Ministry for the Environment
Manatū Mō Te Taiao

New Zealand Government

RESOURCE MANAGEMENT AMENDMENT ACT 2009

Fact Sheet 5: Improving Plan Development and Plan Change Processes

This is one of a series of fact sheets giving an overview of the amendments to improve the Resource Management Act (RMA). This fact sheet outlines the improvements made to the process for developing plans and plan changes.

WHAT WERE THE ISSUES?

The RMA amendments address concerns that:

- the process of preparing and changing plans under the RMA was expensive, time consuming and resource intensive for councils and private plan change applicants. Councils were less able to respond in a timely manner to emerging issues and this added to the costs for private plan change applicants
- land owners' and resource users' rights and operations could be affected by new plan rules having legal effect before they had a chance to make submissions. This needed to be balanced against a need to protect vulnerable natural resources from a 'gold rush' of resource consent applications trying to beat new rules coming into effect.

HOW HAS THE RMA BEEN IMPROVED?

Plan reviews

Entire plans and policy statements are no longer required to be reviewed in a single review every 10 years. Section 79 now enables councils to choose how to review their plans provided each provision of the plan or policy statement has undergone a review or alteration at least once in the preceding 10 years.

The Minister for the Environment is able to direct that a plan (except a regional coastal plan) be reviewed, in whole or in part, by the local authority responsible for it. The Minister for Conservation is able to direct that a regional coastal plan be reviewed in whole or in part.

This responds to concerns that some councils have not reviewed or changed their plans for more than 10 years, or have not responded to a significant emerging local issue.

Combined plans

Section 80 now provides that councils can prepare, implement and administer any combination of regional or district plans or policy statements.

While combined plans are optional, they must be considered whenever significant cross-boundary resource use issues arise or are likely to arise.

The combined document must identify which are the provisions of the regional policy statement and which are the provisions of the regional plan or district plan (as appropriate).

Further submission process

Clause 8 of Schedule 1 now provides that the only persons able to make a further submission are:

- persons who are representing a relevant aspect of the public interest, or
- persons who have an interest in the proposed policy statement or plan or change that is greater than the interest the general public has
- the local authority.

Further submissions must now be lodged within 10 (not 20) working days from the day on which public notice is given.

Decisions on submissions

Under clause 10 of Schedule 1, a decision is not required on each individual submission, and decisions may address submissions by grouping them (according to the plan provisions to which they relate or the matter to which they relate).

Decisions must include the reasons for accepting or rejecting submissions, and may include any consequential changes to the proposed policy statement or plan arising from decisions on submissions.

When notifying decisions on submissions, a council needs only to serve a copy of the public notice of the decision (including where a copy of the decision can be found) on submitters and requiring authorities. The notice does not need to summarise the decision itself. However, the council must still provide, on request, a copy of the decision within three working days to the person who requested it.

Appeals on plans

An appeal cannot seek the withdrawal of a whole proposed plan or policy statement, but can still request that the plan change or variation be withdrawn.

Refer to Fact Sheet 2: *Trade Competition, Representation at Proceedings and Environment Court Costs* for details on the restrictions on appeals relating to trade competition. See also Fact Sheet 6: *Changes to National Instruments* for details on the restrictions on appeals where a plan has been changed to give effect to a national policy statement.

When plan rules take effect

There are new provisions in sections 86A to 86G for when plan rules take effect.

Rules in proposed plans now do not have legal effect until after decisions have been made on submissions. The exceptions to this, where rules continue to have legal effect as soon as the proposed plan is publicly notified, are when:

- an Environment Court order allows a rule in a plan to have legal effect on a different date, or
- the local authority resolves that a plan rule will have no legal effect until it becomes operative, or
- the rule protects or relates to water, air, soil (or soil conservation purposes); protects areas of significant indigenous vegetation or significant habitats of indigenous fauna; or protects historic heritage, or
- provides for or relates to an aquaculture management area.

Rules in private plan changes that provide for or relate to an aquaculture management area can have legal effect from the time that plan change is notified. Rules in other private plan changes continue to have no legal effect until that plan change has been made operative.

When a proposed plan is notified, or as soon as practicable after the Environment Court has made an order that a rule have legal effect at a specified date, councils must identify (by notations in their plans) any rule which will have legal effect before decisions have been made on submissions.

Other technical changes

- Consolidation of terms concerning plans and plan changes into new sections 43AA to 43AAC.
- Rule making powers have been clarified in new sections 77A, 77B and 77D while aspects relating to consent processing are in now contained in new sections 87A and 87B.
- Consultation carried out to fulfil requirements of other legislation can be used to inform the preparation of RMA plans provided that it has been carried out within the past 36 months (was previously 12 months).

Influence of national instruments and plans

Where rules in a plan directly conflict with, or duplicate the provisions of a national environmental standard, the council must remove the conflict or duplication, without using Schedule 1.

It is now clearer when councils need to amend their plans to include specific objectives and policies from a national policy statement without formality.

See Fact Sheet 6: *Changes to National Instruments* for further information on provisions relating to national instruments and how they relate to policy statements and plans.

Removing blanket / general tree protection controls

Under new section 76(4A), rules in district plans must not prohibit or restrict the felling, trimming, damaging or removal of any tree or group of trees in an urban environment unless the trees are identified in a plan or located in a reserve or are subject to a conservation management plan or strategy.

In section 76(4A), an 'urban environment' means an allotment with an area of less that 4000 square metres that is connected to a reticulated water supply and a reticulated sewerage system, and on which there is a commercial or industrial building or dwelling/house.

Any rule or part of a rule in a district plan that prohibits or restricts the trimming of a tree or group of trees in an urban area that would otherwise conflict with section 76(4A) was revoked on 1 October 2009. Rules in district plans that prohibit or restrict the felling, damaging or removal or any tree or group of trees in an urban environment that conflict with section 76(4A) will be automatically revoked from 1 January 2012.

The new provisions do not affect other legislation or mechanisms (such as covenants or bylaws) that protect trees.

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WANT TO KNOW MORE?

Contact the Ministry for the Environment by phoning 0800 RMA INFO (0800 762 4636) or emailing **rmainfo@mfe.govt.nz** or check out our website: **www.rma.govt.nz**

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