

ENVIRONMENT

RESOURCE MANAGEMENT ACT REFORM PACKAGE

AUGUST 2013

At the end of last week the Government unveiled the 2013 Resource Management Act Reform Package (**the Reform Package**) following the completion of consultation on the February discussion document: "Improving Our Resource Management System". The 2013 reform package will become a Resource Management Reform Bill (**the Bill**) to be introduced later in 2013.

The reform package has six targets:

- Improving resource management planning
- National consistency and guidance
- Efficient and effective resource consents
- Council performance
- Freshwater reforms
- Other matters

It contains many of the changes identified in the discussion document, the pivotal issues of which were addressed in our earlier **commentary**. However a number of the proposed changes have been further adjusted as a result of the consultation process. We focus on some of the most significant below.

Improving resource management and planning

The Reform Package retains the proposed alignment of all resource management plans into a standardised national template. The first version of the template should be completed within two years of the Bill's enactment. Incorporation of the template framework by councils is staggered, with completion over a maximum of five years.

The Reform Package also consolidates the requirement for councils to merge all the content of regional policy statements and regional and district plans into a single planning document. The planning tracks available for doing this have been formalised:

- The existing approach of Schedule 1 of the Resource Management Act 1991 (**the RMA**), subject

to more stringent consultation requirements; or

- A joint council planning process with a hearing process by independent panel which will make recommendations to the council; or
- For freshwater planning only, a collaborative planning process.

Councils will be required to publish a planning document setting out a framework for how the amalgamation process will be undertaken.

National Consistency and Guidance

Most of the discussion documents suggested adjustments to section 6 and 7 of the RMA will be implemented. Of note 'intrinsic values and ecosystems' has been retained in section 6 in a revised form, namely 'effective functioning of ecosystems', which is to be buttressed by a new, supporting definition.

Efficient and effective resource consents

The suggestion to amend the role of the Environment Court to hear resource consent appeals based on a merit basis rather than the current *de novo* approach has been rejected. This has been replaced by proposed adjustments to the scope of submissions and mandatory alternative dispute resolution:

- Submissions on a resource consent will be limited to the particular issue that required notification. Councils will be required to strike out submissions that are irrelevant to those matters.
- Some decisions can be taken by applicants directly to an Independent Commissioner as an alternative to a full appeal.
- On appeal the Environment Court will be required to consider using a judicial conference to help parties negotiate a settlement. The Court will also be given the ability to require parties to participate in alternative dispute resolution processes.

The Reform Package retains the suite of changes allocating an application to a specific consent process that is proportionate to the contentiousness and extent of the application. The more stringent limits on notification canvassed in the discussion document are also retained.

Council Performance

The Reform Package amends the adjustments proposed to the Minister's powers regarding plan changes. The Minister will not be able to directly amend the content of an operative plan and is restricted to:

- (a) informing the council that they have failed to comply with a mandated process or content requirement and,
- (b) then approving any subsequent adjustment.

Alternately the Minister will be able to refer the issue to an Independent Commissioner. Any referral would be subject to public notification.

In addition, the Minister will have the power to allow for the dispensation of some process steps on the receipt of an urgent submission from a council requiring plan content to be developed quickly. In this instance, the Minister would need to be satisfied that adequate consultation had been provided for before any dispensation was allowed.

Other matters

Significantly the package contains the addition of a reversal of the presumption for subdivision. Currently subdivision is restricted unless expressly permitted under the RMA. The Reform Package reverses this presumption. This would mean subdivision could be undertaken without a resource consent unless it contravened a National Environment Standard, a plan or proposed plan.

The Reform Package

The adjustments to the reforms set out in the discussion document have predominately focused on further ensuring national uniformity in planning documents and processes, streamlining the resource consent application and appeals processes and finding a balance between the decision-making powers afforded to the Minister and councils.

When the Bill is announced it will be open for submissions through the Select Committee process.

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