New Zealand Government

THE SECOND PHASE OF **RESOURCE MANAGEMENT ACT REFORM**

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Minister's message

The Resource Management Act 1991 (RMA) is New Zealand's primary environmental statute, covering environmental protection, natural resource management, and our urban planning regime. Reports from the OECD, Local Government New Zealand, the Rules Reduction Taskforce, and the Productivity Commission all highlight significant problems with cumbersome planning processes and the time and cost of consenting. The previous and current government has had to repeatedly pass special legislation to bypass the Act to effectively address major resource issues as diverse as Waitaki water allocation to the challenges of Auckland housing. It's time we fixed the principal Act.

The Government set about a two-phase reform programme in 2008. The first phase set up the Environmental Protection Authority, banned trade competitors from using the RMA to delay developments, tightened enforcement, and penalised councils for late consent processing.

The introduction of the Resource Legislation Amendment Bill represents the second phase of the Government's resource management reform programme and comprises about 40 individual proposals aimed at delivering substantive improvements to the RMA.

A key feature of this set of reforms is stronger national direction. Managing natural hazards like earthquakes is added as a matter of national importance. We are stepping up our programme of national policy statements, national environmental standards, and national guidance to get better environmental results at less cost. The Bill includes provisions that will require councils to use standard planning templates. It does not make sense for a small country of four and a half million people to have each council reinvent the wheel. For example, we have over 50 different definitions of how to measure the height of a building. The Bill enables national regulations for fencing to keep stock out of water bodies. It will also contain a power to enable constraints to be placed on councils' telling homeowners things like which way they must face their living areas or over-riding the Building Act on insulation requirements.

The Bill provides for better plan making. The current Act provides for only one way to write a plan, which up to now has taken an average of six years. This process is improved but we are also providing alternative ways. First, we are introducing a collaborative planning approach based on the work of the Land and Water Forum where different interests are encouraged to work together to find resource planning solutions. A second alternative is a streamlined planning process where the council and the Government agree on a specially tailored approach to specific local conditions.

The Bill addresses frustrations over minor consents costing too much and taking too much time. Councils will have discretion not to require consents for minor issues. A new 10 day, fast-track consent will be available for simple issues. The Bill narrows parties who must be consulted to those directly affected, meaning a homeowner extending a deck only has to consult the adjacent neighbour. Councils will be required to have fixed fees so homeowners will not be subject to ever-expanding bills.

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The Bill puts new requirements on councils to ensure sufficient residential and business development capacity to meet long-term demand, changes the presumption in favour of land being available for subdivision, and limits appeals on residential resource consents on land already zoned for housing.

Some activities under the RMA also require permissions under other Acts. Getting multiple approvals can be time consuming and complex, and sometimes applicants have to provide the same information several times to different decision makers for the same activity. The Bill addresses duplication between the RMA and the hazardous substances management regime and other Acts.

Thousands of consents will no longer be required for activities that are already properly regulated by other Acts.

The Bill will facilitate urban redevelopment by enabling integrated consultation and decisions on reserve exchanges under the Reserves Act and consents under the RMA. The Bill also provides for only one charging regime for infrastructure by phasing out financial contributions under the RMA and instead using development contributions under the Local Government Act.

The Bill also aligns processing of notified concession applications under the Conservation Act with notified resource consent timeframes, and certain notified discretionary marine consents under the EEZ Act with the board of inquiry process for nationally significant proposals under the RMA. Changes to the Public Works Act will provide easier and fairer compensation for property owners whose land is required for important infrastructure.

The Bill introduces new requirements for councils to make their plans clear and concise, and their processes timely and efficient. It contains measures that encourage early dispute resolution on cases appealed to the Environment Court. It brings the RMA into the digital age by recognising email communication and online filing. It will require council RMA notices to be in plain language, with the detailed information available on publicly accessible websites saving millions in advertising costs.

This Bill is a compromise with the Māori Party and they have strongly advocated for better processes for iwi to be involved in council plan making. Councils will need to engage with local iwi on how they will involve them in their resource management processes. The objective is to ensure iwi are consulted on issues that are important to them but are not inundated with minor consents which they are not concerned about.

This Bill forms one part of the Government's programme of improvements to the resource management system. We also have an ambitious programme of national policy statements and environmental standards. We will also be releasing a discussion document in early 2016 on improvements to how we manage fresh water.

We welcome broad input on this Bill and the other changes. Our 'Bluegreen' goal is improved environmental management and a resource management system that supports a strong economy.

