



AHM News

2015 – Another Year of Change?

2015 has arrived and it looks set to be another busy one – particularly in the environmental and public law sphere.

There are changes to the Resource Management Act which take effect in March with further changes signalled.

A reorganization of Wellington local authorities is proposed and the Proposed Auckland Unitary Plan process is rolling steadily forward.

The impacts of some key Court judgments – the Supreme Court’s ruling in King Salmon and the Court of Appeal ruling in NZ Windfarms – are becoming clearer and the Ombudsman has signalled a review of Official Information Act practices.

This Newsletter provides a brief overview of these changes as well as noting some exciting changes within the firm.



Contents

2015 – Another Year of Change	1
AHM Team Changes	1
RMA Changes	2
Greater Wellington Council	2
Auckland Unitary Plan Update	2
Implications of King Salmon	3
General Conditions of Consent	3
Ombudsman OIA Review	3

AHM Team Changes



New Partner

It is with great pleasure that AHM announces that as of 1 December 2014 Tama Hovell joined the partnership. Tama has been with the firm since July 2009 and continues to grow his practice in environmental law, particularly Maori issues.

Other staffing changes

We also welcome Rosie Wall to the team. Rosie has recently completed her law degree and joins us as a law clerk.



Greater Wellington Council

Following on from the Auckland review, which established the Auckland Council, a new unitary authority – the Greater Wellington Council – is now being proposed for Wellington. This Council would take over the functions of the existing nine Councils within the Wellington Region.

The new council would have a shared decision making structure with a governing body (Mayor and 21 Councillors) and 60 members of local boards.

The proposal is currently open for public submission with submissions closing on 2 March 2015. The first election of the new Council could occur in October 2016 if the proposal gets the go-ahead.

For further information on the proposal [click here](#).

RMA Changes

There are a number of changes to the resource consent provisions of the RMA which come into force on 3 March 2015:

- New and clearer information requirements for all resource consent applications.
- More time for Council to accept or reject applications (10 w.d. instead of 5)
- A new six month timeframe for decision making on notified/limited notified resource consent applications

For further information on these changes, [click here](#).

Additional changes were signalled in August 2013, but, due to a lack of cross party support, were placed on hold until after the 2014 election.

However, the government recently announced it will be proceeding with its RMA reform programme and outlined ten major changes that it will introduce this year. For further information, [click here](#).

*Quick fact: Did you know...
There are 17 RMA Amendment Acts
and the RMA is now 828 pages long!*

Auckland Unitary Plan Update



The Independent Hearings Panel commenced hearings on the proposed Auckland Unitary Plan in the final quarter of 2014. Hearings have been organized by topic with submissions on the various Regional Policy Statement components of the Plan first up.

Hearings recommence on 19 January 2015 and run through to April on the remaining RPS aspects. It is then expected that the Panel will move to hear the other components of the Plan starting with the regional plans and moving to district plan matters.

While the Panel is required to have completed the hearings process and made its recommendations to the Council by July 2016, the Panel can, if it wishes, release its recommendations in stages. For example, the Panel could issue its draft recommendations on the RPS prior to or while it is still hearing submissions on the regional or district plan aspects. This would give submitters an opportunity to consider the implications of the RPS provisions on the regional and district plans, and may assist the Panel by identifying any resultant issues at an early stage. The Panel will confirm its view on this approach by 5 February 2015.

For further information on the Panel and/or the hearings process and schedule [click here](#).



Implications of King Salmon

In April 2014 the Supreme Court released its decision on King Salmon which included the Court's view on how the NZCPS is to be interpreted and applied, the meaning of the term avoid, and the overall judgment approach traditionally applied by the lower Courts in determining RMA plans and applications.

Since the date of the decision, there has been much debate as to the precise scope of the Supreme Court's findings and whether they will affect both plan and resource consent processes. While on one view the findings are only directly relevant for plan processes, of the 14 or so environmental cases which have considered King Salmon to date, it is notable that 10 of these have involved consents.

If you are considering applying for a consent or participating in a plan change we suggest that you contact us for up to date advice on how the Court are applying King Salmon and the likely effect on your interests.

Ombudsman OIA Review

The Ombudsman has initiated a wide ranging review of Official Information Act practices in the public sector. The review is intended to improve the processing of OIA requests across the public sector. 12 central government agencies have been selected for formal review (including Ministry of Justice, NZTA, and Ministry of Transport) and a further 63 agencies and all 27 Ministers' offices have been asked to complete surveys on OIA practices. Survey responses are due in the early part of this year with opportunities for public submissions to follow.

For further information [click here](#).

Scope of General Conditions of Consent

The issue of whether a general condition of consent can be used to control noise effects was recently considered by the Court of Appeal.

The Court was asked to consider whether the general condition (condition 1) which required the wind farm activity to be carried out in general accordance with the application documents, could be used to require compliance with the predicted sound power and noise levels stated in the AEE. This was in the context where there were separate conditions of the consent dealing with noise.

Ultimately the Court found that condition 1 could not be used in this way and that instead the noise effects were to be controlled by the specific noise conditions.

For a copy of this decision [click here](#).



Atkins Holm Majurey

Level 19
48 Emily Place
Auckland 1010

P O Box 1585
AUCKLAND 1140

09 304 0294

reception@ahmlaw.nz

Find us on the Web:
www.ahmlaw.nz

New Email Addresses for AHM

We recently changed our email addresses so that they reflect the company name and end in the more modern domain [@ahmlaw.nz](mailto:reception@ahmlaw.nz) instead of the old [@ahjmlaw.com](mailto:reception@ahjmlaw.com). While the old email addresses continue to work you may wish to update your contact information for future reference.

Questions, Comments, Further Information



If you have any questions, comments or would like any further information on any of the matters included in this edition of AHM News please contact Vicki Morrison-Shaw on 09 304 0422 or vicki.morrison-shaw@ahmlaw.nz.

We welcome your feedback!

Unsubscribe

If you no longer wish to receive this Newsletter please email reception@ahmlaw.nz with the subject line "AHM News Unsubscribe" or click [AHM Unsubscribe](#).