

House of Representatives

Supplementary Order Paper

Tuesday, 4 April 2017

Resource Legislation Amendment Bill

Proposed amendments

Hon Dr Nick Smith, in Committee, to move the following amendments:

Clause 2

After *clause 2(2)* (page 21, after line 10), insert:

- (2A) **Part 5** (amendments to Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012) comes into force on **1 June 2017**.

Clause 16

In *clause 16*, new section 34A(1A), replace “Part 1” (page 26, line 18) with “Part 1 or **5**”.

Clause 37

In *clause 37*, new section 58D(3)(d)(ii), replace “comments” (page 42, line 15) with “submissions and the subject matter of the draft”.

Clause 38

In *clause 38*, new section 58Q(1)(c)(iii), replace “under the” (page 54, line 17), with “under this”.

New clause 49A

After *clause 49* (page 58, after line 10), insert:

49A Section 79 amended (Review of policy statements and plans)

- (1) In section 79(2), replace “Part 1” with “Parts 1, **4, or 5**”.
- (2) In section 79(3)(b), replace “Part 1” with “Parts 1, **4, or 5**”.

- (3) In section 79(6), replace “Part 1” with “Parts 1, **4, or 5**”.
- (4) In section 79(7)(b), replace “Part 1” with “Parts 1, **4, or 5**”.

Clause 52

In *clause 52*, new section 80B(3)(a), replace “template” (page 59, line 34) with “standard”.

Clause 125

In *clause 125*, new section 95B(10), replace “persons to whom limited notification would otherwise be precluded” (page 101, lines 23 and 24) with “other persons not already determined to be eligible for limited notification under this section (excluding persons assessed under **section 95E** as not being affected persons),”.

Clause 135

In *clause 135*, new section 120(1B), replace “this section” (page 107, line 31) with “subsection (1)(b)”.

Clause 137B

Replace *clause 137B(1)* (page 108, lines 14 and 15) with:

- (1) Replace section 149ZC(2) with:
- (2) The Minister must apply **sections 149ZCB to 149ZCF** in making his or her decision under subsection (1).

Clause 137C

In *clause 137C*, new section 149ZCB(5), replace “section 149ZC(3) applies” (page 109, line 10) with “sections 149C to 149E apply”.

In *clause 137C*, replace new section 149ZCC(1) (page 109, lines 12 to 15) with:

- (1) If the Minister decides not to require the EPA to publicly notify an application or a notice, the Minister must, in relation to the activity,—
 - (a) decide if there is any affected person (under **section 149ZCF**); and
 - (b) identify any affected protected customary rights group or affected customary marine title group.

In *clause 137C*, new section 149ZCD(2), replace “149(2)” (page 109, line 36) with “149(2)(a)”.

Clause 138B

Replace *clause 138B(1)* (page 111, lines 12 to 20) with:

- (1) Replace section 168A(1A) with:
 - (1A) The territorial authority must decide whether to notify the notice of requirement under—

- (a) **subsection (1AA)**; or
 - (b) **sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF**, which apply with all necessary modifications and as if—
 - (i) a reference to an application or notice were a reference to the notice of requirement; and
 - (ii) a reference to an applicant, the Minister, or the EPA were a reference to the territorial authority; and
 - (iii) a reference to an activity were a reference to the designation.
- (1AA) Despite **section 149ZCB(1)**, a territorial authority must publicly notify the notice if—
- (a) it has not already decided whether to give public or limited notification of the notice; and
 - (b) either—
 - (i) further information is requested from the territorial authority under section 92(1), but the territorial authority—
 - (A) does not provide the information before the deadline concerned; or
 - (B) refuses to provide the information; or
 - (ii) the territorial authority is notified under section 92(2)(b) in relation to the commissioning of a report, but the territorial authority—
 - (A) does not respond before the deadline concerned; or
 - (B) refuses to agree to the commissioning of the report.
- (1AB) **Subsection (1AA)** applies despite any rule or national environmental standard that precludes public or limited notification of the notice of requirement.

