

Business NZ recommendations to incoming Government: Resource Management Act

Business NZ supports the fundamental principles of the Resource Management Act however its implementation has caused significant cost and delay to many legitimate business projects.

Along with encouraging local authorities to achieve more prompt and consistent consent processing, less use of development levies and a stronger focus on managing effects rather than activities, the Government should also implement changes to the RMA itself to achieve better development and environmental outcomes.

Change - Rewording the Act to acknowledge that change is not necessarily or always negative would help it to enable as well as restrict. The changing nature of landscapes is a fact of life and a great source of enhancement to New Zealanders' lives and should be kept in proportion to change as a cause of harm.

Property rights – It is axiomatic that any effects-based resource management legislation will to some extent diminish property owners' rights. This makes it all the more important for such legislation to prevent the balance of fairness tipping further against property owners' interests. The RMA includes no mention of property rights and its provisions regarding compensation where property is taken or its use or value is restricted require strengthening.

Fairness between parties – The current framework allows for costs to fall unevenly on different parties. Pressure groups are able to form an incorporated society without assets in order to avoid meeting the costs of appealing. Meanwhile, those seeking consents have their development plans jeopardised by the costs of defending trivial or ideological appeals. Requiring submitters to bear the costs of their appeals and restricting the right to appeal to those directly affected by a proposed development would help restore fairness between parties. The current inequitable treatment of parties raises the potential for corruption as businesses increasingly expect to have to pay off objectors in order to get development through the consent process.

Competition – A more market-based approach to resource management would help resolve some of the unfairness experienced by those wishing to undertake development. Contestable processing of resource consents, a market based system for allocating natural resources and tradability in rights to use natural resources would achieve fairer and more consistent outcomes.

Role of Crown – A more constrained role for the Crown in regard to advocacy, litigation and funding would be of benefit. The roles of the Department of Conservation in advocating and litigating with regard to private land use and the Ministry for the Environment in funding litigation by conservation groups are not appropriate for a devolved, effects-based resource management law.

Definitions - Ensuring all key terms are defined and ensuring that presently unclear definitions are improved would also help ensure more balanced outcomes. The key concept 'sustainable' is not defined. Some definitions are so broad as to invite appeals. The definition of 'environment' includes 'ecosystems', a term that could refer to anything from a molecule to a solar system, while the definition of 'amenity values' is similarly broad. Requirements regarding the Treaty of Waitangi refer to undefined Treaty 'principles' instead of the 'Articles' of the Treaty for which specific definitions exist.

Business NZ recommendations for changes to the RMA:

1. Refocus on a better balance between enablement and restriction, environmental and economic concerns, and benefits and costs
2. Reduce the range of activities that need consents
3. Allow contestable processing of consents
4. Limit submissions to those directly affected by environmental impact
5. Require submitters to bear the costs of submission
6. Strengthen the rights to compensation for removal of property rights or restrictions on land use
7. Allow for takings or other reduction in property rights on the basis of clear public need only
8. Define more clearly rights to use water and other resources
9. Introduce a market based system for allocating natural resources, allowing trade in resource rights
10. Ensure meaningful definitions for key terms in the RMA

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