



# AHM News

## INTRODUCTION

We are well into the second half of the year, and we have seen a significant amount of legislative and policy development. This newsletter provides an update on the Water Reform programme and the Resource Management Reform programme. We consider the incoming Freshwater Farm Plans, and the new National Policy Statement for Indigenous Biodiversity. Finally, we share some news from the team!

## WATER REFORM LEGISLATION: SELECT COMMITTEE REPORTS AND INTRODUCTION OF FINAL BILL

Water reform continues to progress, with the release of Select Committee reports on two bills, along with the introduction of a final bill to round out the suite of reform legislation.

### Water Services Economic Efficiency and Consumer Protection Bill

The Finance and Expenditure Committee reported back on the Water Services Economic Efficiency and Consumer Protection Bill (**WSEECPB**) in early June. The Committee by majority recommended the bill should be passed, with certain amendments.

These amendments focused on dispute resolution, and addressed the right to appeal, the appeal application period, compensation thresholds, representation by consumer advocacy groups, and the scope and funding of the consumer dispute resolution service.

The Committee also considered specific provisions for the Waikato River. Waikato and Waipā River iwi suggested the inclusion of Te Ture Whaimana, an important planning document relating to the Waikato River. Though it acknowledged the importance of Te Ture Whaimana with respect to Crown-Māori relations, the Committee did not consider it appropriate to make specific reference to the document within the WSEECPB.

### Water Services Legislation Bill

Closely following the WSEECPB report, the Finance and Expenditure Committee then reported back on the Water Services Legislation Bill (**WSLB**). The Committee recommended by majority that the WSLB should also be passed.



Recommended amendments included a response to recent weather events throughout the country, with suggestions that water services entities should be responsible for managing stormwater networks, even through private land.

Alongside stormwater considerations, the Committee reviewed offence provisions, the engagement and powers of the incoming water services entities, and Treaty of Waitangi settlement obligations. Access to drinking water supply was also considered, with recommendations focusing on the equitable access of communities to water services.

### **Water Services Entities Amendment Bill**

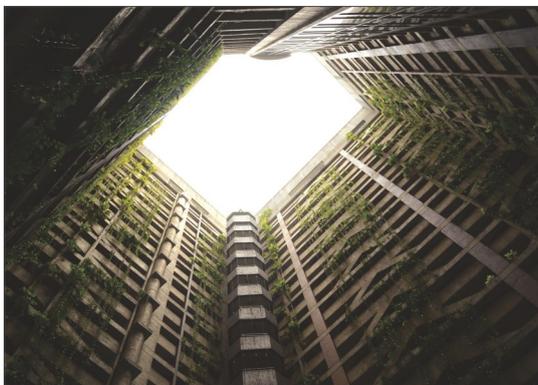
The Water Services Entities Amendment Bill (**WSEAB**) was introduced on 16 June and will make amendments to the Water Services Entities Act 2022 which reflect updates to the reform programme announced by the Government in April. These largely focus on increasing the number of water services entities from four to ten. The WSEAB has already sped through its first reading, public submissions, and the Select Committee process, with the Governance and Administration Committee recommending by majority that the bill be passed.

### **Next steps**

At the time of writing, the suite of Water Reform bills each await their second reading by Parliament, with the relevant Select Committee reports being considered by the House.

## **SELECT COMMITTEE REPORTS ON RMA REPLACEMENT LEGISLATION**

Hot on the heels of Water Reform, the Government's resource management reform programme has also developed, with the Select Committee reports on the first two RMA Replacement bills released in late June. It is now looking more likely that the bills will be passed into law during the term of the current Government.



### **Spatial Planning Bill**

The Environment Committee recommended by majority that the Spatial Planning Bill (**SPB**) be passed with amendments.

The SPB received fewer submissions during public consultation than its counterpart, the Natural and Built Environment Bill (**NBEB**). Many of the amendments in relation to the SPB focused simply on precision and specificity to better clarify the outcomes

of the legislation. This included a number of drafting-related recommendations.

More substantive recommendations from the Committee included new clauses which empower the Environment Court in line with the powers afforded under the NBEB. The SPB is going through the Committee of the Whole House before it will have its third reading.

### **Natural and Built Environment Bill**

The majority of the Environment Committee also supported the NBEB, making the recommendation that it be passed into law with several amendments and alterations.

