings when they are required. They may also refuse to consider a submission if it is frivolous, vexatious or discloses no reasonable or relevant case. Accreditation requirements and the new power to strike out come into effect one and two years after the enactment of the amendments.

When making a decision on an appeal, the Court must have regard to the decision that is being appealed and may take evidence as read.

### **Improving local policy and plan making**

There has been some criticism that district and regional plans are bulky, difficult to understand, and take too long to become operative. The RMA has been changed to make plans and the plan making process more streamlined.

Councils must now release decisions within two years of notifying the plan or plan change. Matters which must be included in plans have been reduced to require only objectives, policies and rules (if any). Identification of issues, other methods, and expected environmental results are not required to be in the plan.

There are new functions for regional councils in relation to contaminated land, allocation of natural resources, and the strategic integration of infrastructure with land use. Functions are also added for territorial authorities in relation to contaminated land.

District and regional plans must now 'give effect to' regional policy statements. The consultation process for developing regional policy statements must also be agreed upon by both regional and district councils (during the triennial agreement process under the Local Government Act 2002).

### **Improving certainty for consultation and iwi resource planning**

Councils are required, for the purposes of the RMA, to keep and maintain a record of iwi authorities within their region or district and, if requested, groups representing hapū for the purposes of the RMA.

The lack of statutory provision for joint management is addressed by providing a framework for public authorities and iwi authorities and groups that represent hapū recognised by iwi to enter into joint management agreements about natural or physical resources.

In consulting tangata whenua during the preparation of a proposed policy statement or plan, councils are now required to follow a procedure that is aligned with the Local Government Act 2002.

The amendments clarify that neither a resource consent applicant nor a local authority has a duty to consult any person about an application (although each must comply with a duty under any other enactment to consult any person about the application). Councils must still consider whether specific iwi or hapū are an affected party and may need to contact the iwi or hapū to determine this.

### **Improving natural resource allocation**

Existing investment is recognised when a consent holder applies for a new consent to replace an expiring consent. The application from the existing consent holder will be considered before a new application for the same resource from another person. The changes also allow for the transfer of discharge permits, but any transfer must not worsen the effect of any discharge on the environment.

The Minister for the Environment is provided with the ability to direct councils to change or prepare plans to address a resource management issue.

### **OTHER RMA INFORMATION SHEETS**

Other information sheets in this series include:

- Overview
- Improving national leadership
- Improving decision making
- Improving local policy and plan making
- Improving certainty for consultation and iwi resource planning
- Improving natural resource allocation.