

RMA Reform 09

Reform Package:
simplifying and streamlining



Ministry for the
Environment
Manatū Mō Te Taiao



Two phase programme

- Phase One: enactment mid 2009
 - focus on processes
- Phase Two: 12-18 months
 - focus on integration with other legislation as well as ‘tricky’ issues
 - further development of EPA structure and functions



Steps to reform

- Comments sought from public and stakeholders
- Technical Advisory Group set up
- Resource Management (Simplifying and Streamlining) Amendment Bill 2009
- First reading on 19 Feb 2009
- Referred to Select Committee



Phase One – Nine themes

- Reducing frivolous, vexatious and anti-competitive objections
- Streamlining processes for projects of national significance
- Creating an Environmental Protection Authority



Phase One – Nine themes (cont.)

- Improving plan development and plan change processes
- Improving resource consent processes
- Efficiency of decision-making
- Improving national tools (NPS/NES)
- Incentivising compliance
- Minor procedural changes



1. Removing frivolous, vexatious and anti-competitive objections

- Intended outcomes:
 - discourage submitters whose main aim is to delay proceedings
 - reduce attractiveness of trade competitors to use RMA to delay or thwart projects
- Focus on trade competitors



Key features

- Reinstate security for costs
- Increasing Env't Ct filing fee to \$500
- Limitation on standing of trade competitors
- Sanctions against third party 'surrogates'
- Punitive regime – allowing recovery of damages from trade competitors



Key features (cont.)

- Indemnity costs awards
- Other complimentary measures
 - Effects of trade competition
 - S274(1)(d) limitations



2. Proposals of national significance

- Intended outcomes:
 - make greater use of the existing board of inquiry process
 - improve confidence in process
 - ensure process for consenting nationally significant projects is efficient and robust



Key features

- New addition to existing 'national significance' criteria
- Ability to lodge applications directly with EPA
- Ministerial powers – refer to board of inquiry or refer back to council (normal processing)
- Private plan change requests can be called in



Key features (cont.)

- Board appointment process to include seeking nominations from the local authorities
- Boards to include member(s) with local knowledge
- Final decision in 9 months from notification (Minister can extend)
- Limited appeal rights on BOI decisions



3. Environmental Protection Authority

- Is a statutory office (transitional measure)
- Exercised by Secretary for the Env't with powers to delegate to employees
- Separate from MfE's core business
- Dedicated unit = nationally significant proposals



4. Plan development and plan change processes

- Intended outcomes:
 - Reduce administration and other requirements
 - Streamline process to reduce plan development time
 - Improve councils ability to respond quickly to emerging issues



Key features

- Extend period within which consultation carried out under other legislation can be used for plan prep.
- Replace further submissions process
- Decisions on submissions can be made according to issues raised
- Remove ability for non-specific appeals



Key features (cont.)

- Change when rules in proposed plans have legal effect
- Limiting appeals on plans to questions of law, unless leave of Env't Ct sought
- Remove 10 yearly review requirements for district plans



Key features (cont.)

- Remove non-complying activities (3 yr lead-in)
- Clarify ability for all districts and a region to produce single combined plan (including RPS)



5. Resource consent process

- Intended outcomes
 - Remove presumption towards notification
 - Reduce requirements for minor consents
 - Reduce delays
 - Improve compliance with timeframes



Key features

- Revised criteria for notification – neutral starting point
- Simplifying reporting requirements for council reporting and decision requirements for more minor consents
- Remove blanket tree protection rules in urban areas (2 yr lead-in)
- Lapsing of pre-2005 applications with current s92 requests (12 Months +)



Key features (cont.)

- Statutory clock only able to be stopped for first further information request
- If info refused or not supplied then processing continues (no s92 appeals)
- Discount policy for late consents
- 10 day limitation on hearing adjournments at end of hearing



6. Decision making

- Intended outcomes
 - Reduce duplication of processes
 - Reduce costs and delays
 - Improve quality of decisions



Key features

- Independent commissioner must be included on hearing panel if requested by applicants/submitters
- Direct referral of applications to Environment Court
- Removing Minister of Conservation's decision making power on coastal consents



Key features (cont.)

- Territorial authorities are to make decisions on notices of requirement



7. National instruments

- Intended outcomes
 - Reduce timeframes and costs of reflecting NPS and referring to NES in plans
 - Ministerial powers developing NPS
 - Clarify requirements around NES



Key features

- Minister has powers to cancel, postpone and restart a NPS development process
- NPS can state planning documents must be changed without further formality
- Appeals on changes implementing NPS on points of law only



Key features (cont.)

- Clarify that councils must have regard to NES in making decisions on consents
- Councils given ability to issue certificates of compliance for NES
- Councils able to remove plan provisions which conflict with NES without further formality



8. Incentivising compliance

- Intended outcomes
 - Improve the deterrent effect of enforcement provisions
 - Improve workability



Key features

- Increase maximum prosecution fines to \$300,000 (individuals) and \$600,000 (corporates)
- Enable Env't Ct to require a resource consent to be reviewed
- Enable councils to take action against the Crown for non-compliance



Key features (cont.)

- Enable enforcement officers to require date of birth of suspected offender



9. Other changes

- No ability to join an appeal on basis of public interest (s274(1)(d))
- Reduced time parties can join an appeals from 30 to 15 days
- Remove requirement for notices of reply to appeals
- Calculation of time limits (consents)
- Removing out of date references



- Increase in Env't Court judges
- Minister can direct a plan review



Questions?



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