One of the more significant changes is to the purpose of the bill. As of the first reading, the NBEB had a dual purpose of enabling the use, development, and protection of the environment, and to recognise and uphold te Oranga o te Taiao. Some commentators were

critical of this as the difficulties of interpreting a dual purpose might lead to uncertainty and difficulty with application. The Committee has remedied these concerns by recommending that the NBEB have a single purpose: to uphold te Oranga o te Taiao. The purpose is then qualified by the stipulation that it must be achieved in a way that both protects the health of the natural environment and enables its use and development.

In response to a number of submissions and critiques, the Environment Committee has proposed significant changes to the structure of the NBEB. The bill now awaits its third reading.

## **FRESHWATER FARM PLANS**

As part of the 2020 *Essential Freshwater Package*, the Government introduced the idea of freshwater farm plans (**FFP**). FFPs are a regulated farm planning process, intended to be used by farmers and growers as a practical way for identifying, reducing, and managing the freshwater impacts of farming. FFPs are legislated under the RMA and the Resource Management (Freshwater Farm Plans) Regulations 2023 (**the Regulations**). The Regulations were enacted on 6 June 2023, and detail the requirements for FFPs, and the obligations on those whose duty it is to prepare, certify, and enact them.

FFPs will be rolled out across the regions in a staggered manner, which has been determined by existing regional farm planning infrastructure, alignment to the NPSFM freshwater planning process, and investment needs for capability and capacity in each region. The Regulations first took effect in parts of the Waikato and Southland regions from 1 August 2023, giving farm operators 18 months from this date to prepare their FFP for certification. By the end of 2025 the Regulations will be in effect across all regions. Farmers and growers will only be required to have an FFP if they have:

- 20ha or more in arable or pastoral use; or
- 5ha or more in horticultural use; or
- 20ha or more in combined use.

The new requirements for FFPs will prioritise the health of the whenua (land) and the wai (water) within farm decision making. An on-farm freshwater risk assessment will be required, which should identify any



actions needed to mitigate or manage any risks. These actions will be tailored to each farm situation. The FFPs must be certified and audited, with the results to be reported to regional councils. Though FFPs are a new introduction into the farm planning landscape, it is expected that many farmers will already have a farm environment plan, or will be part of an industry programme, and hence the FFPs will be able to build on that work.

As part of the broader freshwater management framework, FFPs will work in conjunction with existing higher order documents such as the National Policy Statement for Freshwater Management, the National Environmental Standards for Freshwater, and the Stock Exclusion Regulations. It is intended that, with time, FFPs will ensure that farming practices can continue in a manner which helps the restoration of the nation's waterways.

# NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

Following the consultation on the exposure draft in 2022, in July the Government gazetted the National Policy Statement for Indigenous Biodiversity (**NPSIB**), along with a discussion document proposing a biodiversity credit system.



The NPSIB looks to provide consistency in how councils protect, maintain, and restore areas of significant biodiversity throughout the country. Aotearoa has lost a lot of its native biodiversity and though councils have been required to protect areas of biodiversity importance since the introduction of the RMA, the application of this has been variable throughout different regions. The NPSIB provides a standardised system to identify areas of importance which will be termed Significant Natural Areas (**SNAs**), with the same criteria to be applied across the country. Councils will be required to map SNAs within their regions, and this will affect new activities that seek to take place in those areas. Councils are also required to undertake active maintenance, protection, and restoration of indigenous biodiversity in areas outside of SNAs. In addition, the NPSIB introduces certainty around biodiversity offsetting and compensation processes, which will work with other National Policy Statements that also utilise these concepts.

## TEAM NEWS

We've seen some comings and goings within the firm over the past month, as members of our team move through exciting milestones.

We have welcomed back Nicole Buxeda from a parental leave period spent with her delightful young son Albert. She returns full of energy and excitement to tackle new legal work. Nicole will be working flexibly part time and will be on hand to help with any of your legal queries.

Helen Atkins left the directorship of the firm on 31 July. She remains with the firm as a Consultant through August before embarking into sole practice as a Barrister/Commissioner from 1 September. Helen was a Director of Atkins Holm Majurey since the firm's inception in 2009, and has sagely guided her clients through many interesting and complex matters during her tenure. Helen leaves with the best wishes of the firm for her continued successes.

## 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 :

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