Hon Dr Nick Smith
Minister for the Environment

Improving national consistency and direction

The RMA gives councils the responsibility for developing regional and district plans to manage the environment in their communities. These plans set out what activities people can do, what activities require permission from the council (a resource consent), and how activities should be carried out.

Variation between different council plans across New Zealand can be confusing. For example, there are more than 50 definitions of what is allowed in a commercial area. This makes it hard for people and businesses that operate across several districts to know how the rules work, and costs the consumer time and money.

By allowing a national planning template to be created, the reforms will help consolidate the wide variety of rules across the country. The template will set out the structure, format and some standard content for all plans across New Zealand. This will make it much easier to find relevant provisions in plans, and help reduce variation in the interpretation of similar rules.

Councils will still have a choice in how to apply the template in different areas. The template could provide councils with some standardised options for residential areas to choose from, rather than having hundreds of different rules created from scratch across the country.

While resource management legislation is largely implemented by local government, central government can provide national direction. Specific tools to provide national direction include national policy statements, national environmental standards, and regulations. The reforms will strengthen and broaden the powers of national policy statements and national environmental standards and reduce the time it takes to make them.

Natural hazards

New Zealand is one of the most natural hazard-prone countries in the world, at risk from earthquakes and liquefaction, floods, landslides, and volcanoes. Over the past few years, we have seen many examples of the huge impact these hazard events can have on New Zealanders' lives and livelihoods. We also need to manage new risks like sea level rise from climate change.

Following recommendations from the Canterbury Earthquake Royal Commission, the RMA reforms will emphasise the consideration of significant risks from natural hazards in resource management planning and decision-making.

Creating a responsive planning process

The RMA is only as good as the plans under it and the process for producing plans has proved to be too bureaucratic.

Currently the RMA only allows councils one process for developing plans, whatever the circumstances. This 'one size fits all' approach is too slow and gives little flexibility. The time taken to develop plans, sometimes over 10 years, means they are not able to be responsive to emerging issues. The reforms will improve the plan-making process and provide new ways of producing quality plans, by introducing two new plan-making options – the streamlined planning process and the collaborative planning process.

> *"Plans are irrelevant if they are not timely. Our planning processes can't keep up with the reality of changes in the environment in which they are being placed… Plan agility (or lack of it) is a very serious problem and needs to be fixed."*
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> – Rules Reduction Taskforce "Loopy Rules Report", 2015

A new streamlined planning process will mean councils can formally ask the Minister for the Environment for a plan-making process that suits their local circumstances. In the past, the Government has sometimes had to pass special legislation where the existing planning process would have been too slow, such as in Auckland and Christchurch. The new streamlined process will reduce the need for this kind of *ad hoc* law-making.

The collaborative planning process encourages greater front-end public engagement. It will encourage people with different views to work together to resolve resource management issues, which will reduce litigation costs and lengthy delays. One example where collaboration has worked well is the Land and Water Forum, which brought together people from industry, NGOs, iwi, and central and local government. Working together, these groups developed recommendations to the Government on how to manage fresh water.

The reforms also seek to place an obligation on councils to engage with iwi through iwi participation arrangements during the early stages of the plan-making processes. This proposal will improve consistency in iwi engagement on plan development.

Streamlined planning process

Current plan-making processes can be cumbersome and expensive. It has taken councils an average of almost two years to make a plan change, and an average of six years to complete a new plan (including deciding any appeals).

For the Auckland Unitary Plan and the Christchurch District Plan review, special legislation had to be put in place to speed up the planning process.

Instead of having to create special legislation when these issues arise, the proposed streamlined planning process will make the plan-making process flexible and fast enough to respond to new or urgent matters.

Simplifying the consenting system

Council plans set out all the rules and conditions for different types of activities within their area. The process a consent authority must follow in coming to a decision on a consent application can involve consultation, a decision on whether to notify the application, an evaluation report, a hearing and, if the resource consent is granted, the setting of consent conditions.

Getting resource consents for activities that might affect the environment can add time, cost, and uncertainty to projects. Things that people might want to do on their properties – like adding an extension or putting up a fence – are sometimes much more complicated and long-winded than they should be.

The reforms introduce greater proportionality into the process of obtaining resource consent by introducing a 10 working day time limit for determining simple, fast-track applications. Councils will also have discretion to waive the requirement for a consent for marginal or temporary non-compliance where the effects on others are minor.

There will be some limits on who can be involved in resource consent applications and for what reasons, as well as who can appeal decisions.

The costs of getting resource consent, and any conditions that apply, will also be more transparent. The reforms propose a regulation-making power that requires consent authorities to fix the fees for processing certain consent applications, as well as fixed remuneration for hearings panels and fixed fees for hearings. These will give applicants greater certainty of costs and encourage more cost-effective decision making.

