

Technical Advisory Group Options Check Sheet/Meeting Minutes

18 December 2008

Streamlining consent processes (including dealing with trade competition)

#	Option	Initial View		Phase of reform		Comment
		Yes	No	I	II	
1	Reinstate the Environment Court's power to award security for costs.	√		√		
2	Provide for 'Priority Consenting' of major infrastructure projects by an EPA					
3	Requirements for the EPA to process consent applications for priority projects within 9 months.					
4	An independent complaints mechanism including a power to discount or waive consent-processing fees for late consents.					
5	Remove the (Conservation) ministerial veto on coastal consents.	√		√		Subject to consent category (ie. Streamlining plan making processes / Reducing Plan Complexity, page 3, number 11) – later consideration
6	Prohibiting objections with respect to trade competition.					
7	New powers to reject vexatious and frivolous objections.					

8	Establish a priority consenting process					
9	System of approved contractors to reduce the number of minor consents required	√		√		
10	Introduce provisions for 'licensed contractors'	√		√		
11	Enable web mail alternatives for service and notification (for consents)	√		√		Agreement to web mail being an additional component of notification etc, not in substitution for hardcopy
12	Introduce right for applicants and submitters to elect hearings before Commissioners (possibly could be nominated by objectors too?)	√		√		Agreement that if independent commissioners requested, pay for the right. Subject to concern that in many places councils indisposed to meet further costs requested – further consideration required to address this
13	Repeal provisions that allow appeals on notification decisions to go to the Environment Court [currently not in force – still requires Order in Council]					
14	Reverse [Remove?] presumption of notification					
15	Repeal definition of working day and rely on that contained in the Interpretation Act 1999					Action: Confirm what it says in the Interpretation Act, other Acts including Building Act, High Court, Environment Court etc – paper on consistency between these
16	Increase consent deadline for significant projects					
17	Introduce a review mechanism for financial contributions					
18	Introduce an “ombudsman” for complaints on Council's costs					
19	Allow the Environment Court to refer a consent back to the council if the Court has determined that there is sufficient information for the consent to continue to be processed.					Requires further discussion
20	Allow councils discretion to determine whether a hearing is necessary based on the content of submissions and outcome of any pre-hearing meetings.					
21	Limit the consideration of Part II matters to matters of control or discretion for Controlled Activities and Restricted Discretionary Activities.					
22	Allow the applicant's Assessment of Environmental Effects to be “adopted” by the consent authority to avoid the consent authority having to repeat material that it is in agreement with in subsequent reports.	√		√		Shall be no obligation
23	Establish a central processing authority to receive and process applications for priority projects.					
24	Set parameters around the use of s.37 (ability of councils to extend or waive compliance with timeframes) to limit its use to justifiable circumstances only.					
25	Strengthen s.88(3) (the ability to return incomplete resource consent applications to applicants) and amend and clarify s.92 (further information requests) to reduce reliance on, and use of, further information requests to rectify deficient applications or delay determination of resource consent applications.					

Streamlining plan making processes / Reducing Plan Complexity

#	Option	Initial View		Phase of reform		Comment
		Yes	No	I	II	
1	Reducing the number of resource consent categories from five to three					
2	Encourage regional and district councils to develop a single / combined plan					
3	Encourage greater use of the Internet (for notification, lodgement of submissions, and exchanging notices and evidence for example)	√		√		
4	Enable web mail alternatives for service and notification (for plans and plan changes)	√		√		Agreement to web mail being an additional component of notification etc, not in substitution for hardcopy
5	Abolish the right of appeal on Plan matters					
6	Extend the period under which consultation is conducted under other enactments may be used for RMA plan purposes from 12 months to 36 months (cl.3 Schedule One).	√		√		
7	Remove the requirement for local authorities to summarise and notify a summary of submissions.					
8	Remove requirement to decisions on individual submission points					
9	Allow local authority initiated plan changes to be subject to full range of ministerial interventions	√		√		
10	Remove the ability to appeal against, and seek the withdrawal of, entire plans.	√		√		
11	Remove Restricted Coastal Activities as a separate class / process of resource consent and provide transitional provisions that make them Discretionary Activities until such time as plans are amended. This will require plans to be amended within 2 years.					
12	Regulations to standardise the structure, format and expression of plans and plan provisions.					
13	Regulations to introduce a set of 'national definitions' to be used across NPSs, NESs and RMA plans.					
14	Provide the Minister for the Environment with powers to produce Resource Management Orders (a form of Minister initiated plan change to deal with issues of national, regional or local significance that local authorities are struggling to resolve).					
15	Simplify s.32 evaluation requirements to reduce the repetitiveness of the process and focus on necessity and consequences of implementation (which may include financial consequences).					

