



# AGENDA

## HORIZONS REGIONAL COUNCIL

### STRATEGY & POLICY COMMITTEE

**Tuesday, 13 October 2009 at 10.00am**

Notice is given of a meeting of Horizons Regional Council to be held on Tuesday 13 October, 2009 at 10.00am in the Tararua Room, Horizons Regional Council offices, 11-15 Victoria Avenue, Palmerston North.

Business to be discussed includes:

- Communications Policy 2009
- Resource Management Amendment (Simplifying and Streamlining) Act 2009
- Motor Vehicle Policy Update
- MW LASS Ltd Update

Presentations to this Meeting:

- Dr J Roygard, Surface Water Quantity Monitoring and Research

**RECOMMENDATIONS IN REPORTS ARE NOT  
COUNCIL POLICY UNTIL ADOPTED BY COUNCIL**

**NEWS EMBARGO**

Items in this agenda may be subject to amendment or withdrawal at the meeting. Items are embargoed until two days before the date of the meeting.

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for further information regarding this agenda, please contact:  
Julie Kennedy, 06 952 2800

<b>CONTACTS</b>	<b>24 hr Freephone :</b> 0508 800 000	<b>help@horizons.govt.nz</b>		<b>www.horizons.govt.nz</b>
<b>SERVICE CENTRES</b>	<b>Kairanga</b> Cnr Rongotea & Kairanga-Bunthythorpe Rds, Palmerston North	<b>Marton</b> Hammond Street	<b>Taumarunui</b> 34 Maata Street	<b>Woodville</b> Cnr Vogel (SH2) & Tay Sts
<b>REGIONAL HOUSES</b>	<b>Palmerston North</b> 11-15 Victoria Avenue	<b>Wanganui</b> 181 Guyton Street		
<b>DEPOTS</b>	<b>Levin</b> 11 Bruce Road	<b>Taihape</b> Torere Road Ohotu		
<b>POSTAL ADDRESS</b>	Horizons Regional Council, Private Bag 11025, Manawatu Mail Centre, Palmerston North 4442			
<b>PHONE</b>	06 9522 929			



## STRATEGY AND POLICY COMMITTEE

### COMMITTEE MEMBERS

Committee of the Whole

### AGENDA

13 October 2009

10.00am

- |  | <b>Pages</b> |
|--|--------------|
| 1. Apologies   |              |
| 2. Public Speaking Rights<br>Notification to speak is required by 4pm on the working day prior to the meeting. Further information is available on <a href="http://www.horizons.govt.nz">www.horizons.govt.nz</a> or by phoning 0508 800 800   |              |
| 3. Late Items:<br>To consider, and if thought fit, to pass a resolution to permit the Committee to consider any further items which do not appear on the Order Paper of this meeting and/or the meeting to be held with the public excluded.<br><br>Such resolution is required to be made pursuant to Section 46A(7) of the Local Government Official Information and Meetings Act 1987, and the Chairperson must advise:<br><br>(i) The reason why the item was not on the Order Paper, and<br>(ii) The reason why the discussion of this item cannot be delayed until a subsequent meeting. |              |
| 4. Members' Conflict of Interest<br>Members are reminded of their obligation to declare any conflicts of interest they might have in respect of the items on this Agenda.  |              |
| 5. Minutes of the last meeting held on 14 April 2009 were presented and confirmed by Council at its meeting held on 28 April 2009.   |              |
| 6. MW LASS Ltd Update<br><i>Report No: 09-160</i><br><i>File No: OMS 11 01</i>   | 1 - 2        |
| 7. Motor Vehicle Policy Update<br><i>Report No: 09-161</i><br><i>File No: OAM 8 01</i>   | 3 - 4        |

8. Communications Policy 2009 5 - 14  
*Report No: 09-154 (incl Annex A)*  
*File No: RCR 1 07*
  
9. Resource Management Amendment 15 - 26  
(Simplifying and Streamlining) Act 2009  
*Report No: 09-158 (incl Annexes A, B, and C)*  
*File No: OMS 8 01*
  
10. Presentation – Dr J Roygard, Surface Water Quantity Monitoring and Research
  
11. Members' Questions

M J McCartney  
**CHIEF EXECUTIVE**

A Significant decision? <b>If Yes</b>	N
Do recommendations meet Significance Policy (contained within the LTCCP)	

**Item No: 6**  
**Date: 13/10/2009**  
**Report No: 09-160**  
**File No: OMS 11 01**

## MW LASS LTD UPDATE

### PURPOSE

1. This report is to inform Members of the current status of MW LASS Ltd.

### FINANCIAL IMPACT

2. Nil, as this report is an update only.

### BACKGROUND

3. MW LASS Ltd was established in October 2008 and became operational on 1 July 2009. MW LASS is an initiative of the Chief Executives of seven Councils in the Manawatu-Wanganui region (excluding Palmerston North City Council). The principal aim of the company is to find ways in which member Councils can work together to provide services more efficiently, and/or at a lower cost. The focus is on support services normally managed by respective Chief Executives, who are the directors of the company. The directors meet on a two-monthly cycle to review progress of existing projects and to review project proposals and initiatives for future projects.
4. Prior to the company being formed, Horizons was involved in a less structured shared services model involving the Regions' Councils. While the concept of this former model was sound, the structure was not robust, there was little political will, appropriate resources were not allocated and the model struggled to deliver. By contrast, the current LASS model has provided a robust governance arrangement, and a strong commitment by the directors to develop innovative service offerings that lead the sector, rather than follow it.
5. MW LASS currently has four active projects and a weight listing of a further six projects. The active projects are:
  - Regional archives – a project to develop a centralised regional facility for archive storage and a centralised archives database
  - Debt collection – a project to explore opportunities for a centralised regional collection of council debt
  - Shared valuation database system (SVDS) – a rates project that will provide property valuation contestability, and data integrity for rating information across the region
  - Canister return – a project that aims to provide economies of scale in terms of the cost to recycle water treatment chemical containers
6. The Canister return project is due for completion in November 2009, and will be replaced by a centralised fleet management project. This latter project will explore opportunities for reduced costs and improved levels of service across the Region in support of Councils' motor vehicle fleets.

