

14 July 2016

Mr Andrew Bridgman
Secretary of Justice
Ministry of Justice
DX SX10088
WELLINGTON

Dear Sir

**MINISTRY OF JUSTICE - PROPOSAL FOR CONSULTATION DATED 17 JUNE 2016
– EXPRESSION OF CONCERN AND REQUEST FOR OFFICIAL INFORMATION**

Introduction

1. I write in relation to proposed reforms of the administration of the courts outlined in the Ministry's Proposal for Consultation paper dated 17 June 2016 ("Proposal for Consultation") in my capacity as one of the Court Convenors on the National Committee of the Resource Management Law Association Inc. ("RMLA").
2. By way of introduction, the RMLA is concerned to promote within New Zealand:
 - (a) An understanding of Resource Management law and its interpretation in a multi-disciplinary framework;
 - (b) Excellence in resource management policy and practice; and
 - (c) Resource management processes which are legally sound, effective and efficient and which produce high quality environmental outcomes.
3. The RMLA has a mixed membership which includes lawyers, planners, environmental consultants, environmental engineers, local authority officers and councillors, central government policy analysts, industry representatives and others. Currently the Association has some 1,100 plus members.

Expression of concern and reasons

4. The National Committee is concerned that the membership of the RMLA (and their clients) would be adversely affected by any reorganisation of the court system that impacted negatively on the efficiency or effectiveness of the Environment

Court. As a stand-alone specialist court (entirely separate from the District Court), the Environment Court has unique functions under the significant number of statutes set out in the "Schedule of jurisdictions, procedures and mechanisms that are unique to the Environment Court" ("Jurisdiction schedule") attached to the letter to the Secretary of Justice by Principal Environment Judge Newhook dated 12 July 2016 (further copies of both of which are **attached** for ease of reference). These include, in particular:

- (a) The Resource Management Act 1991 in relation to appeals, inquiries, direct referrals, declarations, enforcement orders and a range of other procedural matters;
 - (b) The Local Government Act 2002 in relation to road stoppings and other procedures;
 - (c) The Public Works Act 1981 in relation to objections to the taking of land, etc.; and
 - (d) The Heritage New Zealand Pouhere Taonga Act 2014 in relation to appeals and enforcement proceedings under that statute.
5. In that context, the National Committee of the RMLA views with considerable concern the proposals reflected in the MoJ's Proposal for Consultation, on the basis that implementation of such proposals is likely to adversely impact on the efficiency and effectiveness of the Environment Court.
6. For brevity, the RMLA relies upon and respectfully adopts the reasoning and concerns as expressed in the letter to the Secretary of Justice by Principal Environment Judge Newhook dated 12 July 2016.
7. Some of the key issues arising for RMLA members in that context, and which sets the Environment Court apart from other courts, are:
- (a) The fact that many cases heard by the Environment Court deal with highly complex issues relating to the allocation of resources, involve multiple parties and can take several weeks;
 - (b) The function based nature of the Environment Court's jurisdiction as reflected in the Jurisdiction schedule and the lack of synergy with the District Court and other courts and tribunals in terms of jurisdictions, functions and procedures.
 - (c) The progress made in achieving resolution of complex matters through the use of highly trained and experienced specialist commissioners.
 - (d) The high level of satisfaction generally expressed by users of the Environment Court with the efficiency, effectiveness and user-friendly nature of that court. (Hence the request for information below.)
8. Having regard to Judge Newhook's letter and the points made above, it is considered that there is a strong case for largely or completely excluding the Environment Court from the proposals for reorganisation and leaving the court to do its work as currently structured.

Request for official information

9. The RMLA is also concerned to clarify whether there are any specific concerns or criticisms in relation to the performance of the Environment Court that had hitherto not come to its attention. Thus, in my capacity as a Court Convenor for the RMLA, I have been authorised to request, pursuant to section 12 of the Official Information Act 1982, the following information:
- (a) The details of any "reviews, surveys or feedback received" that relates specifically to the Environment Court (by reference to page 5 of the Proposal for Consultation);
 - (b) The results of any such reviews, etc.; and
 - (c) If obtained from another source, the types of changes that users of the Environment Court may have requested.

Further contact or clarification

10. I trust the above is clear and sufficient for present purposes and would be happy to discuss at your convenience, either in person or by telephone.
11. The National Committee of the RMLA is grateful for your attention to the matters raised in this letter.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'S J Berry', with a long horizontal flourish extending to the right.

S J Berry
Court Convenor
RMLA National Committee