Feedback Sought on Investment Threshold for Streamlined Resource Consenting

The Resource Management Act 1991 (the RMA) allows notified applications for resource consents and notices of requirement to be directly referred to the Environment Court, bypassing the first instance hearing of the consent authority. The consent authority must agree to the direct referral process, and past experience has shown reluctance from some Councils to excuse a regionally significant project from local decision making (sometimes for financial or political reasons).

Amendments last year to the RMA now make it mandatory for consent authorities to grant a direct referral of applications where a certain investment threshold is met. Consent authorities retain the ability to refuse to grant a direct referral where the investment threshold has not been met, or they deem that exceptional circumstances exist.

The Ministry for the Environment (the Ministry) is seeking feedback on the implementation of the investment threshold, and in particular:

- Methods for measuring the investment threshold – for example, capital investment value required to bring the project into operation, economic impact assessment including contribution to regional or national GDP, or Net Present Value which evaluates the costs and benefits of a project across the full lifetime of the project;

- Whether there should be a single investment threshold across the country or it should differ depending on project type or location;

- What level the investment threshold should be set at to capture proposals of significant economic scale; and

- Which matters a consent authority is required to have regard to in determining whether exceptional circumstances exist – for example, if the proposal is relevant to a Treaty of Waitangi settlement, the quality of the valuation provided, the importance of involving local submitters, and local accountability issues.

A high investment threshold, such as hundreds of millions of dollars, may undermine the judicial intent behind the direct referral pathway as many proposals would be unable to meet the requirements of a proposal of significant economic scale. Conversely, a lower investment threshold such as millions or tens of millions may result in proposals being eligible for the direct referral pathway when they are not regionally significant proposals.

The implementation of this threshold has implications for Councils, developers and stakeholders who may be drawn into direct referral applications.

Submissions to the Ministry close on **Friday 30 May 2014, at 5 pm**.

If you would like assistance on making a submission or to discuss a proposal please contact our specialist resource management team.