## COMMENTS

7. The current budget for the LASS is set out in the Statement of Intent for 2009-10. This budget (\$112,000) includes the salary of a full time Executive Officer (EO). However the directors have decided not to employ an EO at this time, and instead have agreed to resource this position internally (currently Craig Grant from Horizons). The company does not allow for the remuneration of its directors, nor is the EO currently being provided with additional remuneration. Accordingly, the main costs associated with the running of the company relate to company secretary expenses (\$5,000), administration (\$4,500), accounting and audit (\$14,000), and miscellaneous expenses (\$2,000). While the Statement of Intent budget is \$112,000, it is predicted that actual company expenditure will be closer to \$25,500. Costs associated with individual projects are funded by participating Councils on a user-pay basis and do not form part of the operational costs of the company. It is expected that once the company becomes fully established the budget requirements will increase closer to that outlined in the Statement of Intent.
8. Staff time relating to directors, the EO, and project teams is absorbed by respective Councils. It is worth noting that prior to the company being formed, Horizons had been involved in regional shared services for the previous five years. During this period, Horizons' staff time was budgeted within respective team centres, ie. the Chief Executive and Group Manager Corporate and Governance. The staff time commitment to the LASS is similar to that contributed to regional shared services prior to the LASS being formed.
9. While the LASS has only been operational for approximately three months, it has successfully completed its first project (Insurance Services Review) which has resulted in a return to the LASS of \$46,380 in the current year, \$37,103 in year 2, and \$27,829 in year 3. Excluding staff time, the LASS has already recovered more than its projected operational expenses for the current year.

## RECOMMENDATION

10. That the Committee recommends that Council:
  - a. **receives** Report No. 09-160.

CA Grant

**GROUP MANAGER CORPORATE & GOVERNANCE**

A Significant decision? <b>If Yes</b>	N
Do recommendations meet Significance Policy (contained within the LTCCP)	

**Item No: 7**  
**Date: 13/10/2009**  
**Report No: 09-161**  
**File No: OAM 8 01**

## **MOTOR VEHICLE POLICY UPDATE**

### **PURPOSE**

1. This report is to inform Members of the current status of Horizons' Motor Vehicle Policy.

### **FINANCIAL IMPACT**

2. Nil, advisory paper only.

### **BACKGROUND**

3. Horizons Regional Council operates a motor vehicle fleet of 124 vehicles comprising passenger, utility, and light 4x4 vehicles.
4. These vehicles are located and are operated across the Region in support of Horizons' vast array of outputs. All vehicles are centrally managed through a common Motor Vehicle Policy that is reviewed as required. The last review was completed in February 2008.
5. Motor vehicles are replaced on a 6-year/170,000 km cycle, except management vehicles which are replaced on a 3-yearly cycle.

### **COMMENTS**

6. The main objectives of the last management review were to:
  - reduce Council expenditure on the through-life cost of its motor vehicle fleet;
  - ensure the motor vehicle fleet was fit for purpose;
  - evaluate fleet size versus operational need; and
  - reduce, where possible, the fleet's carbon footprint.
7. Horizons has seen a move from double-cab vehicles to single or 1.5 cab vehicles. This has produced an average saving of \$10K per vehicle purchase.
8. There has also been a shift in fuel type from petrol to diesel, wherever possible, in order to reduce emissions. Therefore the number of petrol vehicles will continue to reduce through the annual replacement programme.
9. Every 12 months a management review is undertaken on the most common makes and models of vehicles to establish the most appropriate for use by Horizons using the "total cost of ownership model". It is worth noting that hybrid vehicles were evaluated as part of the review, but at the time were discounted as being suitable for Horizons' use due to their high total cost of ownership and secondary issues, eg. the issue of battery disposal and low fit for purpose scoring.
10. Horizons has also limited management vehicles to first and second tier managers. Managers undertake a salary sacrifice to support the operational costs of their vehicle.

11. During the 2008-09 financial year, the new Policy resulted in a net saving of \$120,000 on vehicle purchases alone. It is difficult to quantify the annual fuel savings associated with the changes in the Policy because of the fluctuating fuel costs and the varying work outputs, from year-to-year, of Horizons' staff.

**RECOMMENDATION**

12. That the Committee recommends that Council:
  - a. **receives** Report 09-161.

CA Grant  
**GROUP MANAGER CORPORATE & GOVERNANCE**

A Significant decision? <b>If Yes</b>	N
Do recommendations meet Significance Policy (contained within the LTCCP)	

**Item No: 8**  
**Date: 13/10/2009**  
**Report No: 09-154**  
**File No: RCR 1 07**

## COMMUNICATIONS POLICY 2009

### PURPOSE

1. This report is to present members with the Communications Policy 2009. This Policy is an update on the Communications Guidelines adopted in 2005.

### FINANCIAL IMPACT

2. There is no financial impact associated with recommendations in this paper.

### BACKGROUND

3. In 2004 a new style Communications department was established with a distinctively external focus.
4. A Communications Survey was conducted in July 2005 and a number of broad communications guidelines were set based primarily on the needs of the general public, ratepayers, key stakeholders, media and internal groups.
5. The outcomes of the 2005 strategies were to:
  - significantly increase the reputation of HRC by 2008 (short term)
  - begin the three-step model of:
    1. Building reputation – understanding
    2. Creating support
    3. Changing behaviour (long-term) – advocacy.

Each step is planned to take approximately 3-4 years.
6. The 2005 guidelines were to be revised every three years but, due to some internal changes, the 2008 revision was delayed until 2009 and the guidelines have been changed to Policy status.
7. A second Communications Survey was conducted in late 2008. These findings feed into the 2009 Communications Policy.

### COMMENTS

8. The time between 2005–08 has shown a high success rate in terms of building general understanding of Horizons business amongst the general public. As we move into the Creating Support phase of our long term plan, our communications will maintain current levels of focus on the general public while expanding input into target audiences. The way we communicate with these target audiences will be dictated by their preferred methods, what information/service they require, what part of our business they interact with and what reputation we want to build with them.

9. The Communications Policy 2009 is attached as Annex A. It addresses the focus of Horizons communications, with particular emphasis on the expectations of the broad Horizons team.
10. The Policy is supported by more detailed operational plans that shape the work of the communications team.