Clause 138C

Replace *clause 138C(1)* (page 112, lines 3 to 23) with:

- (1) Replace section 169(1) with:
 - (1) If a territorial authority is given notice of a requirement under section 168, the territorial authority must, within 10 working days, decide whether to notify the notice under—
 - (a) **subsection (1A)**; or

- (b) **sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF**, which apply with all necessary modifications and as if—
- (i) a reference to an application or notice were a reference to the notice of requirement; and
 - (ii) a reference to an applicant were a reference to the requiring authority; and
 - (iii) a reference to the Minister or the EPA were a reference to the territorial authority; and
 - (iv) a reference to an activity were a reference to the designation.
- (1A) Despite **section 149ZCB(1)**, a territorial authority must publicly notify the notice if—
- (a) it has not already decided whether to give public or limited notification of the notice; and
 - (b) either—
 - (i) the territorial authority requests further information from the requiring authority under section 92(1), but the requiring authority—
 - (A) does not provide the information before the deadline concerned; or
 - (B) refuses to provide the information; or
 - (ii) the territorial authority notifies the requiring authority under section 92(2)(b) that it wants to commission a report, but the requiring authority—
 - (A) does not respond before the deadline concerned; or
 - (B) refuses to agree to the commissioning of the report.
- (1B) **Subsection (1A)** applies despite any rule or national environmental standard that precludes public or limited notification of the notice of requirement.

Clause 138E

Replace *clause 138E(1)* (page 113, lines 10 to 18) with:

- (1) Replace section 189A(2) with:
- (2) The territorial authority must decide whether to notify the notice of requirement under—
 - (a) **subsection (2A)**; or

- (b) **sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF**, which apply with all necessary modifications and as if—
 - (i) a reference to an application or notice were a reference to the notice of requirement; and
 - (ii) a reference to an applicant, the Minister, or the EPA were a reference to the territorial authority; and
 - (iii) a reference to an activity were a reference to the heritage order.
- (2A) Despite **section 149ZCB(1)**, a territorial authority must publicly notify the notice if—
 - (a) it has not already decided whether to give public or limited notification of the notice; and
 - (b) either—
 - (i) further information is requested from the territorial authority under section 92(1), but the territorial authority—
 - (A) does not provide the information before the deadline concerned; or
 - (B) refuses to provide the information; or
 - (ii) the territorial authority is notified under section 92(2)(b) in relation to the commissioning of a report, but the territorial authority—
 - (A) does not respond before the deadline concerned; or
 - (B) refuses to agree to the commissioning of the report.
- (2B) **Subsection (2A)** applies despite any rule or national environmental standard that precludes public or limited notification of the notice of requirement.

Clause 138F

Replace *clause 138F(1)* (page 113, line 31 to page 114, line 14) with:

- (1) Replace section 190(1) with:
 - (1) If a territorial authority is given a notice of requirement under section 189, the territorial authority must decide whether to notify the notice under—
 - (a) **subsection (1A)**; or

- (b) **sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF**, which apply with all necessary modifications and as if—
- (i) a reference to an application or notice were a reference to the notice of requirement; and
 - (ii) a reference to an applicant were a reference to the heritage protection authority; and
 - (iii) a reference to the Minister or the EPA were a reference to the territorial authority; and
 - (iv) a reference to an activity were a reference to the heritage order.
- (1A) Despite **section 149ZCB(1)**, a territorial authority must publicly notify the notice if—
- (a) it has not already decided whether to give public or limited notification of the notice; and
 - (b) either—
 - (i) the territorial authority requests further information from the heritage protection authority under section 92(1), but the heritage protection authority—
 - (A) does not provide the information before the deadline concerned; or
 - (B) refuses to provide the information; or
 - (ii) the territorial authority notifies the heritage protection authority under section 92(2)(b) that it wants to commission a report, but the heritage protection authority—
 - (A) does not respond before the deadline concerned; or
 - (B) refuses to agree to the commissioning of the report.
- (1B) **Subsection (1A)** applies despite any rule or national environmental standard that precludes public or limited notification of the notice of requirement.

In *clause 138F*, new *section 190(7)(b)*, replace “requiring” (page 114, line 20) with “heritage protection”.

Clause 148

In *clause 148*, new *section 358(1A)(aa)*, replace “consent authority’s decision” (page 117, lines 15 and 16) with “decision of a consent authority or hearings commissioner”.

Clause 151

In *clause 151*, new section 360G(2)(b), replace “**section 95B** to affected persons under **section 95E**” (page 119, lines 32 and 33) with “**section 95B(1) to (9)**”.

