

9. AMENDMENTS TO THE RESOURCE MANAGEMENT ACT

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The purpose of this report is to advise the Committee about the Resource Management Amendment Act.

Amendments to the Resource Management Act (RMA) have recently been passed by Parliament. The main objectives of the Resource Management Amendment Act (No. 2) 2003 are to:

- Reduce compliance costs;
- Strengthen the part of the RMA in respect of national instruments (national environmental standards and national policy statements);
- Strengthen historic heritage provisions;
- Make a number of miscellaneous amendments relating to the Act's implementation.

Most of the provisions of the Amendment Act will come into force on 1 August 2003.

Of particular interest to the Committee are the introduction of the following:

- Incorporation of the "permitted base line" concept into the resource consent notification and consideration provisions of the Act;
- Limited notification of resource consent applications;
- Changes to the "party" and "participant" provisions.

PERMITTED BASE LINE

The permitted base line concept is a very important contribution of case law to the application of the Resource Management Act. The concept of accepting as a base line for assessment of effects on the environment as it exists and activities that can be carried out as of right in terms of the rules of a plan has made life easier for applicants preparing applications and for consent authorities considering potential adverse effects on the environment.

The Amendment Act codifies the permitted base line concept both in relation to notification decisions and the ultimate decision as to whether resource consent should be granted.

LIMITED NOTIFICATION

The term "limited notification" refers to an amendment that provides an additional method to process resource consent applications for applications with minor effects.

Proposals with more than minor effects will continue to be publicly notified.

Limited notification is intended for those situations where the effects of an activity will be minor, but where an affected person approval is not obtained. The application will only be notified to those persons the Council identifies as potentially adversely affected by this activity. Any person so identified can make a submission and be heard on the application. As only those activities with minor effects will be affected by the change, there will be no greater environmental costs borne by communities.

The process is intended to provide a balance between reasonable compliance costs while maintaining good environmental protection and opportunities for effective public involvement by parties affected by a proposal. The proposal should have the effect of reducing the costs to applicants, as full notification, including advertising in a newspaper can be an expensive task.

PARTIES AND PARTICIPANTS

Previously the Act allowed persons who made a submission on a matter at the Council hearing to step in as a party to an appeal before the Environment Court. People in this category have been able to argue their own case but only within the umbrella of the appeal they joined. The RMA also allowed others who could show "an interest greater than the public generally" or who could show that they represented "some relevant aspect of the public interest", to become a participant in appeal proceedings. These persons could give notice of an intention to be a party at any time up to ten working days before the hearing commenced. They were not required to state their position and the reasons for it.

The new party and participant provisions in the amendment will require those who seek to join an appeal in this way to give much earlier notice (within 30 working days after the lodgement of the notice of appeal or commencement of the proceedings). Also the new provisions require details to be given in the notice of whether the person supports or opposes the relief sought, and the reasons for that support or opposition.

However, counterbalancing this, the new provisions significantly expand the scope of what submitters at the council level who join in an appeal will be able to argue.

OTHER MATTERS

Other matters which may be of interest to the Committee contained in the Amendment Act are:

- Greater flexibility is provided for extending resource consents that are due to lapse, and the default lapsing period is extended from two to five years;
- Consent holders are given greater flexibility to apply for change of consent conditions, with the removal of the need for "change of circumstances" or an enabling condition in the consent;
- Circumstances when a local authority may require further information are expanded.

Further information about the Resource Management Act Amendment can be obtained from John Gibson, the Planning Administration Manager.

Chairman's

Recommendation: That the information be received.