



RESOURCE MANAGEMENT AMENDMENT ACT 2009

Fact Sheet 8: Environmental Protection Authority – Role, Functions and Powers

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 roles, functions and powers of the new Environmental Protection Authority (EPA) to receive and process applications for proposals of national significance.

This fact sheet should be read with Fact Sheet 7: *Proposals of National Significance* and the Resource Consent Applications for Proposals of National Significance flow chart.

WHAT WERE THE ISSUES?

The amendments address concerns about the efficient and robust consideration of projects of national significance, including:

- enabling matters of national significance to be lodged directly to the EPA
- introducing a timeline for decisions on proposals of national significance
- providing timely administration and support to boards of inquiry that consider proposals of national significance.

HOW HAS THE RMA BEEN IMPROVED?

Establishment of an Environmental Protection Authority (EPA)

New Part 4A establishes the EPA as a statutory office within the Ministry for the Environment (the Ministry) under the Secretary for the Environment. The EPA's role is primarily to receive and process proposals of national significance.

Section 42C provides that the functions of the EPA are to:

- receive matters lodged under section 145
- make recommendations to the Minister in respect of a matter, application or notice of requirement that has been lodged
- make decisions under section 139 on applications for certificates of compliance for proposals or activities that are related to proposals of national significance
- provide secretarial and support services to boards of inquiry
- exercise any powers or perform any functions or duties delegated by the Minister for the Environment to the EPA.

Overview of the process

New Part 6AA improves the provisions for dealing with proposals of national significance. New section 140 sets out an overview of Part 6AA and the different routes for proposals of national significance, including the ability to lodge an application directly with the EPA.

For further information about the different routes please refer to Fact Sheet 7: *Proposals of National Significance* and the Resource Consent Applications for Proposals of National Significance flow chart.

The Secretary for the Environment will exercise the roles, functions and powers of the EPA. The Secretary can delegate these functions to employees within the Ministry. A dedicated unit within the Ministry will carry out the work of the EPA.



What matters can be lodged with the EPA?

Section 145 provides that the following matters can be lodged with the EPA:

- an application for a resource consent
- a request for the preparation of a regional plan (other than a regional coastal plan)
- a request for a change to a plan
- an application for a change to or cancellation of conditions of a resource consent
- a notice of requirement for a designation or to alter a designation
- a notice of requirement for a heritage order or to alter a heritage order.

What is the EPA's role once a matter is lodged?

Once a matter has been lodged, the EPA will assess the matter for completeness and adequacy. If the application passes this check, then it will remain with the EPA for processing.

Under section 146, the EPA recommends to the Minister for the Environment, no later than 20 working days after receiving the matter, whether the Minister should make a direction and refer the matter to a board of inquiry or the Environment Court for consideration and a decision. For further information refer to Fact Sheet 7: *Proposals of National Significance* and the Resource Consent Applications for Proposals of National Significance flow chart.

However, under section 149, the EPA can, at any time in writing, request further information or commission reports. If the EPA requests further information or commissions a report before making a recommendation to the Minister, the 20 working day 'clock' stops.

The applicant has 15 working days to respond to the request by:

- providing the information, or
- telling the EPA in writing that they agree to provide the information, or
- telling the EPA in writing that they refuse to provide the information.

The EPA must serve a copy of its recommendation on the applicant and the local authority.

Once the Minister receives the EPA's recommendation, he or she must consider under section 147 whether to make a direction and refer the matter to a board of inquiry or the Environment Court for consideration and a decision. If the Minister decides not to make a direction, the EPA must, under section 149Y, refer the matter to the council to process under section 149Z.

What is the EPA's role once a matter has been called in?

If the Minister makes a direction, the EPA must:

- serve a copy of the Minister's decision on the local authority and the applicant as soon as practicable under section 149A
- publicly notify the Minister's decision and call for submissions under section 149C.

Section 149E provides that the EPA receives submissions on a matter where it has given public notice under section 149C. Any person (including the Minister, for the Crown) can make a submission to the EPA in the prescribed form in the regulations. The submission must be served on the EPA within 20 working days after the date of the public notice. A submitter must also serve a copy of his or her submission on the applicant.

If the matter is a proposed plan, a change to a plan, or a variation of a proposed plan, under section 149F, the EPA must produce a summary of all the submissions for the board of inquiry or the Environment Court and receive further submissions. Section 149F states that any person representing a relevant aspect of the public interest, any person that has an interest greater than the interest that the general public has, and the local authority, may make further submissions.

What secretarial and support services must the EPA provide to a board of inquiry and the Environment Court?

At the same time, the EPA must serve a copy of the public notice given on each owner and occupier of any land to which the matter relates and each owner or occupier of any land adjoining any land to which the matter relates.

Under section 149G, the EPA must provide a board of inquiry or the Environment Court with:

- the matter that has been the subject of the direction
- all information received relating to the matter
- any submissions received on the matter.

The EPA will support a board by:

- commissioning any reports requested by the board
- undertaking other administrative support in relation to the hearing and the drafting of the report.

Once a board of inquiry has held any hearings and completed its inquiry, it must prepare a draft decision and report. Under section 149Q, the EPA must send a copy of this to the applicant, the local authority, any other relevant local authorities, any person who made a submission, and the relevant Minister. If the call in relates to a notice of requirement, the land owners and occupiers directly affected by the draft decision must also receive a copy.

The EPA must invite anyone to whom it sends the draft report to send any comments on minor or technical aspects of the report to the EPA within 20 working days.

Under section 149R, once the board of inquiry has finalised its report, the EPA must send a copy of this to the persons noted above. The EPA must also publish the board's report and give public notice of where and how many copies of it can be obtained.

How can I apply or make a submission to the EPA?

Please contact the EPA on 0800 CALLEPA (0800 2255 372) for guidance about the application process. Applications or submissions on matters that are the subject of a direction can be lodged with the EPA's Head Office in Wellington.

Electronic copies of the EPA's application forms as well as information about the administrative charges payable are available on the EPA's website at www.epa.govt.nz or by phoning 0800 CALLEPA.

For more information on making a submission refer to the Ministry's Everyday Guide to the RMA booklet 3.2 *Making a Submission on a Resource Consent* and booklet 5.1 *Making a Submission on a Proposed Plan or Plan Change*.

OTHER INITIATIVES

Options for the broader functions of the EPA will be considered in Phase 2 of the RMA reforms.

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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