

The EPA: Who are we?

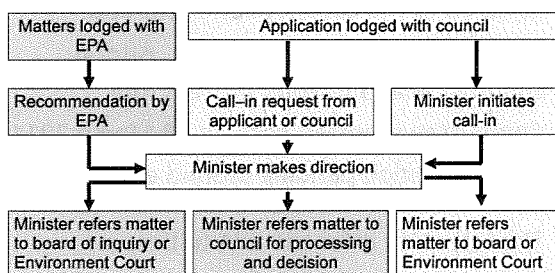
The 2009 amendments to the Resource Management Act (1991) established the Environmental Protection Authority (EPA). A major part of these reforms was to streamline the decision making process for nationally significant proposals, such as major infrastructure or public works projects.

Based as a statutory office within the Ministry for the Environment under the Secretary for the Environment, the authority has around 30 full time staff located in Wellington, Auckland and Christchurch.

A range of applications have been received by the EPA, including applications for resource consent, notices of requirement for new and changes to existing designations, and requests for plan changes. The Act also allows for the EPA to process requests for a regional plan or notices of requirement for a heritage order – provided the application meets the requirement of being in whole or part a proposal of national significance.

Streamlined Decisions

The direction on whether something is or is part of a proposal of national significance is made by the Minister for the Environment. The Minister may have regard to any relevant factor, including (but not limited to) ten factors listed in the Act.



The Minister can direct proposals of national significance to either a board of inquiry or to the Environment Court. Proposals lodged with the EPA that the Minister does not consider nationally significant must be referred to the relevant local government authority to be processed.

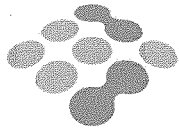
Innovation

Streamlining and simplifying the decision making process for proposals of national significance, and introducing a nine calendar month timeframe for a board of inquiry to produce a final decision require the EPA to be innovative:

- Pre-lodgement engagement, including application reviews and gap analysis, has become vital to ensure the application is complete and accurate when lodged - the statutory process and related timeframes have little margin for further information requests. Post notification there is no ability to “stop the clock” as the case for traditional consenting pathways.
- Dedicated EPA project teams, flexible and adaptive, have been set up to ensure the process is properly planned out, and to ensure continuity throughout the stages of the process.

Adaptation

Applicants in this new process have had to adapt. The short timeframe means that applicants need to be extremely prepared, responsive and able to undertake evidence preparation, facilitation and caucusing at the same time.



The strict timeframes can challenge submitters also. To provide for this the EPA establishes process timelines early, holds public meetings on process and at the discretion of the relevant board appoints a “friend of the submitter” to assist during and sometimes after notification. Applicants have responded to submitter concerns by increasing the level of pre-application public consultation and some even provide dedicated web pages and information lines.

Process Innovation

Throughout the process, the EPA manages the relationship between the Applicant and local authorities, which ensures clear separation of roles and responsibilities.

The public notification process is subtly different from the ‘normal’ RMA notification. A proposal that is considered nationally significant is given a national public notification in major newspapers. There are no “affected parties”, and instead copies of the notice are served on owners and occupiers of ‘land to which the matter relates’ and those immediately adjacent.

Involving a ‘friend of submitter’ to provide free impartial advice on the process to potential submitters has encouraged greater informed public participation, as has a commitment by the EPA to hold public meetings to present the process and how it relates to the specific application during the early part of the notification period.

Other innovations to streamline the process have included:

- Early timetabling of process in public notice, and ongoing updates of the website to keep everyone informed.

- Electronic submissions/service of evidence to speed up the process, and reduce costs.
- Keeping multiple communication channels open (dedicated project website, email, 0800 numbers).

Streamlining and simplifying has extended to board of inquiry hearings. Evidence in the hearing is usually presented as read, and technical reports have become evidence with briefs addressing submitter issues attached. Boards have used questions in writing when witnesses are not required for cross examination and have limited timeframes for submissions and cross examinations. All boards issue their own hearing procedures early to ensure all parties understand the process that will occur.

Where to Next - EPA Phase II

On 3 June 2010, the Minister for the Environment announced the creation of a new Crown Entity, the Environmental Protection Authority (EPA). The EPA will be responsible to the Minister for the Environment. The intent is that the current EPA leave the Ministry for the Environment and merge with ERMA and some of the functions around the Emissions Trading Scheme currently within the Ministry of Economic Development (MED).

The EPA Bill, which will establish the new EPA, was introduced on 23 November 2010 and referred to the Local Government and Environment Select Committee. After a submission and hearing process, the Committee reported back on 28 March 2011 with legislation pending around early May.

The intention is for the EPA to become operational on 1 July 2011