



Resource Management Amendment Act 2009 and Phase II reforms

Implications for Construction projects

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Background

- National's 2008 Election Policy – reform the RMA to assist with economic recovery
- Bill first introduced: 19 February 2009
- RMA Amendment Act commenced: 1 October 2009
- Phase II Reform still underway

Phase I Reform Topics

- Eight Topic Areas:
 1. Frivolous, vexatious and anti-competitive objections
 2. Environmental Protection Authority
 3. Proposals of national significance
 4. Plan development and plan change processes
 5. Resource consent processes
 6. National instruments
 7. Workability and compliance
 8. Decision making

2. Environmental Protection Authority

Objective: *To establish an Environmental Protection Authority to provide efficient and timely administration of proposals of national significance.*

- Independent statutory office
- For now, roles, functions and powers exercised by the Secretary for the Environment
- Roles include:
 - ❖ Receive and process matters of national significance
 - ❖ Support the Board of Inquiry or Environment Court
 - ❖ Grant Certificates of Compliance

Reduce costs and delay? Maybe but only for major projects

3. Proposals of national significance

Objective: *To reduce the time it takes to reach decisions on proposals of national significance while still maintaining effective public participation and promoting the sustainable management of natural and physical resources.*

- Applications to the EPA
- National significant factors (section 144) include two new factors
- Consideration/decision by Board of Inquiry or Environment Court
- Final decision within 9 months of notification
- Appeals only to High Court on points of law

Reduce costs and delay? Maybe and only for nationally significant projects

5. Resource consent processes

Objective: *To reduce the time and costs associated with resource consent processes while maintaining an appropriate degree of public participation.*

- Resource Consents:
 - ❖ Notification presumption removed
 - ❖ Hearings to formally close within 10 days of applicant's right of reply
 - ❖ Direct referral (to Environment Court)
- 2 'stop the clock' further information requests only
- 'Late consents' discount policy

Reduce costs and delay? Probably depending on the Council

8. Decision making

Objective: To increase the efficiency and workability of decision-making processes under the RMA.

- Direct referral (to Environment Court) on resource consents and NoR
- Ability to request one or more independent commissioners on notified applications
- Decisions on restricted coastal activities made by regional councils (rather than Minister of Conservation)

Reduce costs and delay? Maybe

Phase II Reforms

■ 10 Workstreams:

1.	Aquaculture	Alignment with existing aquaculture legislation, introduce Aquaculture Reform Bill (late 2009)
2.	EPA	Structure, scope and functions of EPA
3.	Infrastructure	Roading, public transport, broadband, electricity grid upgrades, renewable generation, water infrastructure
4.	Urban Planning	Tools for urban growth, housing affordability, NPS, metropolitan limits
5.	Water	Water management system, Water Strategy, NPS and NES's
6.	Building	Alignment with Building Act 2004
7.	Conservation	Alignment with Conservation Act 1987
8.	Forestry	Alignment with Forests Act 1949 & Forests Amendment Act 1993
9.	Historic Places	Alignment with Historic Places Act 1993
10.	Generic Matters	Issues too complex for Phase I (e.g. designations, non-complying activity)

Infrastructure RMA reform

National Infrastructure Strategy/Plan currently being looked at by Treasury's National Infrastructure Unit



Four work programmes:

1. Improve designation provisions to facilitate sustainable infrastructure development under the RMA
2. Improve compensation provisions under PWA
3. Improve the interface between the RMA and PWA objections and decision-making processes, and the alignment of the RMA and PWA with other legislation
4. Improve central government direction on infrastructure proposals

Alignment with the Building Act

Three key focus areas:

- align and streamlining processes for approving resource and building consents where both are necessary for a building
- improving consistency between the RMA and Building Act
- improving public understanding of RMA and Building Act processes



My suggestions to reduce time and costs of RMA process



- Include consideration of social and environmental constraints and opportunities early in the design optioneering process
- Undertake a robust consentability assessment of the preferred option and develop a consenting strategy for major projects
- Engage with local authority decision makers early to agree information, consenting and consultation requirements
- Be prepared to incorporate meaningful environmental mitigation measures into your project where there are significant impacts with advice from environmental specialists
- Ensure consent documents are thorough