

# Environmental Protection Authority Bill

4 November 2010

ATTORNEY-GENERAL

LEGAL ADVICE

CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990:

ENVIRONMENTAL PROTECTION AUTHORITY BILL

1. We have considered whether the Environmental Protection Authority Bill (PCO 14588/4.1) (the “Bill”) is consistent with the New Zealand Bill of Rights Act 1990 (the “Bill of Rights Act”). We understand that the Bill is likely to be considered by the Cabinet Legislation Committee at its meeting on Thursday, 11 November 2010. We also understand that the Bill is likely to be subject to further amendments before it is introduced. We will provide you with supplementary advice should this prove necessary.
  2. The purpose of this Bill is to establish the Environmental Protection Authority (the “EPA”) as a Crown entity and disestablish the former Environmental Protection Authority established under s 42B of the Resource Management Act 1991 (the “RMA”) and the Environmental Risk Management Authority established under s 14 of the Hazardous Substances and New Organisms Act 1996 (the “HSNO Act”). The functions, duties, powers, rights, liabilities, contracts, entitlements and engagements of the disestablished Authorities will transfer to the EPA.
  3. The objective of the EPA is to undertake functions to contribute to the efficient, effective and transparent management of New Zealand’s environment and natural and physical resources.
  4. The functions of the EPA include to:
    - process matters for proposals of national significance and applications called in under the RMA
    - provide advice and information on the development and implementation of national environmental standards developed under the RMA
    - undertake all of the functions currently performed by the Environmental Risk Management Authority under the HSNO Act
    - undertake administration for the Emissions Trading Scheme under the Climate Change Response Act 2002 (the “CCR Act”)
    - advise the responsible Minister on any matter relating to the EPA’s functions, and
    - exercise powers and carry out functions conferred on it by an enactment.
- And if requested by the responsible Minister to:
    - provide technical advice to the Government and Crown entities
    - provide secretarial and administrative assistance to a committee appointed by the EPA, or a person or group appointed by the Minister responsible to provide advice or report on any matter connected with the functions of the EPA, and
    - contribute to and co-operate with international forums and carry out international obligations related to its functions under an environmental Act.
  - The term an “environmental Act” means the CCR Act, the HSNO Act, or the RMA.

- The Bill also disestablishes Nga Kaihautu Tikanga Taiao and replaces it with a Maori Advisory Committee with the function of providing advice and assistance from the Maori perspective to the EPA on matters relating to policy, process and decisions of the EPA under an environmental Act.
- We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act. This advice has been prepared by the Public Law Group and the Office of Legal Counsel.

Jeff Orr  
Chief Legal Counsel  
Office of Legal Counsel

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