

Balance needed in RMA reforms

By TIA Chief Executive Tim Cossar

Tourism is one of the few industries in New Zealand that is almost wholly dependent on the environment for its success. Our scenery and landscapes form the basis of the 100% pure marketing positioning that has been used so successfully internationally.

This is why the Government's review of the Resource Management Act (RMA) is so crucial to tourism businesses.

The RMA impacts on tourism operators in a variety of ways. Some see it as a constraint to business development because the resource consent process is costly and time consuming. Others believe the RMA is a sound piece of legislation because it protects the environment against inappropriate development.



The range and depth of feeling about the RMA was clear from the feedback TIA received from members when we asked for comment earlier this year. It was one of the biggest responses we have received on a single issue in the past year.

The one thing most submitters agreed on was that any reforms must improve the time and cost involved in getting decisions under the RMA.

TIA lodged a submission on the RMA reforms with the Local Government and Environment Select Committee earlier this month and I appeared in person before the committee yesterday (Thurs 23 April).

I made it clear that reform of the RMA must strike the right balance between preserving the environment and allowing sustainable economic development to occur.

TIA has a strong view that while the guiding principles of the RMA are sound, it has caused significant costs and delays to some legitimate tourism projects that could have delivered sustainable returns to New Zealand's economy.

While we don't have all the answers, I asked the Select Committee to carefully consider how the Act's objectives could be best achieved.

We want people to continue to be allowed to raise valid objections about resource consent applications on environmental grounds. This includes proposals to limit the ability of trade competitors to lodge objections. While this has been abused in the past, in some cases tourism operators may have legitimate environmental concerns about applications made by a competitor.

We want to ensure freedom of speech is protected but want stricter criteria to cut down on frivolous or vexatious objections.

I also asked the committee to review proposed significant increases in penalties for breaking the law. These could be as much as \$300,000 for individuals and \$600,000 for bodies corporate. Penalties at a third, a quarter or even a fifth of these maximum amounts would put most tourism operators out of business.

While TIA agrees with the need for a penalty regime, we want to ensure that penalties imposed on tourism operators, who may in some cases inadvertently fail to comply with the law, do not put them out of business.

I look forward with interest to the outcome of the Select Committee's deliberations.

TIA's recommendations

TIA's recommendations on the Resource Management Act reforms were:

- a. Make sure a fair balance is struck between protection of the environment and sustainable economic development.
- b. Reassess the proposals that deal with frivolous and vexatious objections to make sure that valid submitters are neither disadvantaged nor dissuaded from lodging an appeal.
- c. Reconsider the package of proposals aimed at minimising trade competition to ensure that these will not interfere with the integrity of the RMA process. As part of the reconsideration, establish strict criteria and tests by which any business may object, rather than completely removing the right or incentive of a business to enter the process.
- d. Impose statutory penalties on local authorities who regularly breach statutory deadlines for processing resource consents.
- e. Contribute to efficiency and cost reduction by improving training standards (and the regular provision of training) for local authority staff and other staff who are responsible for administering the RMA. This could be the role of a newly established Environmental Protection Agency.
- f. More clearly define the role of Crown agencies' RMA processes, in particular, the interrelationship between the Department of Conservation and the resource consent process needs to be examined.
- g. Amend the legislation so decisions on nationally significant projects are considered by an independent body, like the Environmental Protection Agency (EPA), not local authorities. At the same time what is a nationally significant project needs to be clearly defined. Iconic tourism developments might be considered of national significance, even if they may not require significant investment or infrastructure development to proceed. TIA conditions for supporting the EPA would include:
 - The EPA is provided with clear criteria to help guide its decision as to whether a project is/is not of national significance.
 - It holds public hearings in the region(s) that will be affected by the project.
 - Affected Councils are given the right to enter the process as a submitter, on behalf of their ratepayers.
 - Submitters do not incur a filing fee or any other fee as part of the submission process.

- h. Redefine definitions of key terms in the RMA so that they have clear and defined legal meaning.
- i. That existing appeal rights for district and regional plans should be retained given their importance to the planning process.
- j. That the proposal to remove non-complying activity category in plans is reconsidered because TIA does not believe that its removal would address its members concerns and may in fact remove a key barrier to inappropriate applications.
- k. Make sure the level of penalty breach of resource consent is commensurate with the actual breach e.g. its impact on the environment and whether it was deliberate or inadvertent.