greater WELLINGTON
THE REGIONAL COUNCIL

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**Committee** **Environment Committee**
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# Resource Management Amendment Act 2003

## 1. Purpose

To inform the Committee about amendments made to the Resource Management Act 1991 by the Resource Management Amendment Act 2003.

## 2. Timeline of the Amendments

The Resource Management Amendment Bill was first introduced to the House by Hon Simon Upton in July 1999. Its progress was reported to this Committee at its November meeting last year (Report 02.724).

An amended Bill was introduced to Parliament in March 2003 and had its third reading and concluding debate on 13 May 2003. The Amendment Act received Royal Assent on 19 May 2003.

Sections 18 to 23 of the Amendment Act, which changed sections in the principal Act relating to national environment standards and national policy statements, came into force on 20 May 2003. The remaining sections of the Amendment Act will come into force on 1 August 2003.

## 3. Amendments in brief

The amendments most relevant to regional councils are:

- Limited notification of resource consent applications;
- The "permitted baseline" concept is codified in relation to notification and decision-making on consents;
- Elevation of historic heritage to a matter of national importance;
- Clarification of timeframes for consent processing and the power to reject deficient consent applications;
- A requirement to prepare a monitoring report every five years that evaluates the efficiency and effectiveness of policy statements and plans;

- Functions for indigenous biological diversity for both regional councils and territorial authorities are clarified;

- Provisions relating to National Environmental Standards are expanded and clarified.

## 4. Implications of these Amendments

Limited notification will apply to applications where the effects of an activity will be minor, but affected party approval is not obtained. In this situation, the application need only be served on parties the council identifies as being affected, including those who have given approval. Only those people who have been determined as affected can make a submission and be heard on the application.

When a consent authority makes a decision on a consent application, and only has regard to the effects that are over and above what is allowed as a permitted activity, this is known as the permitted baseline concept. This concept may now be applied to determine who will be considered an "affected party" for the purposes of notification and serving notice of resource consent applications. It may also be used as a bottom line for the consideration of consent applications under section 104, but consent authorities may disregard the permitted baseline when forming a decision. A consequence of applying the permitted baseline to consent decisions is that we will need to undertake a comprehensive, quantitative assessment of the effects of activities permitted in our regional plans so that we are satisfied that the thresholds have been set at the right level for the way they are now to be used.

The recognition of historic heritage has been strengthened by adding a definition and including the protection of historic heritage as a matter of national importance under section 6. Making historic heritage a section 6 matter could have implications for the appropriateness of some of our permitted activity rules, but will mostly affect decisions on resource consents.

Changes to timeframes for processing consents largely clarify our existing practice of "stopping the clock" when requests for information are made. In addition, the summer "holiday" period of the Act has been shortened to 20 December to 10 January. There is also a new power to reject deficient applications. Consent authorities have five working days to determine whether an application is inadequate and if so, any resubmitted application is treated as a new application.

The requirement to prepare a monitoring report every five years to evaluate the efficiency and effectiveness of policy statements and plans goes further than our existing practice. In our last State of the Environment report (1999), we measured our progress towards achieving the objectives of the Regional Policy Statement but we did not explicitly evaluate its effectiveness. This was done in a separate review that was not made public. A consequence of the new requirements under the Amendment is that our monitoring procedures must be capable of assessing the efficiency and effectiveness of individual policies and rules in achieving objectives.

Regional councils have two new functions. One relating to ecosystems and the other to indigenous biodiversity. The maintenance and enhancement of ecosystems in water bodies and coastal water is an extension of our existing functions for water bodies. Because the Act's definition of water bodies includes wetlands, we will be able to write regional rules about earthworks and vegetation clearance in wetlands. Currently this is only possible if the wetland was part of a river or lake.

The new function for maintaining indigenous biological diversity places an obligation on regional councils to protect existing biodiversity and to take measures to ensure that biodiversity is not diminished. This is consistent with our current approach to protecting Key Native Ecosystems and promoting the use of native plants, for example, in riparian management. The Ministry will be providing some guidance about what is expected of regional councils in the National Policy Statement for Biodiversity that will be released for submissions later this year.

The scope and effect of national environmental standards has been clarified. It is now clear that the Ministry can set national environmental standards for contaminants, water quality, level or flow, air quality, soil quality, and noise. Among other things, National Environmental Standards will be able to prohibit activities and restrict the making of rules and granting of resource consents. If a standard sets a different threshold to an operative rule, the more stringent threshold applies. The first set of standards likely to be set are Ambient Air Quality Standards.

## 5. Communication

The Resource Management Amendment Act 2003 is central government's responsibility and there is no need for Greater Wellington to undertake any external communication on this matter.

## 6. Recommendations

*It is recommended that the Committee:*

*(1)* ***receive*** *the report; and*

*(2)* ***note*** *the contents.*

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