## **RECOMMENDATION**

11. That the Committee recommends that Council:
  - a. **receives** the Communications Policy 2009.

CA Atkinson  
**COMMUNICATIONS MANAGER**

## **ANNEX**

- A Communications Policy 2009

<b>Document:</b>	<b>Communications Policy</b>
<b>From:</b>	Corporate Communications
<b>File No:</b>	RCR 1 07
<b>Date:</b>	September 2009

## 1. Purpose

The long-term aim of this policy is to create and maintain planned, effective and sustained communication between Horizons Regional Council (HRC) and its different internal and external communities. By doing this we:

- positively contribute towards our vision of being an essential partner in growing a prosperous region appreciated for its lifestyle and environmental qualities
- minimise risks over our success as an organisation and the delivery of our outputs
- fulfil our obligations to the ratepayers and residents of our region, to our stakeholders and partners and to central government.

## 2. Outcome

Under the direction of this policy, all members of staff and elected councillors can contribute to the positive results of effective communication. These include:

- goodwill and mutual understanding with our stakeholders and the general public
- a positive image and robust reputation
- advocacy of our business and our organisation
- an internal culture of open and integrated communication
- strong partnerships.

## 3. Background

This policy takes a number of different factors into account.

### 3.1 Communications Direction

In 2004 a new style Communications Department was established with a distinctively external focus. Issues at that time included national social change towards positive environmental action, direct rating, the 2004 flood events and a focus on core business. These were all new opportunities for increasing awareness and standardising our reputation. As a result, a Communications Survey<sup>1</sup>, was conducted in July 2005 and a number of broad communications guidelines were set based primarily on the needs of the general public, ratepayers, key stakeholders, media and internal groups.

<sup>1</sup> The Communications Survey of July 2005 replaced the more traditional Public Awareness and Perception Survey of 2003, 2000 and 1997. Instead of asking broad questions to random members of the public about HRC work, the survey focused on the effectiveness of communications and where improvements could be made. A total of 1,559 completed quantitative telephone surveys were achieved; the percentage of responses per district was proportionate to the number of households in that district; an additional qualitative report was also supplied; all respondents were ratepayers.

The outcomes of the 2005 strategies were to:

- significantly increase the reputation of HRC by 2008 (short term)
- begin the three-step model of:
  1. Building reputation – understanding
  2. Creating support
  3. Changing behaviour – advocacy (long-term).

Each step is planned to take approximately 3-4 years.

The guidelines were to be revised every three years but, due to some internal changes the 2008 revision was delayed until 2009. In addition, the revised guidelines have been elevated to organisational policy.

### 3.2 Communications Research

In 2008 a Communications Survey<sup>2</sup> was conducted. Key findings from this survey showed:

- interest in finding out more about the activities HRC performs was at a very similar level to 2005 and still higher than in 1997
- 33% of respondents had dealt with HRC compared to 25% in 2003
- very high numbers of participants had heard about HRC through rates invoices, newspaper articles or stories, *Across the Region* newsletters, vehicle signage and newspaper advertisements. This compares to 2005, where the only high levels of awareness were through rates invoices and newspaper articles
- between 2005 and 2008, there was a notable increase in the roles of *Across the Region* and the customer services unit to increase awareness and provide information
- almost all respondents (97%) were aware of the fact they pay two separate sets of rates, one to the district council and one to the regional council. This compared to 75% awareness in the 2003 survey (notably the 2005 survey was conducted with only ratepayers while 2008 was with all residents)
- areas where the public wanted more information was lead by general background, followed at a distance by flood protection, rates and river monitoring. This compares to 2005 where respondents wanted further information on general background, closely followed by rates, then by contact details.

Using this latest survey information, as well as several other measurement results, the organisation is set to move into the second phase (Creating Support) of our long-term plan.

### 3.3 Issues

We need to seriously consider the changing global, national and local government environments when planning and implementing communications. Some of these issues include:

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<sup>2</sup> The 2008 Survey was completed using a telephone involving 2,051 respondents. It attempted to update both the 2005 survey as well as some issues highlighted in previous surveys. Direct comparison was limited in some areas but, where possible, data was included to demonstrate the comparison between the 1997, 2003 and 2005 and 2008 surveys.

- the global recession and pressures on the national economy as well on all local government bodies
- increasing demands at a national and local level for controlled rating
- Treaty of Waitangi settlements and the impact on the way regional councils do business
- change in national leadership
- potential for local government reform
- upcoming local body elections in 2010.

In addition, there are ongoing issues relating to our communities and our communication with them:

- information overload – we are competing with an infinite number of other messages
- our business is not as tangible as that of district/city councils therefore it is difficult to illustrate added value
- there is a general lack of interest/involvement in the democratic process at the local level
- there is a large silent majority in our regional community whom we struggle to get feedback from
- there is no unified approach to business or standards of delivery across our sector and this leads to confusion and misunderstanding
- the diversity of our organisation and its people means that, in a few areas, we have challenges around creating integrated responses
- the geographic and demographic diversity of our region means that we only succeed up to a certain level with mass media techniques
- in order to remain sensitive to the economic downturn we have to find the most innovative and cost effective ways of communicating key priorities while minimising the risk of a loss of service in other areas.

### **3.4 Organisational Priorities**

- Leadership in providing local government information
- Excellence in financial and asset management
- “Balanced” policy
- Integrated catchment management
- Investment in HRC people
- Regional leadership and partnerships

## **4. The Organisational Communications Culture**

One of the most effective and least expensive ways of promoting a good reputation is through HRC staff and councillors. Such employee-driven public relations must be at the centre of our good reputation, without this anything else we seek to achieve will not succeed.

The following are some key areas in which HRC, as a whole, can and should contribute to an organisationally strong communications culture.

#### 4.1 Key Messages

These key messages are the fundamentals of the reputation we are seeking to create. They should be kept top-of-mind and used wherever possible. Beyond this, more detailed messages will be extended and utilised on a project by project basis, under the guidance of the communications team.

- Horizons is a diverse and dynamic business that seeks to add short-term and long-term value for the region
- Horizons is in the business of striking a balance between economy, lifestyle and environment
- Horizons is an important local government partner with a unique position that allows us to work in innovative ways with our communities
- Horizons has achieved significant economic, social and environmental outcomes for the region over the past 20 years
- Our business decisions are made on the basis of thorough scientific investigation, balanced policy and courageous judgement
- Ratepayers fund our work – your feedback counts
- Horizons supports regional growth throughout the region by managing risk, providing information and building regional leadership
- Horizons is deeply conscious of our community's ability to pay for the benefits that we provide and we go to great lengths to keep rates at an affordable level.