Clause 152

In *clause 152(2)*, new clause 69(1)(h) of Schedule 1, after “struck” (page 121, line 5), insert “out”.

Clause 217

In *clause 217*, new section 100A(2)(b), delete “and when” (page 171, line 32).

Schedule 1

In *Schedule 1*, item relating to *clause 21*, after new subclause (3A) (page 188, after line 17), insert:

In *Schedule 1*, *clause 21(4)*, replace “Part 1 shall apply” with “Part 1, **4**, **or 5** applies”.

In *Schedule 1*, item relating to *clause 25*, after new subclause (2AA) (page 188, after line 24), insert:

In *Schedule 1*, *clause 25(2)(a)(ii)*, replace “Part 1” with “Part 1 **or 4**”.

In *Schedule 1*, after the item relating to new *clause 26A* (page 189, after line 7), insert:

Clause 31

In *Schedule 1*, *clause 31(a)* and (b), replace “Part 1” with “Part 1, **4**, **or 5**”.

Clause 33

In *Schedule 1*, *clause 33(a)* and (b), replace “Part 1” with “Part 1, **4**, **or 5**”.

In *Schedule 1*, item relating to new *Parts 4 and 5*, new *clause 41A(1)(a)*, after “168” (page 194, line 11), insert “or 189”.

In *Schedule 1*, item relating to new *Parts 4 and 5*, new *clause 41A(1)(b)*, after “168A” (page 194, line 12), insert “or 189A”.

In *Schedule 1*, item relating to new *Parts 4 and 5*, new *clause 45(4)*, after “168” (page 196, line 19), insert “or 189”.

Schedule 2

In the *Schedule 2* heading, replace “**3B**” (page 224, line 4) with “**4A**”.

In *Schedule 2*, replace the item relating to the *Schedule 12* heading (page 224, lines 5 to 7) with:

Schedule 12 heading

Replace the Schedule 12 heading with:

Schedule 12
Transitional, savings, and related provisions

s 3B

Explanatory note

This Supplementary Order Paper amends the Resource Legislation Amendment Bill.

Clause 2 is amended so that Part 5 of the Bill (which amends the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012) will come into force on 1 June 2017.

The amendment to *clause 16*, which amends *new section 34A(1A)*, ensures that the processes of *new Part 5*, as well as those of Part 1 of Schedule 1, apply.

Clause 37 amends *new section 58D(3)(d)(ii)* to align the language with the change previously made to *subparagraph (i)* of *new section 58D(3)(d)*.

Amendments to *clauses 38, 52, 125, 135, 148, 151, 152, and Schedule 2* correct technical errors or clarify the drafting.

New clause 49A amends section 79 to ensure that the processes of *new Parts 4 and 5* of Schedule 1 are also available in the review of policy statements and plans.

Clause 137B is amended to align *new section 149ZC(2) and (4)* with the new notification provisions in Part 6AA.

Clause 137C corrects and simplifies cross-references in Part 6AA and aligns the wording in *new section 149ZCC(1)* with related provisions in Part 6.

Clauses 138B, 138C, 138E, and 138F amend the designations and heritage order provisions in Part 8 of the Resource Management Act 1991 by applying new notification provisions in Part 6AA of the Act. This Supplementary Order Paper amends those clauses to specify more comprehensively which notification provisions in Part 6AA apply for the purpose of notifications under Part 8.

Clauses 138C and 138F are amended to clarify when the notification obligation is triggered in *new sections 169(1A) and 190(1A)*, respectively, where there has been a request for further information or notice given of an intention to commission a report. Where sections 169 and 190 apply, the requiring authority or heritage protection authority (as the case requires) is in a similar position to an applicant for a resource consent under the current section 95C. The changes express the requirements in the same terms as in current section 95C. This clarification should be familiar to and assist territorial authorities.

Clause 138F is also amended to correct a reference to the relevant authority in *new section 190(7)*.

Clause 217 is amended so that a decommissioning plan will not be required to specify when the relevant infrastructure will be decommissioned.

In *Schedule 1*, clauses 21, 25, 31, and 33 are amended to ensure that the processes of 1 or both of *new Parts 4 and 5*, are available in addition to Part 1 of Schedule 1.

The other amendments to *Schedule 1* ensure that the relevant provisions apply to both designations and heritage orders.