

5 key Resource Management themes to watch in 2021

2020 has been a significant year in the resource management space. It has also been a challenging year for many people and businesses. We are thinking of you all, and want to thank you for your support this year. As we head into the holiday season, we have consulted our crystal ball and outlined what we consider are the key trends to look out for in 2021.

Systemic reform

The big event in 2021 will be the continuing work on the development of the new resource management system. Reform of the resource management system is no mean feat, and 2021 will be a critical year for progress. The first half of 2021 will see the release of a draft Natural and Built Environments bill, which is expected to be based on the Review Panel report. Key areas to watch out for will be: environmental outcomes and bottom lines; national direction; and the plan making provisions.

The upcoming reform process will be the most significant change to the planning and environmental framework in New Zealand since the introduction of the RMA in 1991. The new system will open up opportunities but also potentially increase risks for development.

We strongly encourage businesses to consider the Review Panel proposals and the potential impact on their operations. There will be opportunities for submissions on the new legislation in 2021. Please don't hesitate to get in touch with any comments or questions about the reforms.

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Freshwater and increasing restrictions from national direction

Next year will see continued grappling with the application of the new regime put in place by the National Policy Statement for Freshwater Management and the National Environmental Standard – Freshwater. In particular, developers, submitters and councils will need to come to a landing on what constitutes a wetland, and we may well see case law in this space. Councils should also have started work on freshwater planning in order to meet the 2024 timeline set by the NPS FM (2023 for Otago).

We expect to see the introduction of national direction relating to indigenous biodiversity and highly productive land in the first half of 2021, which are likely to introduce further constraints on development. All of the above means that additional due diligence will need to be undertaken ahead of pressing on with development of land involving streams, wetlands, indigenous vegetation and highly productive soils.

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Infrastructure

There continues to be a gap between planning processes and funding issues for new infrastructure. Aligning the provision of infrastructure with the pace of development will be critical as the pipeline of private plan changes looks to continue for next year. This will be a particularly tricky issue in 2021 as a result of the impacts of COVID-19 on council budgets.

Given the ongoing challenges in relation to housing supply and affordability, efficiently delivering infrastructure to enable growth will only increase in importance over the next 12 months.

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Compliance, Monitoring & Enforcement

Several cases in 2020 highlighted the responsibilities of consent holders to ensure compliance with conditions of consent. The High Court and District Court both confirmed that the consent holder has ultimate responsibility, notwithstanding that non-compliances may have been caused by a contractor or subcontractor.

More broadly, there is increased focus at both Central and Local Government level in the monitoring and enforcement space, and we expect this to only increase in 2021.

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Fast-track consenting – a new way forward?

2020 saw the introduction of an alternative “fast-track” consenting process as part of the Government’s COVID-19 pandemic response. While the process is information heavy and not cheap, it does seem to be delivering on its promise of speed.

Next year will see more projects go through the process and it will be interesting to see how the panel deals with referred projects, which are not subject to the limited grounds of decline afforded to listed projects. Looking longer term, the success of the fast-track process next year may be a litmus test for whether or not any elements of the fast-track process can be carried forward into the future as an alternative pathway for projects.

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Overall, 2021 is already shaping up to be another busy year. In the meantime, we wish everyone a safe and much deserved Christmas break, and a Happy New Year.