#### 4.2 Key Values

Council communication should display the following characteristics:

- user-centric, accurate, relevant and easily accessible with a strong awareness of preferred methods of communication
- easy to understand, avoiding jargon and making good use of straightforward summaries of technical information
- inclusive/mutual, both listening and talking
- professionally presented with strong branding
- consistent
- proactive, leading the news not being lead by it.

#### 4.3 Key Information

Wherever possible, the following information should be repeated:

- the correct name, Horizons Regional Council. Correct any misuse that you encounter
- delineate clearly what we do – supporting regional growth, managing the environment, keeping people safe, getting people places.

- Our contact details, in this hierarchical order:
  - 24 hour freephone: 0508 800 800
  - Website: www.horizons.govt.nz
  - Email: help@horizons.govt.nz
  
  - Post: Private Bag 11025,  
Manawatu Mail Centre,  
Palmerston North, 4442
  
  - Fax: 06 9522 929

#### 4.4 Key Actions

These are easy but essential actions required of the HRC team:

- produce all advertisements and promotional material as per the Horizons Brand Guidelines
- produce communications materials with a balance of quality and cost efficiency
- wherever possible, emphasise the area that HRC covers and that we are a region-wide service
- do not sub-brand (eg. develop individual and separate project identities that may compete) without consulting the Communications Manager
- use HRC name consistently over an extended period of time
- support the reputation and key messages, wherever possible
- use additional communications policies and guidelines as appropriate, eg. media policy, web strategy and brand guidelines
- utilise the expertise of the Communications Department
- be committed to fostering goodwill amongst each other and members of the public
- make sure that we are equipped with appropriate facts, a vast general knowledge of our business, as well as more detailed knowledge of individual areas and be ready to talk about HRC when we have contact with any members of the public
- listen carefully for feedback, suggestions and attitudes and make sure these are fed back to the Communications Manager
- be visible and involved in our communities
- be committed to the highest quality of reputation and service
- foster advocates in the community, ie. effectively utilise/build strong relationships with anyone or any group who is willing to speak positively about HRC
- feed any stories of success and provide contact details back to the Communications Manager
- respond to public queries/contact (phone, mail and email) quickly, efficiently and courteously.

#### 4.5 Key audiences

As we move into the Creating Support phase of our long-term plan, our communications will maintain current levels of focus on the general public while expanding input into target audiences. The way we communicate with these target audiences will be dictated by their preferred methods, what information/service they require, what part of our business they interact with and what reputation we want to build with them.

Our target audiences are:

- non participants – don't know, don't care
- key stakeholder groups
- urban ratepayers
- economic, environmental and social advocates
- non-ratepaying residents
- internal staff
- rural ratepayers
- community leaders/decision makers
- central government
- repeat customers, ie. those who use particular services

### 5. Communications Tools

People use different styles of communication to achieve different outcomes. By understanding the differences and limitations of each style, HRC staff and councillors can make the best use of the communication tools and methods available.

Under the Building Reputation (2005–08) phase of our long-term plan we tended to use the Inform and Educate/Involve styles of communication. As we start entering the next phase of Creating Advocacy, the Expand and Consult styles will become increasingly important, supported by a maintained level of Inform.

Note that cost-benefit also has a strong role to play in tool employment.

These styles are explained below.

#### 5.1 Inform

This is one-way supply of information through media such as advertising, printed brochures, displays, signage, letters, press releases, websites. It increases awareness and imparts information and, while a response may be required, it is generally not essential. All forms of communication involve 'informing' to a greater or lesser extent, but it is most important when aiming to create a basic understanding across a wide range of people.

#### 5.2 Consult

Consultation involves planned opportunities for the council to gain a response from the community and for the community to have an opportunity to have discussions with the Council. This includes public meetings, one-on-one visits, hui and campaigns that have built-in feedback mechanisms.

### 5.3 Educate/Involve

Communication which creates a learning experience and deepens understanding is always two-way, active and generally has a practical base or outcome. This style includes field days, seminars, school curriculum events, professional development.

### 5.4 Expand

This involves communication to extend information and understanding and takes account of changes in skills and knowledge. It assumes a certain level of prior knowledge and works towards behaviour change. This includes research the council undertakes, staff skills training, talking to experts and people with knowledge, and consultation with specific community groups with special interests.

## 6. The Communications Department

In order to effectively manage and facilitate the outcomes of this policy, the Communications Department develops an annual work plan based on following objectives and strategies.

### 6.1 Objective 1

Equip ourselves and others to manage effective communications and deliver well-timed, accurate public information.

#### Strategies:

- i. Develop and deploy toolbox for organisation
- ii. Maintain brand consistency
- iii. Investigate cost savings.

### 6.2 Objective 2

Create internal and external connections.

#### Strategies:

- i. Make the communications team the hub of HRC
- ii. Empower staff to create their own internal and external connections
- iii. Create external connections
- iv. Develop relationships with internal information holders.

### 6.3 Objective 3

Shape relevant and user-centric project information.

#### Strategies:

- i. Maintain information flow between communications and major output teams
- ii. Continue media output

- iii. Build web functionality and use.

#### 6.4 Objective 4

Showcase our diversity and value for money.

##### Strategies:

- i. Promote organisational key messages
- ii. Drive advocacy through third parties
- iii. Build national reputation of regional councils.

#### 6.5 How we measure our success

An important task of the Communications Department is to determine what people are saying and thinking about HRC. This provides baseline information so that appropriate communication practices can be implemented.

The Communication Department gathers information and collects data by:

- monitoring regional newspapers and radio stations
- receiving feedback on community concerns from councillors and staff
- participating in community networks
- inviting feedback in council publications
- commissioning professional surveys of public attitudes, perceptions and communications needs.

### 7. Review of Policy

This policy will be reviewed biennially. The next review will be September 2011.

