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S09.07

Submission to the Local Government and Environment Select Committee on the Resource Management (Simplifying and Streamlining) Amendment Bill

Introduction

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 50 nationally organised societies. NCWNZ has 26 branches throughout the country attended by representatives of those societies and some 150 other societies. The Council's function is to serve women, families and the community through research, study, discussion and action. The Council has a long history of commenting on environmental issues.

In the short time available for consultation, NCWNZ canvassed its membership, and the responses were unanimous in supporting the intention behind this Bill, namely to simplify and streamline the implementation of the Resource Management Act, remove unnecessary costs and delays, and establish the Environmental Protection Authority (EPA). This submission has been prepared by the Environment Convener and has included input from the Economics Standing Committee. It has been reviewed by the Parliamentary Watch Committee and a Board member of the National Council of Women of New Zealand.

General Comments

Our members look forward to the increased use of technology and applaud the intent to simplify the reporting requirements for Council decisions and to remove the need for material to be repeated or restated in subsequent hearing reports or decision reports.

However, some concerns were expressed.

The 'one-size-fits-all' approach is not appropriate for major consents. The difference in both complexity and scope of impacts between (for instance) a garage extension and a waste water treatment plant, needs to be recognised.

The potential for the EPA to be effective in achieving efficient processes is dependent on the level of resourcing made available to it. The level and quality of staffing and resourcing of the EPA is a very important factor (and of the Ministry for the Environment in the interim period). There are risks to the quality of processes, evidence preparation and the actual decisions without adequate resourcing. It is unclear how many projects of National significance may be before the EPA/BOI in any year, especially if smaller projects with "network" affects are included. To date, very few projects have been "called-in" by the Minister.

Clause by clause analysis

Clause 21 Delegation of functions by Ministers

It appears that under the proposed RMA reforms, the Conservation Minister would lose his decision-making powers over coastal areas, covering issues such as development, marina construction and sewerage discharge. If these decisions are left to Councils there will be different results from different Councils, and the coastal environment is too fragile for such ad hoc decision making. It is essential that there is a national cohesive national strategy to cover all coastal issues.

Clause 36: Secretary for the Environment to exercise functions of authority:

Concern was expressed by several respondents that one person (the Secretary) would have sole authority for all functions of the Environmental Protection Authority. They thought this was a dangerous precedent; there would be no checks and balances until the repeal of Section (1).

Clauses 52 and 151: removal of blanket tree protection:

The Bill “prohibits the creation of a rule in a plan that provides for the protection of any tree, or group of trees, in an urban environment, unless specifically identified, located within a reserve, or subject to a conservation management plan”.

The majority of respondents thought that clauses 52 and 151 were not clear. Does it apply only to urban trees? The revoking of blanket protection was regarded with alarm by the majority. The profits of developers should not take precedence over the desirability of saving what few trees remain in cities.

Removal of the blanket tree protection rules in District Plans fails to recognise the important roles that trees play in the urban environment in character and amenity, neighbourhood and environmental quality. The need for a resource consent to remove trees is a deterrent to wholesale removal and reinforces the need for trees in an urban environment. Many Councils allow residential living in heavily treed or bush areas – it would be inappropriate for trees to be removed from these areas, so “urban” needs defining. A blanket “rule prohibition” removes the right of the local community to decide the rules so that their district plans can realise their vision for the community.

This is not the spirit of the RMA which has a focus on community participation: enabling people and their communities to provide for their social, economic and cultural wellbeing, their health and safety. There are very few scheduled trees and this is a time-consuming and costly process. In the event this clause goes ahead, transitional provisions would need to be introduced to ensure Councils have sufficient time to schedule appropriate trees.

One member thought that it made more sense to identify trees that warrant protection, rather than apply a blanket protection over group trees which leads to some trees of an inferior standard being protected.

Clause 56 reads as though removing the requirement of 10 yearly plan reviews by territorial authorities will encourage them to review plans more often. There was concern that it will do the opposite. Having been given an ambiguous ‘out’ by this clause, Councils will save money by not bothering to carry out any reviews. Local communities will have less say in planning, local environments may go unprotected and local economies may stagnate as a result.

Clause 60 bundles a number of different changes together, including allowing resource consent applications to go directly to the Environment Court, which looks like a cost saving measure. However, an application must apply to the ‘consenting body’ for permission to “go directly” to the Environment Court, with all that that entails, which rather undercuts the cost and time saving aspects. Members were concerned that this could be a way of obtaining a resource consent without the trouble of public objections and taking the decision out of the area and away from the community concerned?

Clauses 65 Responses to Request, and 67 Responses to Notification

Clauses 65 and 67 both obligate a consent authority to consider applications, even if the applicants have not provided all the information requested, or agreed to reports being commissioned. Members thought that fair consideration cannot be given if information is not supplied, or even deliberately withheld. It is thought that this is another ‘hurry-up’, not only to save the applicants’ money but also to avoid the complications and objections from the public that more information would possibly raise.

It is openly admitted in the Bill that the opportunities for public participation will be reduced. This has been described as moving away from enabling people and communities to participate. Beneficiaries of this reduction are considered to be the courts, the applicants and local government

through reduced costs. Proponents of this Bill also claim that it will “significantly increase New Zealand’s economic productivity and efficiency.” No mention is made of the cost to the environment.

One branch commented that whereas one group may regard a quiet country road as having “amenity value” for schoolchildren, walkers, cyclists, and horse riders, a local businessman may see it as having an “amenity value” for a greatly increased volume of heavy traffic to move sand from his quarry. The amenity value of a cultural landscape is often the result of development that has been taking place since long before the RMA was introduced, and the EPA must ensure that it does not apply conditions which would discourage individuals from practising the kind of stewardship that they have applied in the past.

Clauses 147 Non-complying activities category removed from Act and Clause 152 - Removing the *non-complying activity* status from the Act.

NCWNZ does not support this. The *discretionary activity* status is an appropriate test – case law has now clearly differentiated between *discretionary activity* (assumed appropriate but needs tick off on environmental criteria) and *non-complying activity* (assumed inappropriate, but might be alright if the effects are no more than minor). It would seem more appropriate to combine *permitted and controlled activity* status or *controlled and restricted discretionary activity* status.

Conclusion

NCWNZ members support efforts to provide stronger incentives or sanctions to improve the efficiency of resource consent processing:

There is still ambivalence between members concerning the increase in local decision making by this Bill.

The majority think that there is so much variation in work done between Councils and Regional Authorities that a national oversight should be employed. It is not always possible for local groups to appreciate the bigger picture. Climate Change is of such major importance that strong leadership from the government should be a priority. One member, however, thought that an increase in local decisions relevant to local conditions would be beneficial.

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