



Rotorua Chamber of Commerce

Submission

Local Government and Environment Select Committee

Resource Management (Simplifying and Streamlining) Amendment Bill

March 2009

Introduction

The Rotorua Chamber of Commerce (Inc), (RCC), is an organisation serving the interests of 640 business organisations in the District of Rotorua. While many of our members are in the SME category our membership includes most of the largest companies and organisations in Rotorua.

Submission

RCC believes the outcomes based approach of the Resource Management Act (RMA) is vastly superior to the more prescriptive approach which existed under the multitude of town planning and environmental management laws in place prior to it coming into force in 1991. In practice however, it has not worked as well as it should have and it has proven a major detraction from economic growth.

The cost and uncertainty brought about by the RMA has been damaging to New Zealand's economic development over the last two decades with projects large and small being excessively delayed at the planning stage or made too expensive to go ahead.

Rather than return to the old prescriptive approach, RCC has long advocated reforms which enable environmental concerns to be addressed without curtailing economic growth. This means shifting the balance so that the emphasis on environmental outcomes is not at the expense of economic outcomes. It also means streamlining and simplifying the processes around obtaining resource consents so the Act does not become, or is not used as, an obstacle to business investment and economic growth.

Hence, we are very satisfied with the report of the Technical Advisory Group (TAG). The TAG has identified a comprehensive list of obstacles found at every stage of the consent process from application to decision and made sound recommendations on how to streamline and simplify the consent seeking processes.

The reforms proposed in the Bill are based on these recommendations and we are supportive of the bulk of these.

The rest of this submission is structured in response to the proposals as set out in the Discussion Document, *National-Led Government Reform of the Resource Management Act*.

Response to Specific Proposals

1. The removal of frivolous, vexatious and anticompetitive objections

It has been a great concern to us that resource consent applicants can experience significant costs and delays arising from challenges made by either trade competitors, or frivolous or vexatious objectors.

We fully support the Bill's intention of discouraging submitters and appellants, who are only seeking to delay proceedings or thwart competitor's projects, by bringing cases.

We support strongly the proposals to enable the Environment Court to award security for costs and raise the filing fee for the lodgement of appeals to the Environment Court. This will act as a disincentive against making such frivolous objections.

Incorporating a punitive regime for proceedings brought by a person against a trade competitor is also supported. The Resource Management Act should not be used as a vehicle for such anticompetitive practices.

2. The streamlining of processes for projects of national significance

The Resource Management Act has caused unreasonable and lengthy delays to many major infrastructure projects of national significance over recent years – sometimes to the extent that the project has had to be abandoned.

While it is important to ensure such projects are got right and the public is given an opportunity to have a say in the process, we believe the balance has been too far on the anti-development, pro-environmental protection side. We strongly support the Bill's intention of reducing the time it takes to reach such decisions. We also support the proposal to allow the Minister to determine whether such projects are matters of national significance and so refer them to a Board of Inquiry for a decision.

3. Creating an Environmental Protection Authority

The Bill intends to establish an Environmental Protection Authority (EPA) as a statutory office within the Ministry for the Environment to provide efficient and timely administration of proposals that are called-in.

We are cautious about endorsing the establishment of a new bureaucracy with all its associated running costs without better information, especially in an environment where the National Government has disestablished a number of

other qangos. The functions and powers of this proposed new entity are not totally clear.

We are also concerned about the potential for duplication of activity and conflict with the Ministry for the Environment on matters of policy. In this regard, we believe that it needs to be made clear that the EPA will not have a policy function. It is also unclear as to how much added value an EPA would provide compared to the current ability to refer proposals to a Board of Inquiry.

We would welcome further evidence that the costs of establishing and operating an EPA will not outweigh the purported benefits and that it will result in more efficient, consistent and transparent decision-making.

4. Improving plan development and plan change processes

We strongly agree that the current administrative and consultative processes around the development of local government plans are currently very inefficient and slow. Amendments to plans also need to be more timely to enable quicker responses to changing conditions.

We generally support the proposals listed. However, in the longer term we consider more substantial reforms in the functions of local government and the way it operates may be needed here. Wider local government reform may make some of the proposals less relevant in the longer term.

In the meantime however we would be concerned if the attempt to reduce consultation led to a reduction in democracy by reducing the opportunity for valid points to be made in the submission process.

5. Improving resource consent processes

There is much scope to improve the existing resource consent application and processing procedures with a view to reducing the time it takes to come to a decision. The time taken to process applications (often exceeding statutory time frames) can cause frustrating and expensive delays to projects, and can prevent local and international investors from becoming involved in important economic development projects.

Small businesses in particular can face crippling costs and delays under the RMA and the proposals will go a long way towards reducing them.

Clarifying the criteria for notification and simplifying the reporting requirements for minor activities and proposals that do not require public notification are supported as is narrowing the scope of matters decision-makers are required to have regard to.

6. Streamlining decision making

The TAG has correctly identified delays caused by the repetition of the whole process that occurs when the application goes through the Environment Court and the risks associated with elected representatives making decisions on resource consents.

Giving applicants the option of sending applications straight to the Environment Court will avoid the need for repetition of the process when it is considered the Environment Court is inevitable anyway.

Providing the option of having submissions heard by independent commissioners rather than elected representatives will mitigate the risks attached to having unqualified or inappropriate elected representatives making the decisions.

7. Improving workability and compliance

We support the raising of penalties for non-compliance and the idea of giving courts the power to review existing consents. Both of these proposals will increase incentives to comply with the RMA.

We also support treating Crown organisations the same way as companies or private individuals so that action can be taken against them for non-compliance. There is no reason the Crown should be treated any differently in this regard.

8. Improving national instruments

We agree with the intent to improve certainty about when central government can intervene in RMA processes and the need for effective national RMA instruments. However, we would be concerned if individual property rights were compromised by central government without compensation or lack of clarity as to what would constitute the national interest.

Conclusion

RCC supports the passage of this Bill. We do not wish to be heard on this submission.