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Chief Executive

Date: \_\_\_\_\_

A Significant decision? <b>If Yes</b>	N
Do recommendations meet Significance Policy (contained within the LTCCP)	

**Item No: 9**  
**Date: 13/10/2009**  
**Report No: 09-158**  
**File No: OMS 8 01**

## **RESOURCE MANAGEMENT AMENDMENT (SIMPLIFYING AND STREAMLINING) ACT 2009**

### **PURPOSE**

1. This report is to inform and update Councillors on the Resource Management Amendment (Simplifying and Streamlining) Act 2009 (RMAA 2009), including an update on those provisions that were the subject of the Horizons Regional Council's (HRC's) submission on the Resource Management (Simplifying and Streamlining) Amendment Bill 2009 (RMA Bill 2009).

### **FINANCIAL IMPACT**

2. None at this stage.

### **BACKGROUND**

3. In the lead up to the General Election on November 8 2008, the National Party made a commitment to a wholesale review of the Resource Management Act 1991 (RMA). This included both structural and administrative reform, along with an assessment of the fundamental principals underlying the Act.
4. The RMA reform is split into two phases. The focus of Phase I was to amend the RMA to address excessive bureaucracy, costs and delays. Phase II will be much broader, with a focus on providing greater Central Government direction and closer alignment of legislation. Phase II will cover infrastructure provisions, freshwater management, urban planning, aquaculture planning and development, and the role and functions of the Environmental Protection Agency (EPA).
5. Phase I began with a process to prepare a Bill amending the RMA within 100 days of the National-led Government coming into office. This process included consultation with local government, direct engagement of senior local government officers (including the Chief Executive of Horizons Regional Council (HRC)), and the guidance of a Technical Advisory Group (TAG) appointed by the Minister for the Environment.
6. The TAG officials and Ministers met more than six times between December 2008 and February 2009 and recommended a significant package of amendments spread across eight broad topics areas:
  - Improving mechanisms to manage frivolous and vexatious objections and appeals, and trade competition.
  - Improving the processing of applications for proposals of national significance.
  - Establishing an Environmental Protection Agency (EPA).
  - Improving Plan development and Plan change processes.
  - Improving resource consent processes.
  - Improving the efficiency and effectiveness of national instruments.
  - Improving the effectiveness of enforcement and compliance mechanisms.
  - Streamlining decision-making (roles and processes).
7. A ninth general theme was added, focusing on the opportunity to resolve technical issues around the workability of existing provisions in the RMA.

8. These nine topic areas were incorporated into more than 160 clauses that made up the RMA Bill 2009. The Bill passed its first reading on 19 February 2009 and was referred to the Local Government and Environment Select Committee (Select Committee). Submissions on the Bill opened on 20 February 2009 and closed on 3 April 2009. HRC made a submission on the Bill and was heard by the Select Committee. The Select Committee reported back to the House on 18 August 2009, and the second and third readings of the Bill took place on 8 September 2009. The RMAA 2009 was assented on 22 September 2009, and entered into law on 1 October 2009.

## COMMENT

9. This agenda item focuses on Phase I of the RMA Reform and its purpose is to inform and update Council on the RMAA 2009 provisions that were covered by HRC's submission to the Select Committee, other key provisions (including transitional provisions) of the RMAA 2009, the regulations being prepared and updated under the RMAA 2009, and Phase II of the RMA reform process.

## HORIZONS REGIONAL COUNCIL'S SUBMISSION ON THE RMA BILL 2009

10. **Streamlining processes for projects of national significance** – HRC submitted in support of the call-in process to manage nationally significant resource consent applications using a Board of Inquiry (BOI), but did not support any provision that would allow a BOI to accept an application for a private Plan change. In addition, HRC noted that the proposed provisions did not provide for a Local Authority (LA) to be a party to a Plan change process except as a submitter, and we requested that the right for authorities to defend their Plans be made explicit.
11. The final amendments clarify the call-in process, the process for BOI appointment and clarify and improve the involvement of LAs in the decision-making process. Final amendments have also clarified that proposals of national significance may include applications for resource consents, local authority Plan changes or variations, requests for Plan changes (private Plan changes), requests for preparation of Regional Plans, and Notices of Requirement (NoR).
12. In terms of the LA role in private Plan changes, the BOI is still able to accept or reject an application for a private Plan change, but final amendments now require the BOI to consult with the LA on its view before making that decision. The LA (and other listed parties) must be invited to comment on the BOI's draft report (which includes the decision). While the comments are limited to minor and technical matters only (ie. not the BOI's decision itself) the BOI is required to consider these comments, before making its final decision.
13. These final amendments are very positive in terms of the HRC submission points.
14. **Establishing an Environmental Protection Agency (EPA)** – HRC sought clarity around the role of the EPA. A key concern was that, with regard to consent applications that are called in as a matter of national importance, the role of the LA was limited to that essentially of a submitter. In addition, HRC did not support the time limit of nine months for the BOI to report a decision, or the absolute discretion given to the Minister only to extend that timeframe.
15. While the powers and functions of the EPA are to be considered in Phase II of the RMA reforms, the final amendments have provided some clarification around process and the EPA role. Essentially, the Minister makes substantive decisions on whether to call in a matter and whether to refer it to a BOI or the Environment Court, whom to appoint to a

BOI, and whether to extend the time-frame for a BOI to report on a matter. The EPA carries out all administrative tasks, such as public notification, calling for and receiving submissions, and giving notice of the BOI's decision. The amendments have clarified the three ways in which a matter can be called in and the role of the EPA within that process [the diagram in Annex A shows this process].

