

# RESOURCE MANAGEMENT ACT 1991: KEY PROBLEMS, OPTIONS AND TIMING

## SOLUTIONS – PRIORITY PROJECTS

- Introduce a priority track hearings process for complex/priority projects. Councils and/or applicants can opt for a comprehensive first order hearing with Environment Court rigour including pre-circulation of evidence, cross-examination and mandatory presence of at least one Environment Court commissioner on the hearing panel. Appeals on priority track decisions are restricted to points of law only.
- Increase the frequency with which call-in powers are used for major projects and use them proactively and strategically.

### Overhaul designation provisions to:

- provide more effectively for long-term strategic planning and protection of sites and corridors for priority projects, including by increasing lapse periods.
- Increase the scope of who can seek requiring authority status to include proponents of priority projects, including electricity generators.

## SOLUTIONS – CONSENT PROCESSES

- Reintroduce security for costs
- Powers for the Environment Court to award indemnity for costs
- Remove the ability of Minister of conservation to have final decision on coastal activities
- Councils given discretion to decide whether hearings are required
- Decisions and conditions for resource consents for controlled and restricted discretionary activities limited to matters listed in plans.
- Allow applicants the ability to make a binding request for resource consent applications to be heard by independent commissioners.

- Improvements to find a more effective balance between addressing time issues associated with further information requests (s.92) and council abilities to return deficient consent applications (s.88(3)).
- New criteria to limit the use of s.37 (timeframe extension or waivers) to justifiable circumstances.
- Development of 'acceptable environmental solutions' to facilitate faster and less consent costly application preparation.
- New 'gateway' tests for notification to limit ability for objections from

## SOLUTIONS – PLAN MAKING

- Make appeals on entire plans *ultra vires*.
- Remove the requirement for councils to make decisions on individual submissions (decisions by topic areas only)
- Enable council initiated plan changes and variations to be called-in
- Remove the mandatory requirement for there to be a summary of submissions.
- Remove the ability to make further submissions but allow councils to seek comment from those they deem adversely affected by submissions.
- Increase the scope of council consideration so final plans are not limited by the scope of submissions.
- Extend the period under which consultation undertaken under other Acts can be used in the preparation of plans out to three years.
- Enable private plan changes and resource consent applications to be heard together.

- Introduce regulations to standardise the structure and format of plans.
- Regulations to introduce a national set of definitions for common usages across NPSs, NESs and plans.
- Reduce the number of consent classes in plans to two or three (for example, controlled or restricted discretionary and discretionary)
- Provide the Minister with powers to produce Resource Management Orders (a form of Minister initiated and administered plan change) to resolve urgent, significant resource management issues that are beyond the capacity or ability of councils to develop responses to.
- Simplify and clarify s.32 requirements

## SOLUTIONS – CLEAR GOVERNMENT STRATEGY

- Develop an explicit strategy to guide central government involvement in RMA processes including the use of:
  - call-in (including the development of explicit triggers and criteria)
  - Crown submissions, submissions by individual government departments and the Crown's involvement in appeals
  - powers to investigate council performance and to direct plan revision
  - powers to approve requests for requiring authority status
  - national policy statements, national environmental standards and water conservation orders.

## SOLUTIONS – EFFECTIVE INTERVENTION

- Minister for the Environment recommendations to address poor performance by councils made binding.
- Clarify and streamline the processes for approval, implementation and incorporation of NPS and NES into council plans to prompt faster and more efficient responses to national direction.
- Increase the statutory 'weight' of central government direction by requiring decision-makers to "have particular regard" to Crown submissions and the Minister's reasons for calling an application in.
- Improve the appointment process and efficiency of boards of inquiry by:
  - enabling a pre-approved pool of appointees
  - increasing the scale of fees payable to appointees
  - setting clearly defined report-back periods.

- Development of wider range of NPSs and NESs (all section 6 and 7 matters for example)
- Develop and implement a strategic monitoring and review programme to:
  - identify the best means to support effective implementation of existing and proposed NPSs and NESs
  - identify the need for future NPS, NES and standardised assessment/evaluation methodologies
  - review the effectiveness of existing NPSs and NESs
  - identify poorly performing councils and recommend appropriate interventions
  - identify poorly performing decision-makers.

## SOLUTIONS – INTEGRATED LEGISLATION

- Introduce links to the Commerce Act to increase penalties for abuse of process by trade-competitors.
- Clarify the advocacy role of the Department of Conservation
- Limit the discretion of the Department of Conservation to introduce conditions on concessions that are stricter than those on resource consents for the same activity.
- Bring the Historic Places Act approval process into the RMA.
- Clarify and improve integration with the Public Works Act.

## SOLUTIONS – RESOURCE ALLOCATION

- Further facilitate the transfer of consents between applicants / resource users.
- Clarify the ability to separate 'take' from 'use' consents.
- Facilitate the establishment of clear national environmental bottom lines via the use of NES and other standards.
- Facilitate the establishment of entities and mechanisms to provide for the transfer of resource consents and reallocation of resources.
- Ensure an adequate monitoring, review and enforcement programme is in place to identify environmental bottom lines and thresholds, and to ensure the preservation of environmental quality.
- Enable the Minister to direct councils to stop receiving and processing applications in response to specific problems – introduce a timeline within which the council must develop a solution.

