National Council of Women of New Zealand
Te Kaunihera Wahine O Aotearoa

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3 April 2009 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.

Elizabeth Bang
National President

Sara Dickon
Convener, Environment Standing Committee

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

S09.07 23/04/09.

MP's present: Chris Auchinvole (N) Chairman, Rahui Katene (M), Niki Kave (N), David Garrett (A), Louise Upton (N), Paul Quinn (N), Nanaia Mahutu (L), (Shane Jones (L) – left before our submission), Jacinda Arden (OL), Dr Russel Norman (G) (A nameplate for Sue Kedgley (G) was tucked in beside R Norman, but we did not see her.)

Good afternoon. I am Wendy Zemanek and my colleague is Patricia Byrne. We are both members of the Parliamentary Watch Committee of the National Council of Women.

NCWNZ is fully in support of the intent of this Bill - to simplify the processes which are required under the original Act and to remove unnecessary costs and delays. Our submission came from two Standing Committees: Environment and Economics, and was overseen by the Parliamentary Watch Committee and the National Board.

*******Of particular concern is Clause 21, (page 20) under which it appears the Conservation Minister would lose his decision-making powers over coastal areas. Under the 1991 Act, Section 29, a Minister could not delegate:

- a) "the recommendation of the issue, change, or revocation of a national policy statement or a New Zealand coastal policy statement" under sections 46, 53, or 57:
- (b) The approval of a regional coastal plan under clause 19 of Schedule 1:

Our members are concerned about the "one size fits all approach." National consistency on coastal issues must be a priority, especially with regard to development, marinas, sewerage discharge etc in order to ensure the retention and maintenance of the coastal environment which is one New Zealand's great treasures

In Clause 56, we are concerned about the removal of section 79(2) "Every territorial authority shall commence a full review of its district plan not later than 10 years after the plan became operative." This may well cause them not to review at all.

********With regard to trees, Clause 52 on page 36 and Clause 151 on page 105 are of concern as they appear to prevent the protection of any trees outside reserves or subject to conservation management plans or conservation management strategies.

Overall, there is concern about the increase in local decision making as that could lead to a lowering of standards and the loss of consistency. Thank you.

Question

In relation to the "one size fits all" approach, Nanaia Mahutu asked if it was the view of our membership that there should be a structured definition, or that there should be a broader view. I said that people need to be aware of what the procedures will be, therefore the broader view is preferable.

We were thanked for our submission and the chairman remarked that it was a pleasure to receive NCW submissions which are always well presented. We were before the committee for a very brief time – probably less than 5 minutes.

Wendy Zemanek
23 April 09

Other Submissions

Preceding us, were two from people representing Maori points of view. They were quite long and in some cases quite technical, but interesting to hear. The first was a representative of an Iwi Trust having diverse interests, eg fisheries, protecting the environment. Balance was needed to see that different needs were met. She spoke on:

Efficiency and Timeliness: There needs to be a balance between this and the level of public participation. There is a need to resolve disputes early and act in good faith. Support was given for the possibility for Councils to reply to different aspects all together, not separately. A 10 year review must be mandatory.

Modifying requirements: may reduce opportunities for people affected to participate in the process. Affected parties may have valuable information which could be lost if Councils are not required to call for additional submissions on changes. It must be possible to oppose Councils' decisions.

Reducing delays: supported, but some Councils feel that will decrease Councils' ability to go back to applicants. Committee should consider how much Councils need to work with people concerned before the process starts.

Costs: An example given was of a fish farm at Marsden Point. Those making the application gave up because costs were going to be too high – about $1m.

It may be difficult to make sure that those most affected, such as fishermen, get as much time as bystanders on the shore.

When asked about their organisation, this submitter explained that they were a Company set up as Corporate Trustee of the Fishermans Trust (Ngati Awa). Money came from the Poutere Trust and would eventually come from interest. There is no government money for fisheries, but some for Aquaculture.

Finally they asked "Is there enough evidence to warrant changes proposed in this Bill?

The next submitter represented a Maori Lawyer's Association – a voluntary organisation, with some 350 members: qualified lawyers and students studying for LLB. They were concerned that the Bill should not erode Maori opinion. Participation of the public should be preserved.

An example was given of a developer applying for consent before they were ready to proceed, in order to beat a competitor to the chance of getting the best site for a wind farm.

The Chairman explained that the deposit required was not a punitive measure, but designed to avoid a waste of time. He said that only a small percentage of resource consents underwent public input – therefore this can't be blamed for time delays.

Clause 94AA – delete words "beyond the immediate"

Removal of responsibility from the Minister of Conservation goes against the Treaty of Waitangi.

Proposals limit appeals to legal points.

Timeframe not realistic – eg Transport Grid comprised 72 days over 7 months. Large projects are more complex, therefore more people submitting. Don't set an arbitrary time.

Need Notification of a Draft of Environmental Standards.

Amend Attorney General or Iwi Authority.