16. Final amendments have strengthened the role of LAs with regard to matters of national importance, in that the EPA is now required to commission a report from the relevant LA on the key planning issues. While this report is limited in terms of content, these final amendments are significant improvements in terms of the HRC submission points.
17. Final amendments now enable the EPA to recommend to the Minister an extension of the nine month timeframe. This does not address the concern raised by HRC of absolute discretion on this matter being with the Minister.
18. **Improving National Instruments** – HRC sought clarification on the extent of the Minister's powers of review regarding National Policy Statements (NPS) and National Environmental Standards (NES). A key concern was that the Ministerial power of intervention in NPS or NES development (which may direct an amendment to a Plan) reduces local participation in policy development. HRC supported the changes, provided national objectives are interpretable at a regional level.
19. Unfortunately, none of the final amendments clarify the extent of the Minister's powers or appease the significant concerns of HRC regarding the reduction in local participation in policy development stemming from NES or NPS development. Changes to a planning document required through an NPS or NES must be made without using the First Schedule process, therefore excluding local participation. This remains of significant concern to HRC.
20. **Streamlining decision-making** – HRC supported the proposed removal of the Minister of Conservation's functions in relation to Restricted Coastal Activities, as this would allow the integration of the coastal area into other Regional Plans.
21. The final amendments are very positive in terms of the HRC submission points and include clarification that Regional Councils (RCs) are now responsible for all coastal permits previously granted by the Minister and that the RCs are to provide information to the Minister in relation to any coastal permits issues. The Minister of Conservation retains other means to express interest and has the ability to appeal to the Environment Court.
22. **Improving Plan development and Plan change processes** – HRC submitted in support of the provision for combined Plans, but sought clarity regarding proposed changes that enable a Regional Council or Territorial Authority (TA) to prepare a combined Plan without reference to the other party, and enable one TA to adopt a Plan independently of the other parties to the Plan. A key concern of HRC was that there was potential for a combined TA planning document to be developed that included RC functions without RC approval.
23. Final amendments require that any combined planning document must clearly state which authority is to be responsible for which provision. This is essential to ensuring that the functions of the RC, as opposed to that of the TA, are still very clearly defined. These amendments are significant improvements in terms of the HRC submission points.
24. HRC submitted that it did not support the proposed introduction of the term "property rights" into provisions for appeals to the Environment Court. HRC submitted that the term "property rights" is not defined or used elsewhere in the RMA and that such an appeal provision may impact negatively on planning at a community level, for example in

relation to hazards. The final amendments delete the relevant clause, thereby eliminating the use of the term “property rights”. These amendments are a significant improvement in terms of the HRC submission points.

25. HRC submitted that it did not support the proposed removal of the Non-Complying Activity status. HRC submitted that this is the hardest test available without using the Prohibited activity Status and simply replacing Non-Complying Activity status with Discretionary Activity status would lead to the erosion of policy coherence and environmental standards. The final amendments retain the Non-Complying Activity status, which is a significant improvement in terms of the HRC submission points.
26. **Improving resource consent processes** – HRC submitted that it did not support proposed changes that would restrict clock-stopping opportunities for further information requests on consent applications, require the notification of consent applications for which further information is not received, and the requirement of a discount policy for consents taking longer to process than statutory timeframes. HRC also submitted that proposed shorter timeframes for consent processing, in some instances, were impractical and may lead to insufficient consideration.
27. Unfortunately, final amendments still restrict clock-stopping opportunities for further information requests to once only for non-notified applications, and twice for notified applications (once before notification and once after the close of submission period). Other final amendments to the clock-stopping regime will have implications for consent processing; for example, a greater emphasis may need to be placed on pre-application meetings.
28. Unfortunately, final amendments still require that where further information has been requested but not received, the consent must be publicly notified, unless the consent authority had already decided not to notify. A positive change through final amendments is that the LA may decline the application due to insufficient information.
29. The final amendments no longer require an LA to develop a discount policy for consents taking longer to process than statutory timeframes, where the LA is responsible for the delay. Instead, final amendments require regulations to be developed in the next nine months to set a default discount policy. A LA may choose to develop its own discount policy through Special Consultative Procedures (Local Government Act 2002), but the policy must be more generous than the regulations.
30. HRC submitted that shorter timeframes, in some instances, are impractical and may lead to insufficient consideration. In terms of statutory timeframes, under the old provisions (s37A) the LA had the ability to waive or extend timeframes (up to double). The final amendments further limit the LA ability to extend timeframes (up to double), to either ‘special circumstances’ or if the applicant agrees to the extension. This amendment does not appease HRC concerns; however, the current practice whereby HRC staff may discuss and negotiate extensions of timeframes with an applicant will continue.
31. Overall, the final amendments on these matters are not particularly positive in terms of the HRC submission.
32. **Schedule 1 Preparation of Policy Statements and Plans by Local Authorities** – HRC submitted that it did not support changes to the further submission process, in particular the removal of the further submission process and the introduction of an ability to pick a representative to consult with. HRC submitted that these changes would impinge on the rights of other submitters and that landowners that may be affected by submissions would not be able to make further submissions.

33. Final amendments re-instate a further submission process; however, the amendments restrict who may make further submissions to the following:
- (a) any person representing a relevant aspect of public interest;
  - (b) any person that has a greater interest in the policy or Plan than the general public has; and
  - (c) the LA itself.
34. The re-instatement of a further submission process is a significant improvement in terms of the HRC submission points.
35. **Blanket Tree Rules** – HRC sought clarity around the definition of ‘urban environment’ to ensure that the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (s6(c) RMA) is not compromised through the proposed revocation of blanket tree rules.
36. The final amendment provides a definition for ‘urban environment’ that includes all of the following elements:
- an allotment of 4000 square metres or less;
  - containing a dwelling house or a building used for industrial or commercial purposes; and
  - connected to a reticulated water supply system and a reticulated sewerage system.
37. It is highly unlikely that any areas of significant indigenous vegetation and significant habitats of indigenous fauna under s6(c) would fall within the definition. This is a significant improvement in terms of the HRC submission points.

## TRANSITIONAL PROVISIONS AND CHANGES TO REGULATIONS

38. The RMAA 2009 came into effect on 1 October 2009, however, there are a number of transitional provisions (full list is contained in Annex B) that will commence at a later date. Of particular interest to HRC are the following:
- Resource consent applications lodged before the commencement of the Resource Management Amendment Act 2005 that are awaiting further information requested under section 92 are to be deemed as having lapsed if, after 12 months from 1 October 2009 (or the request for further information was made, if this was later), the applicant has not complied with the request.
  - Rules in a proposed Plan, or Plan change notified before 1 October 2009 continue to have legal effect as though the RMAA 2009 had not been enacted. For example, rules in the Proposed One Plan will continue to have legal effect as if the RMAA 2009 was not enacted.
  - Any resource consent processes (including applications to vary, review, or cancel conditions); Plan preparation, Plan change and Plan variation processes; enforcement proceedings where the act or omission occurred before 1 October 2009; and any call-in processes that commenced before 1 October 2009, are to be treated as though the RMAA 2009 was not enacted. For example, the Proposed One Plan process will continue as if the RMAA 2009 was not enacted.
39. A number of regulations are being prepared and updated under the RMAA 2009 provisions (full list is contained in Annex C). Of particular interest to HRC are the following:
- The filing fee for commencing an appeal or inquiry proceedings in the Environment Court is now \$500 (was \$55, set in 1988) via the Resource Management (Forms, Fees and Procedure) Amendment Regulations 2009 (gazetted on 9 April 2009 and which came into force on 7 May 2009).