"We were wanting to make alterations to our house which involved lifting it up. This impacted a height to boundary issue under the RMA…We approached the neighbour and showed them the plans and got their approval. So, $4000 later, the council tells us it's all okay."

– Rules Reduction Taskforce "Loopy Rules Report", 2015

Recognising the importance of affordable housing

While many factors make housing more expensive, the Productivity Commission found tight land regulation under the RMA was one of the biggest factors driving up house prices. The RMA can constrain land supply and push up section prices. The planning system isn't responsive enough for a rapidly growing population, or increased demand for housing.

The reforms will mean councils have to be more forward thinking, and proactively plan to have enough residential and business land for development.

More efficient consenting will make suitable development easier and more affordable. Improving consistency across New Zealand will help reduce the costs for developers of figuring out and complying with variations between local rules.

Currently, land may not be subdivided unless the subdivision is expressly allowed by a national environmental standard, district plan rule, or resource consent. The reforms will reverse this presumption, meaning subdivision will be allowed unless it is restricted.

Special housing areas

The Housing Accords and Special Housing Areas Act (HASHA) was passed in 2013 to help improve housing affordability in certain areas. It bypasses some normal RMA processes, and streamlines plan changes and resource consenting in areas with high housing demand. This means development can happen much faster where it is needed.

There are now 125 special housing areas throughout the country, which can provide over 50,000 new homes. However, HASHA expires in September 2016. The Bill will specifically require regional, district and city councils to ensure there is sufficient development capacity to meet long-term demands.

Better alignment with other Acts

Some activities under the RMA require permissions under other Acts as well. Getting multiple approvals can be time consuming and complex.

Sometimes applicants have to provide the same information several times to different people for the same activity. For large projects, this can make a difference to whether they are viable or not.

The reforms will simplify these processes and reduce duplication across a number of Acts, including the:

- Reserves Act 1977
- Hazardous Substances and New Organisms Act 1996.

The reforms will also align processing of notified concession applications under the Conservation Act with notified resource consent timeframes. Processing of certain publicly notified marine consents under the Economic Zone and Continental Shelf (Environmental Effects) Act 2012 will also be aligned with the board of inquiry process for nationally significant proposals under the RMA. This will make it more efficient for the Environmental Protection Authority to process these applications. Changes to the Public Works Act 1981 will provide easier and fairer compensation for property owners whose land is required for important infrastructure.

A further example of where this duplication exists is financial and development contributions. There is considerable variation and overlap between how different councils charge financial and development contributions. This has resulted in confusion and concerns about councils' charging under the two regimes; especially when contributions are charged under both regimes for the same development.

The reforms will phase out the ability for a council to charge a financial contribution under the RMA. Removing financial contributions will make it clear that the costs of servicing new growth should be met through development contributions, under the Local Government Act 2002, and make charging more certain and transparent for applicants. It will still be possible to offset environmental effects (if volunteered by the applicant) under the RMA with conditions on consents for delivering specific environmental mitigation.

The reforms also introduce a new regulation-making power to prevent and remove council planning provisions that duplicate the functions, or have the effect of overriding other legislation or impose unnecessary land-use restrictions.

Other changes

There have been significant advances in technology since the RMA was introduced in 1991. The way councils service documents for resource management processes (in newspapers and posting copies) is not aligned with current technology. The reforms will bring the RMA into line with how New Zealanders work now, by introducing electronic public notification and servicing of documents, and providing for making all plans easily accessible and searchable online. It also requires all RMA public notices be in plain language.

The reforms enable regulations to be made to prescribe how councils undertake monitoring, including what information must be collected, what methodologies must be used, and how these would be reported. This will lead to standardised information collation – better facilitating council comparisons and improving the quality and consistency of the information the Ministry for the Environment receives from councils.

This will help support the new Environmental Reporting Act 2015 and enable more transparency in how New Zealand matches up to its clean, green reputation.

Finally, the reforms will deliver on the Government's commitment to excluding dairy cattle from waterways by 1 July 2017 by enabling regulations to be made that require all dairy cattle to be excluded from water bodies by that date. To provide an efficient way of enforcing these regulations, the breach of the proposed regulation will be an infringement offence. This will enable councils to use a streamlined, single-step process for enforcing compliance with the regulation, rather than relying on the current expensive abatement notice and enforcement order process.

Find out more

Find out more about the Resource Management Act reforms and the parliamentary and select committee process on the Ministry for the Environment's website: **www.mfe.govt.nz/rma/rma-reforms-and-amendments**

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