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Committee Policy, Finance and Strategy Committee
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Resource Management and Electricity Legislation Amendment Bill - submission

1. Purpose

To seek the Committee's approval for Greater Wellington's submission to the Local Government and Environment Select Committee on the Resource Management and Electricity Legislation Amendment Bill 2004 ("the Bill").

2. Background

In May 2004 the Government embarked on a review of the Resource Management Act 1991 in response to concerns about lengthy and costly decision making processes and the balance between national and local interests. The review culminated in the Bill, which was introduced into Parliament on 2 December 2004. The main objectives of the Bill are:

- To enable better expression of the national interest;
- To enable consent processes to be undertaken effectively and efficiently, providing certainty of process for applicants;
- To improve the effectiveness of planning documents and enable their timely development;
- To improve certainty of consultation requirements; and
- To provide certainty over the allocation of natural resources.

LGNZ has played a key role in development of the Bill. The report of the Local Government RMA Improvement Project Team *Enhancing New Zealand's Resource Management Performance* has influenced a Bill that, when enacted, will help us implement the Resource Management Act 1991. This draft submission is generally consistent with the draft submission from LGNZ.

The key initiatives proposed in the Bill are outlined below.

2.1 Expression of the national interest

- Greater involvement of central government in local decision-making, including powers to direct particular actions by local authorities, powers to require information from local authorities and powers to require regional plans to be prepared.

2.2 Local consent decision-making

- Requirement for accreditation of decision-makers on resource consents and regional/district plans.
- Ability for consent authorities to take a more active and direct role in pre-hearing meetings.
- Ability to reject applications or decline consents if applicants fail to provide information requested.

2.3 Improving decision-making at the Environment Court

In respect of resource consents, it is proposed that the Court will:

- have the power to make a declaration on whether an application for a resource consent should have been notified.
- have regard to the council's decision and conduct a hearing that only focuses on matters in contention. This will replace the presumption in favour of a fresh hearing (de novo) which doesn't refer to the council's decision. The Court can choose to hear appeals de novo in particular circumstances.

In respect of policy statements and plans, it is proposed that the Court will:

- have limited jurisdiction over the merits of policy decisions and value judgements of councils and be required to refer the matter back to the council for reconsideration.
- be required to have regard to the council's decision and conduct a 'rehearing', rather than a hearing de novo. As with appeals on consent decisions, the Court will have the power to conduct a hearing de novo in particular circumstances.

2.4 Improving local policy and plan making

- Requirement for district and regional plans to 'give effect' to the regional policy statement (instead of being 'not inconsistent with' it).
- District and regional plans will only be required to state policies and rules. Councils can include other content in their plan, such as 'objectives' or 'other methods' if they choose to.

2.5 New functions for regional councils

Regional councils to have new functions for:

- the location, monitoring, investigation and remediation of contaminated land
- promoting sustainable urban form
- timely and effective provision of infrastructure and its integration with land use policies, and
- allocation of natural resources.

2.6 Certainty for iwi and resource consent applicants

- Greater certainty about when iwi should be consulted, which iwi should be consulted and how, and what the process and scope of the consultation should be.
- The primary obligation to consult with iwi will relate to the preparation of regional and district plans, while for resource consents, iwi will be treated like any other potentially affected party.

2.7 Improving natural resource allocation

- Explicit recognition given to natural resource allocation as a role and responsibility of regional councils.
- Regional plans will be able to specify that discharge permits can be transferred in a similar manner to water permits and coastal permits.
- Consent authorities considering applications for 'renewals' of resource consents will be required to recognise the existing investment and compliance history of the consent holder as factors in their decision-making.

3. Greater Wellington's submission

The submission period for the Bill closes on 16 February 2005. A copy of Greater Wellington's draft submission is attached as Attachment One to this report.

In summary, the Greater Wellington submission supports the intent and objectives of the Resource Management Act (RMA) review. We believe, however, that some of the legislative changes proposed in the Bill will not achieve those objectives.

The submission:

- supports, with one exception, the provisions for central government direction in local decision-making, but suggests that criteria be included. These powers should be used only when it is a matter of national interest. The

exception, is the Minister's powers to direct action by local authorities, which the submission requests be deleted.

- supports mandatory hearing panel accreditation, and also supports clarity around enhanced procedural powers for local authority hearings.
- opposes the proposal that the Environment Court make decisions on challenges to council decisions about consent notification. These challenges would delay people's ability to exercise their consents and increase costs to all parties involved.
- supports the proposal that regional and district plans give effect to regional policy statements. In particular, this will assist in implementing the Wellington Regional Strategy, which is currently in preparation. The submission also supports new functions for regional councils in promoting the integration of infrastructure and land use policies, but has requested that the term 'sustainable urban development' be substituted for the term 'urban form'.
- seeks changes to the proposed new regional council function for contaminated land. Other regional council functions are to control land and other resources to give effect to the RMA, not to monitoring, which is already spelled out as a duty in section 35. It is not necessary or appropriate to make these section 35 duties into functions under section 30. In particular, remediation of contaminated land should remain the responsibility of the landowner, not regional councils.
- identifies problems with proposed reduced obligations for consultation at the consent application stage, but supports more focused consultation with iwi at the plan making stage. It is expected that Greater Wellington will continue to consult iwi and others on a case-by-case basis. The proposal for the Crown to prepare a register of iwi authorities and their rohe is also supported.
- supports proposals about natural resource allocation and other matters not outlined above.

4. Consultation

Greater Wellington's submission will be forwarded to the Local Government and Environment Select Committee and a copy of this draft submission has been sent to LGNZ.

5. Recommendation

It is recommended that the Committee:

- (1) receive the report and **note** its contents;*
- (2) **express** gratitude to Local Government New Zealand for their contribution to the process;*
- (3) **recommend** that Council approve Greater Wellington's draft submission on the Resource Management and Electricity Legislation Amendment Bill 2004, subject to any changes made at the Policy, Finance and Strategy Committee.*

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Attachment One: Copy of Greater Wellington's draft submission