- Regulations for the discount policy are being developed separately and are to be in place by July 2010.
- Regulations to make the supply of information for the RMA Bi-Annual Survey mandatory.

## OTHER KEY RMAA 2009 PROVISIONS

40. **Compliance and Enforcement** – Amendments have increased the maximum fine to \$300,000 (natural persons) and \$600,000 (others). Prosecution can now lead to the review of resource consent conditions and resource consent may be cancelled. Amendments also enable enforcement against the Crown (ie. the relevant government department).
41. **Plan Reviews (s79)** – There is no longer a mandatory 10-year full Plan review, but provisions must have been subject to a Plan change or review during the previous 10 years. Councils may now choose to complete a “one off” Plan review or a rolling Plan review. Both options have implications in terms of cost and time; for example, a rolling Plan review enables the spread of costs and use of resources over a longer period of time, while a “one off” review locks up resources and spreads the up-front cost over a shorter period of time.
42. **Proposed Plans – Legal Effect of Rules (s88A – E)** – Rules in notified Plans (Proposed Plans) now have no legal effect until decisions are made on submissions, with the exception of rules relating to air, water, soil, historic heritage, vegetation or habitats, and Aquaculture Management Areas, or if a court order is obtained, or a Council resolution delays the effect (already in the RMA). This differs greatly from current provisions which give effect to rules on notification. The intent of these changes is to avoid the “gold rush effect” and to avoid potential “overnight” changes that affect people with little warning. The list of exceptions may lead to a complex arrangement, hence a proposed Plan is now required to include clear annotations regarding when rules come into effect (these annotations may be removed without further formality at a later date).
43. **Resource Consent Notification (s95)** – The starting point for notification of a consent application is now neutral (ie. no notification unless certain criteria met). The notification test is a “two gateway” test. The first gateway is to determine if notification is required based on the scale of the effects on the environment. There is a new threshold of “*will*” have “*adverse*” effects that are more than minor (rather than “*may*”). Hence, a higher degree of certainty is required as the test is focused on “probability” rather than “possibility”, and the effects must be “adverse”. The second gateway is to determine if limited or full notification is required based on consideration of the affected parties. The consideration of affected parties has changed such that effects on persons must be “minor or more than minor” (rather than “than less than minor”, as was previously the case). The intent of these changes is to reduce the scope of the Assessment of Environmental Effects. It is important to note that an application must still be publicly notified if requested by the applicant and an application may be publicly notified if special circumstances apply (eg. new untested technology).
44. **Direct referral to Environment Court** – Notified resource consent applications and reviews of consents may now be directly referred, by an applicant, to the Environment Court. The Council must make a decision on whether it agrees to the direct referral request. If the Council agrees, a Notice of Motion is filed and the consent application is heard and a decision made by the Environment Court.
45. **Charging** – The LA may recover from the applicant the reasonable costs of “complying” with new Part 6AA (Matters of National Significance). This only relates to the LA’s statutory obligations (such as provision of commissioned reports) and therefore does not include the LA’s participation in a hearing or commenting on draft report.

46. **Environmental Protection Agency (EPA) Role** – The EPA is intended to provide efficient and timely administration and a robust process for the consideration of and decision-making on proposals of national significance. The EPA is a transitional statutory office within the Ministry for the Environment and its main functions include receiving and processing applications, making recommendations to the Minister, providing support to BOI, and the supply of information to the Environment Court. The EPA will focus on “up-front work” such as pre-application meetings and liaison with councils to ensure complete and comprehensive applications are received and to enable Councils to suggest board members. A scoping phase on the EPA functions is currently underway which will result in a second set of recommendations to Cabinet and forms part of the Phase II reform process.

#### **UPDATE ON PHASE II REFORM**

47. In terms of the Phase II reform, further Bills are expected in late 2010 that will include the following areas:
- EPA roles, functions and powers
  - freshwater management allocation and quality
  - infrastructure and urban design and form, and growth management
  - overlaps with other legislation (Building Act 2004, Conservation Act 1987, Forests Act 1949, Historic Places Act 1993)
  - aquaculture.

#### **SUMMARY**

48. Horizons Regional Council has taken an active role in the Phase I Resource Management Act reforms. The Regional Council is in a useful position to put the amended legislation into practice and will report at future Environment Committee meetings on the practice implications that may emerge.

