

## In other news – the Resource Management reform legislation is still alive

Last November the Resource Legislation Amendment Bill (the **Bill**) was introduced. The Bill proposed major changes to the RMA including: vastly increased options for Ministerial interference in local plans; major changes to consent processing involving increased council discretion; and a new focus on providing for development capacity.

This Bill does not change the Part 2 purpose of the RMA except to include a new matter of national importance being the “*management of significant risks from natural hazards*”.

After an extended period with the select committee, the Bill now has momentum again due to an agreement made this week with the Māori Party. The select committee continues to work on its report that is expected later this year or early 2017.

### Agreement with Māori Party

The Māori Party have consistently wanted increased involvement for iwi as kaitiaki. There were provisions in the Bill as introduced relating to iwi participation but these were not particularly strong. The agreement will strengthen these provisions.

The Bill as introduced provided for many new powers for the Minister to make via regulation. This included overriding rules in plans. Many submitters were concerned by the scale and absence of checks and balances of these new powers. These powers will be scaled back because of the agreement with the Māori Party<sup>[1]</sup>. Other technical amendments have also been agreed.

### What is left of the Bill

The Bill related to many areas of the RMA and most of the proposals remain intact. Because many of these reforms relate to technical aspects of the RMA the exact drafting of the provisions may yet change via recommendations from the select committee or supplementary order papers from the Minister.

The fundamental changes that we presume, from analysing press releases, will remain in the Bill (with some small changes) include:

- New regulation powers for stock exclusion from waterways. A change is that the infringement fee will be increased from \$750 to \$2,000;
- New regulation power remains for Minister to prohibit or override rules that would “*in the Minister’s opinion... duplicate, overlap with, or deal with the same subject matter as is included in other legislation*”. Examples of such duplication that have been discussed include GMOs;
- The creation of a template plan, renamed as “*National Planning Standards*”;
- Changes to the processing of consent applications including notification decisions so that effects taken into account by the objectives and policies of the plan are disregarded with submissions limited to council identified adverse effects. Introducing a 10 working day timeframe for land use non-notified controlled activities (this no longer applies to regional councils’ consents). Introducing the new class of “*boundary activities*” are to be deemed as permitted activities in some circumstances. And limiting council fees for resource consents;

11 November 2016

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- Removing appeal rights on many subdivision decisions;
- Removing the ability for councils to use financial contributions;
- Removing all council functions relating to hazardous substances;
- Introducing new plan development processes;
- Amendments to the process for developing national policy (NPS) and standards (NES) and the ability for more specific direction. A change is that the development of national direction will use a process similar to that currently used for a NES;
- Introducing a new function for councils for “sufficient development capacity”;
- Introducing a requirement for councils to initiate entering into “*Iwi Participation Arrangements*” that will now include the dual name “*Mana Whakahone a Rohe*”. Guiding principles for these agreements are to be included in the Bill;
- Some alignment with the Conservation Act, Reserves Act and EEZ legislation; and
- An increase in Public Works Act compensation.

### The process

This Bill has had an unusual run at select committee. The standard time for a select committee to report back to the House is six months. Extensions can be granted with agreement and this happened twice. The Minister tried for a third extension, before the agreement with the Māori Party was reached, and was refused. The Government majority on the select committee then refused to furnish a report (which opposition members say has been worked on) to the House by the report back date of 7 November. This resulted in the Bill being set down for its second reading<sup>[2]</sup> on 10 November. Because of the intervening agreement with the Māori Party the Minister was able to send the Bill back to select committee. The Minister has said:

The select committee has a major task ahead to work through the 500-page departmental report and refine the drafting of the Bill. The Government wants to advance the legislation as quickly as possible but this is an area of law where getting the detail right is particularly important. It may be completed this year but may flow into early next year. We will also need to consult with the Māori Party on the detailed drafting when the Bill is reported back to Parliament to ensure it is consistent with the agreed policy.<sup>[3]</sup>

The 500-page departmental report that contains recommendations for amendments can be viewed [here](#).

Because of the technical nature of the work we expect that the Bill will not return to Parliament until 2017. The last sitting day of 2016 is 15 December prior to the long summer recess. Once the Bill returns to Parliament with a report recommending changes from the select committee it will have a second reading and committee stage, where further changes can be made, before its third and final reading.

[1] New section 360D(1)(a) – (c) will be removed from clause 105

[2] The Standing Orders for Parliament say that “*If the committee has not reported within the time for report, the bill is discharged from further consideration by the committee and 11 November 2016*”

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*set down for its next stage in the House on the third sitting day following.” (Standing Order 295(3))*

[3] Press release of Hon Dr Nick Smith, 9 November 2016

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