



AHM News

INTRODUCTION

Spring has sprung and so have the lockdown restrictions. As Auckland, and the rest of New Zealand, move down through the COVID-19 restriction levels life has started to return to some form of normality. However, the lawmakers never stopped working through the higher restrictions and August and September were busy months in the legal world. Cashing in on this bonanza of ‘lock-down legal literature’, in this newsletter we cover the latest in the RMA reform process, the newly in force National Policy Statements for Urban Development and Freshwater Management and we provide an update on Three Waters Reform package.

RMA REFORM



The [Resource Management Review Panel Report New Directions for Resource Management in New Zealand \(Report\)](#) was released in June this year. This report considered options for changing the current resource management system with the “aim of establishing more enduring solutions beyond the present crisis and bringing to an end the series of ad hoc interventions that have been an undesirable feature of legislative change.” The Report recommended the repealing of the Resource Management Act 1991 and the introduction of two new acts to replace it: the Natural and Built Environments Act (NBEA) and the Strategic Planning Act.

The NBEA would focus on enhancing the quality of the environment and achieving positive outcomes to support the wellbeing of present and future generations. It would recognise the concept of Te Mana o te Taiao which refers to the importance of maintaining the health of our natural resources. The Strategic Planning Act would set long term strategic goals and facilitate the integration of legislative functions across the resource management system.

The Report also comments on the need to provide for a much more effective role for Māori throughout the resource management system. Further, the report writers briefly commented on how much more effective the resource management system could be if there was a full review and reform of the local government system, as well as the importance and need to address and resolve the issue of Māori freshwater interests, rights and allocation.



The Ministry for the Environment will now provide advice to the Minister for the Environment about the recommendations in the Report. Given the looming election, any Cabinet decisions on those recommendations is likely to be at least a couple of months away. There will however be an opportunity for further submissions as part of any subsequent legislative process.

NATIONAL POLICY STATEMENT FOR URBAN DEVELOPMENT



The [NPSUD 2020](#) came into force on 20 August 2020 and replaces the National Policy Statement for Urban Development Capacity 2016. The purpose of the NPSUD 2020 is to provide a long term planning framework for councils to ensure that well planned and functioning cities are created. The NPSUD classifies certain territorial authorities as tier 1 (Auckland, Tauranga, Hamilton, Wellington and Christchurch) and as tier 2 (Whangārei, Rotorua, New Plymouth, Napier Hastings, Palmerston North, Nelson Tasma, Queenstown

and Dunedin) and sets out what the different obligations are for tier 1 and tier 2 councils. Tier 3 local authorities (all authorities not included in tier 1 or 2) are strongly encouraged to implement the objectives and policies that are applicable to tier 1 and 2 councils, but this is not a requirement.

Tier 1 councils are directed to enable building heights of at least six storeys in areas of high demand or areas that are a walkable distance from existing or planned public transport (although there are a number of exceptions to this). Tier 1 and 2 councils are required to work collaboratively to produce a 'Future Development Strategy' which sets out a long term vision for accommodating growth. All tiers of council no longer need to set minimum car parking requirements, other than for accessible car parks, within their district plans.

ACTION FOR HEALTHY WATERWAYS

New '[Action for Healthy Waterways](#)' reforms have now been made. The new [National Policy Statement for Freshwater Management 2020 \(NPS-FM 2020\)](#), [National Environmental Standards for Freshwater 2020 \(NES-FW\)](#), [stock exclusion regulations](#), and [measurement and reporting of water takes regulations](#) took effect from 3 September 2020.

The concept of Te Mana o te Wai has been strengthened through the NPS-FM 2020 by a requirement to manage freshwater in a way that 'gives effect' to Te Mana o te Wai. This includes actively involving tangata whenua and communities in freshwater management, setting out a 'long-term vision' in the regional policy statement, and establishing a new 'hierarchy of obligations'. The hierarchy prioritises the health and wellbeing of water bodies, then the essential needs of people (drinking water), and thirdly the ability of people and communities to provide for their social, economic, and cultural well-being (which includes water for primary



production uses). More updates are expected for Te Mana o te Wai as these requirements are implemented across councils.

'Bottom lines' are also defined in the NPS-FM 2020 which require all water bodies to be at least maintained, with degraded water bodies required to be improved. Annual monitoring and reporting requirements are also included, with a synthesis report to be published every five years.

Under the RMA, Regional Councils have until 31 December 2024 to notify regional plans (or plan changes) that give effect to the NPS-FM and must implement those changes "as soon as reasonably practical". Those with freshwater plan change processes underway or on the horizon may elect to include such provisions now to avoid repeating the process in four years.

The NES-FW sets additional performance standards and new requirements for resource consents. This includes regulations on feedlots, agricultural intensification, fertilizer nitrogen discharges, setbacks on wetlands for earthworks, and fish passage in culverts, weirs, and dams. National environmental standards do not need to be implemented in the same way as policy statements, but plans will need to be reviewed for 'duplication or inconsistency'.

The Resource Management (Stock Exclusion) Regulations 2020 also came into force on 3 September. The regulations prohibit access of cattle, pigs and deer to wetlands, lakes, and rivers. An exemption is included where there is a permanent fence in place before the Regulations come into force.

THREE WATERS REFORM

The Three Waters Reform is a government-led review of how to improve the regulation and supply arrangements of drinking water, wastewater and stormwater to better support New Zealand's prosperity, health, safety, and environment.

The [Taumata Arowai - Water Services Regulator Bill](#) was given royal assent on 6 August 2020 and will come into force no later than October 2021. Taumata Arowai is a new Crown agency charged with achieving the objectives, and overall principles regarding three waters.

As part of the broader Three Waters Reform package, the [Water Services Bill](#) was introduced to Parliament in July 2020 which details the new drinking water regulatory system, and provisions relating to source water protection and Taumata Arowai's wastewater and stormwater functions. The Bill is currently at the first reading stage.

Also in this 'water' space, and in response to COVID-19, the Government recently announced a funding package to help local authorities maintain and improve three waters infrastructure, support the reform of local government water services delivery arrangements and support the operation of Taumata Arowai.

Questions, comments and further information

If you have any questions, comments or would like any further information on any of the matters in this newsletter, please contact the authors:

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