#### **RECOMMENDATIONS**

49. That the Committee recommends that Council:
- a. **receives** this information in Report No. 09-158 and Annexes.

F Gordon  
**SENIOR POLICY ANALYST**

G Carlyon  
**GROUP MANAGER REGIONAL PLANNING AND  
 REGULATORY**

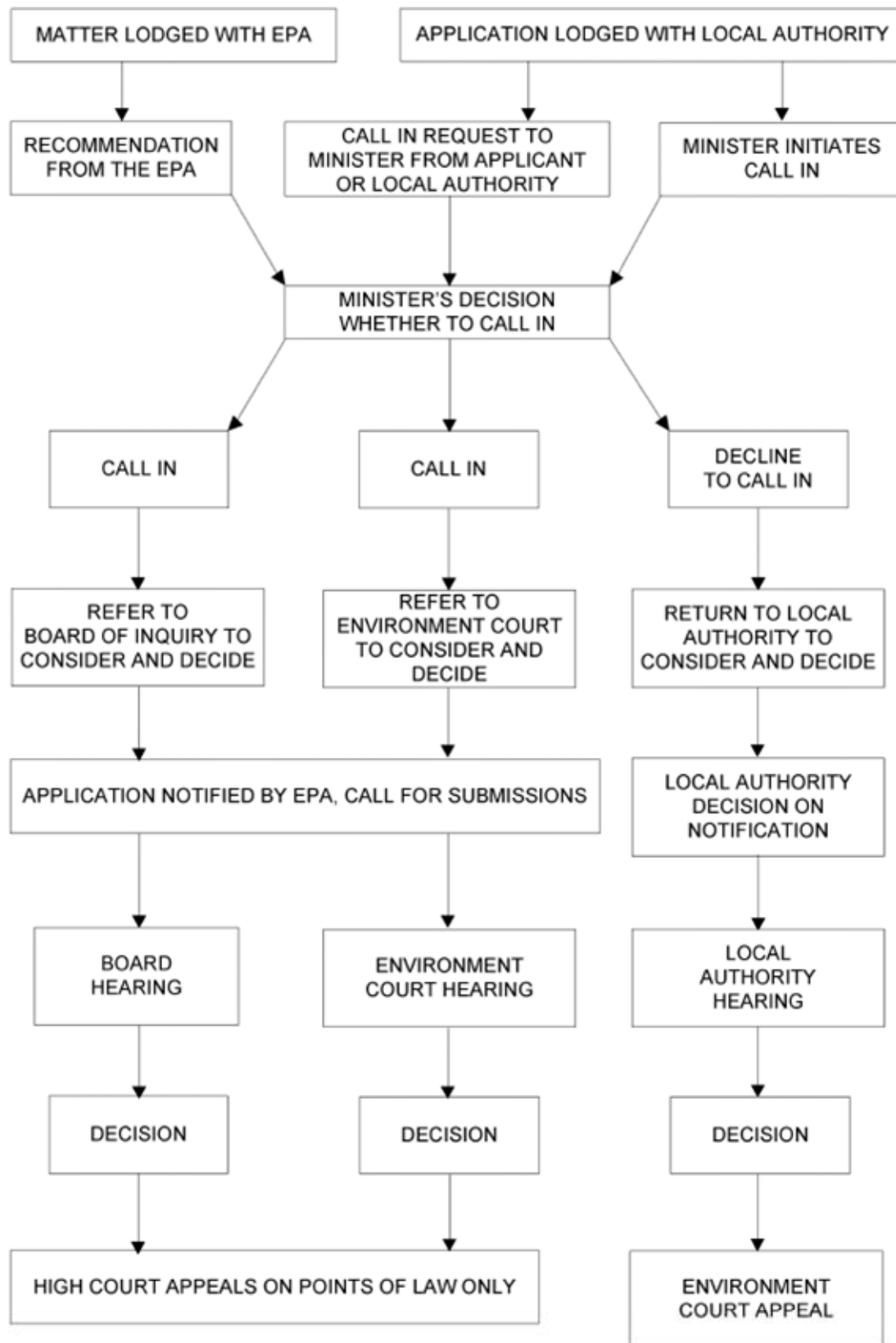
#### **ANNEXES**

- A Diagram Showing Process for Proposals of National Significance
- B Transitional Provisions
- C Updates to Regulations due to RMAA 2009



## DIAGRAM SHOWING PROCESS FOR PROPOSALS OF NATIONAL SIGNIFICANCE

## Process for Proposals of National Significance



## **TRANSITIONAL PROVISIONS**

The following processes, if already commenced before 1 October 2009, are to be treated as though the Resource Management (Simplifying and Streamlining) Amendment Act 2009 was not enacted:

- resource consent processes (including applications to vary, review, or cancel conditions)
- Plan preparation, Plan change and Plan variation processes
- enforcement proceedings where the act or omission occurred before 1 October 2009
- Notices of Requirement for designations or heritage orders
- Water Conservation Orders (including a notice to revoke or amend and order)
- call-in processes
- applications to vary or cancel an instrument creating an esplanade strip.

Any appeals relating to the matters above must also be treated as though the Resource Management (Simplifying and Streamlining) Amendment Act 2009 had not been enacted.

### **Coastal permits for restricted coastal activities**

Coastal permits granted at any time by the Minister of Conservation, and any coastal permit granted from the later of 1 October 2009 or the date the permit was granted, are to be treated as though they had been granted by the Regional Council from the date the permit was granted.

### **Legal effect of rules**

Rules in a proposed Plan, or Plan change notified before 1 October 2009 continue to have legal effect as though the Resource Management (Simplifying and Streamlining) Amendment Act 2009 had not been enacted.

### **National Environment Standards**

Amendments in relation to National Environmental Standards apply to all such standards whether or not the standard was in force before or after 1 October 2009.

### **Resource consent applications lodged before commencement of the Resource Management Amendment Act 2005**

Resource consent applications lodged before the commencement of the Resource Management Amendment Act 2005 that are awaiting further information requested under section 92 are to be deemed as having lapsed if after 12 months from 1 October 2009, or the request for further information was made (if this was later), the applicant has not complied with the request.

**UPDATES TO REGULATIONS DUE TO RMAA 2009****Resource Management (Forms, Fees and Procedure) Amendment Regulations 2009**

The Resource Management (Forms, Fees and Procedure) Amendment Regulations 2009 were gazetted on 9 April 2009 and came into force on 7 May 2009.

These Regulations makes changes to the filing fee for commencing an appeal or inquiry proceedings in the Environment Court.

The filing fee has been increased from \$55 to \$500 for appeal or inquiry proceedings lodged under the following sections: 118(6), 120 and 121, 127(3), 132(2) and (3), 136(4)(b), 137(5), 139(6), 139A(9), 174, 176A(5), 179, 181(2), 192(c) and (f), 195 and 385 of the RMA, or clause 14, 27 and 29(6) and (7) of Schedule 1 of the RMA.

The filing fee for commencing any other proceedings under the RMA in the Environment Court is \$55.

Further updates are being made to the Resource Management (Forms, Fees and Procedure) Regulations 2003 to reflect changes made by the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (RMAA 2009).

Regulations for the discount policy are being developed separately.

Additional updates are being made to the:

- Resource Management (Marine Pollution) Regulations 1998.
- Resource Management (Infringement Offences) Regulations 1999.







11-15 Victoria Avenue  
Private Bag 11 025  
Manawatu Mail Centre  
Palmerston North 4442

T 0508 800 800  
F 06 952 2929  
help@horizons.govt.nz  
www.horizons.govt.nz