

Resource Management Amendment Bill passes final reading

The Resource Management Amendment Bill (the Bill) passed its final reading on 25 June. The Bill seeks to improve Resource Management Act 1991 (RMA) processes and enforcement provisions, increase certainty and public participation, improve freshwater management, and clarify interaction between the RMA and climate change mitigation considerations.

The Bill was introduced in September 2019 prior to current changes on fast-track consenting and other amendments in response to COVID-19, and sits separate to those more recent proposals. A summary of the Bill's key changes to the RMA are provided below.

Notification exemptions removed

Applications for subdivision and residential consents will no longer be exempt from public notification. Additionally, only controlled activities other than subdivisions may be exempt from limited notification. The Bill also removes the Governor-General's power to prescribe activities that may be precluded from either public or limited notification requirements.

Changes to limited notification will come into effect when the Bill commences, and changes to public notification will come into effect three months following commencement. The Bill is awaiting assent, following which the limited notification changes are likely to be effective from early July, and public notification changes are likely to be effective from early October. These changes will not apply to applications lodged prior to the date of commencement.

Appeals on subdivision and residential activity consents

The Bill will reinstate the right to appeal decisions on discretionary subdivisions and residential activities.

Under the current drafting these changes will come into effect three months following commencement of the Bill, therefore we expect these changes are likely to be effective from early October. These changes will not apply to applications lodged prior to the date of commencement.

Widening of appeal rights

A person appealing an application for resource consent, an application for change of conditions or a review of consent conditions may now appeal matters that were not raised in the person's original submission. The widening of appeal rights applies to resource consents lodged on or after the commencement of the Bill.

Proposals of National Significance

Currently the Minister for the Environment may 'call in' the decision making process for resource consents, plans, notices of requirements for designations or heritage orders which relate to a proposal of national significance. The Bill now enables a Minister to call in the decision making process for regional policy statements. That is, the Minister can call in a request for a change or part of a change of a regional policy statement, or a variation or part of a variation of a proposed policy statement, or a combination of these matters. When deciding whether or not a matter is a matter of national significance, the Minister may have regard to whether the change or variation gives effect to a national policy statement.

This change will be effective from the commencement of the Bill.

Freshwater management

The introduction of a new process for freshwater planning seeks to assist local authorities to give effect to the proposed amendments to the National Policy

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Statement for Freshwater Management requirements by 2025. Freshwater management policies are in the process of being amended; recent developments are summarised [here](#).

The Bill establishes a Chief Freshwater Commissioner and freshwater hearings panels to conduct a public hearing of submissions, and make recommendations to a regional council. The Environment Committee recommended establishing Freshwater Commissioners for each hearing panel. The panel can make recommendations beyond the scope of submissions and appeal rights are limited.

Regional Councils must use the new process, unless only part of the instrument relates to freshwater. In this case, the Council need only prepare the freshwater part in accordance with the new process.

The Bill imposes new obligations for farms of a certain threshold to develop and have certified freshwater farm plans. These requirements will only apply to districts, regions, or parts of New Zealand as specified in an Order in Council, based on recommendations from the Minister for Environment. The Minister for Environment must consult the Minister of Agriculture, and be satisfied the regulations will better control adverse effects of farming on freshwater and freshwater ecosystems.

The farm threshold is measured by size and use; farms over the following limits must have a freshwater farm plan:

- ≥20 ha of arable land use;
- ≥5 ha of horticultural land use;
- ≥20 ha of pastoral land use

Farms that undertake a combination of uses may also fall within these requirements, as well as any area of land prescribed by the Governor-General.

The freshwater farm plan must specify how adverse effects on freshwater and the ecosystem are to be avoided, remedied, or mitigated. Freshwater farm plans will be audited and compliance monitored.

New provisions to monitor fertiliser use have been introduced, including the ability for specified persons to collect information on sale and purchase of nitrogenous

fertiliser including quantities and use, and pass this information on to the EPA, a regional council, or a specified party. Personal information may only be collected from a purchaser if the purchase exceeds a prescribed volume of nitrogenous fertiliser.

The Bill also extends the circumstances where resource consent conditions can be reviewed when a regional rule contains a rule that relates to water from just coastal, discharge and water permits to land use consents as well, if the regional council considers it appropriate to review the consents to enable levels, flows, standards set to be met.

If more than 1 resource consent is affected, the consents can now be reviewed together.

Enforcement action

The Bill gives new enforcement powers to the Environmental Protection Agency (EPA), including independent investigations under the RMA, ability to assist local authorities with RMA investigations, and the ability to intervene and take over RMA investigations and enforcement functions of local authorities. The EPA may intervene if it is satisfied the intervention is necessary or desirable to promote the purpose of the RMA.

The time period to lay a charge for an offence under the Act has been extended from 6 months to 12 months after the date on which the contraventions giving rise to the charge first became known, or should have become known to the local authority.

The maximum infringement fees are to increase to \$2,000 for natural persons, and \$4,000 for all other persons (such as companies).

Interaction with climate change policies

The Bill removes the restriction on consent authorities from considering the effects of greenhouse gas discharges on climate change when making decisions on resource consent applications. The Bill also removes the restriction on regional councils from considering these effects when developing regional planning rules on discharge of contaminants. The intention of these changes is align RMA provisions with recent policies on climate change response, particularly the Climate Change Response (Zero Carbon) Amendment Act 2019 (Climate Change Response Act). The Climate Change

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Response Act enables consideration of emissions targets, budgets, and reduction plans. The Bill incorporates similar considerations, requiring local authorities to have regard to emissions reductions plans and national adaptation plans when making regional policy statements, regional plans, and district plans. These changes are proposed to come into effect 31 December 2021 (or a later date up to 30 November 2022 specified by the Governor-General by Order of Council) to give local authorities time to amend policies and guidance on processes, and to align with other policy frameworks under development.

Next steps

The Bill is now awaiting royal assent, which is expected within the next few weeks. You can find the version of the Bill for the second reading [here](#), and the supplementary order papers which proposed the changes for the third reading [here](#).

Want to know more?

If you would like to know more about these changes, or those occurring alongside this Bill, please contact our specialist [Resource Management Team](#).