Improving and strengthening central government direction

#	Option	Initial View		Phase of reform		Comment
		Yes	No	I	II	
1	Enhance the weight given to matters of national interest in call-ins ,including the reasons for call-in (for both Board of Inquiry and Environment Court processes) from "have regard to" to "have particular regard to".					
2	Provide that plans and plan changes have no immediate effect [as they do upon notification currently] unless certified by the Minister or the Environment Court..					
3	Repeal provisions relating to further submissions					
4	Remove impediamentia to exercise of call in powers					
5	Lift the statutory cap on Environment Court judges	√		√		
6	Allow councils to make their plans consistent with national policy statement (NPS) objectives and policies, and to develop rules to give effect to NPS without having to undergo the full public consultation process.					
7	Allow councils to modify their plans to be consistent with NES through a truncated plan change process.					
8	Clarify and improve linkages between NESs and other parts of the RMA (Part 3, certificates of compliance and enforcement provisions for example)					
9	Allow for minor amendments to NES where changes are within the original policy intent.					
10	Enable councils to issue Certificates of Compliance specifically for NES.					
11	Make it explicit that local authorities are responsible for monitoring and enforcing compliance with NES.					
12	Provide the Minister for the Environment with powers to withdraw a proposed NPS or NES at any time prior to it coming into effect.					
13	Develop a strategy and complementary review and monitoring programme to guide government intervention in RMA processes.					
14	Increase the weight decision makers are required to give to Whole of Government (Crown) submissions					

Improving the interface between the RMA and other legislation

#	Option	Initial View		Phase of reform		Comment
		Yes	No	I	II	
1	Consolidate all contributions into LGA (single regime in LGA policies).					
2	Introduce statutory timeframe for DOC decision making on concessions.					
3	Provide for integrated consent and concession process, where applications are lodged simultaneously					
4	Initiate wider review of RMA / LGA charging principles					
5	Improve the relationship and interface between the Hazardous Substances and New Organisms Act and the RMA.					
6	Improve the relationship and interface between the Building Act and the RMA.					
7	Improve the relationship and interface between the Forests Act and the RMA.					
8	Improve the relationship and interface between Historic Places and the RMA.					

Complementary Measures (Enforcement, Court related matters, Compensation)

#	Option	Initial View		Phase of reform		Comment
		Yes	No	I	II	
1	Increase compensation payable for land acquisition					
2	Reduce the time s.274 parties have to notify their intention from 30 working days to 10 working days.	√		√		Recommend 15 days for parity can be a case for less
3	Enable web mail alternatives for service and notification (for appeals and Enforcement notices?)	√		√		Agreement to web mail being an additional component of notification etc, not in substitution for hardcopy
4	Enhance compensation payments.					
5	Enable enforcement action to be taken against Crown Organisations (as defined in the Crown Organisations (Criminal Liability) Act 2002).					
6	Raise the maximum level of penalties for RMA offences.					

7	Raise the penalties for infringement notices.					
8	Make contravention of a resource consent a specific offence.					
9	Enable local authorities to charge non-consent holders for monitoring and enforcement work undertaken to ensure compliance.					
10	Limiting appeals in the Environment Court (could include removing hearings being heard de novo or limiting some appeals to points of law and process only).					

Part II Matters / Treaty of Waitangi / Definitions

#	Option	Initial View		Phase of reform		Comment
		Yes	No	I	II	
1	Replace Treaty principles with specific requirements for iwi consultation.					
2	Remove references to the Treaty					
3	Re-define "Environment"					

Other matters from meeting

#	Option	Initial View		Phase of reform		Comment
		Yes	No	I	II	
1	Section 113 clarified so decisions under section 104 (that were notified). Delete words "of fact" replace with "principle issues that were in contention"	√		√		Action [Withheld under section 9(a) of the Official Information Act]
2	Section 104 removal of the word "provisions"	√				
3	Enable councils to accept AEE without requiring peer review – no obligation of authority to seek peer review	√		√		

Separate non statutory amendments

- Increase appeal fee
 - Introduce hearing charges on appeal
 - Tree trimming
 - Case management – court practice and procedures
- } Neither of these matters agreed upon

Actions arising (material to be circulated prior to next meeting 08/01/09):

[Withheld under Section 9(a) of the Official Information Act]