

29 October 2012

Committee Secretariat
Local Government and Environment Select Committee
Parliament Buildings
WELLINGTON 6011



Dear Sir/Madam,

SUMISSION ON THE RESOURCE MANAGEMENT (RESTRICTED DURATION OF CERTAIN DISCHARGE AND COASTAL PERMITS) AMENDMENT BILL

1. Please find **attached** a submission from the Environmental Defence Society on the Resource Management (Restricted Duration of Certain Discharge and Coastal Permits) Amendment Bill.
2. EDS wishes to be heard in relation to this submission.

Yours sincerely

A handwritten signature in blue ink that reads 'Nicola de Wit'. The signature is written in a cursive, flowing style.

Nicola de Wit
Legal Advisor
Environmental Defence Society

SUMISSION ON THE RESOURCE MANAGEMENT (RESTRICTED DURATION OF CERTAIN DISCHARGE AND COASTAL PERMITS) AMENDMENT BILL

ENVIRONMENTAL DEFENCE SOCIETY

1. The Environmental Defence Society (“EDS”) is a public interest environmental law group, formed in 1971. It has a membership that consists largely of resource management professionals. The focus of EDS’s work is on achieving good environmental outcomes through improving the quality of New Zealand’s legal and policy frameworks and statutory decision-making process.
2. We welcome the opportunity to comment on the Resource Management (Restricted Duration of Certain Discharge and Coastal Permits) Amendment Bill (“the Bill”).
3. The Bill would amend section 107 of the Resource Management Act 1991. Section 107(1) prevents a consent authority from granting a discharge or coastal permit if certain effects would result. Section 107(2)(a) provides an exception to subsection (1) where exceptional circumstances justify the granting of a permit. The Bill would insert a subsection (2A) allowing a discharge or coastal permit to be issued pursuant to subsection (2)(a) subject to a maximum period of up to five years.
4. Section 107(2)(a) was intended to provide an exception for emergency situations or other out-of-the-ordinary scenarios. However, because permits granted under this section are subject only to the general duration limitations this clause has been used to allow long-term ongoing discharges into waterways and coastal waters. The most well-known example is the Tasman Mill in Kawarau which has been allowed to discharge wastewater into the Tarawera River for 42 years under section 107(2)(a).¹
5. The Bill would affect only a small number of discharges. Most applications which are approved under section 107(2)(a) are temporary and do not continue for longer than 5 years. However, a new on-going application could be made at any point. It is essential this loop-hole is closed. It is unfortunate that this Bill will not affect the Tarawera River. However, this does not reduce the need for this Bill to ensure this loop-hole is not available for future applications.
6. We do not believe that this Bill is piecemeal legislation. Section 107(2)(a) provides a very specific exception, with a very specific loop-hole, therefore it is not surprising that the solution is also specific. This Bill is unlikely to have flow-on effects on other aspects of the RMA which mean that it should be considered as part of wider RMA reforms.
7. The Bill would ensure that where the provision is utilised for a discharge which is not temporary the consent holder will need to show, every 5 years, that there continue to be

¹ The Bay of Plenty Regional Council originally granted a discharge consent to the Mill in 1995. In 2010 a discharge consent was granted for a further 25 years.

exceptional circumstances which justify the granting of the permit. This would ensure that discharges are not permitted to continue for a long period of time during which the exceptional circumstances may no longer exist. It will also ensure that up-to-date science and technology will be considered when assessing whether exceptional circumstances exist.

8. The recent Ministry for the Environment report card showed that water quality is poor or very poor at 52 per cent of monitored river sites, despite considerable progress at addressing point source discharges over the last few decades. This demonstrates the importance of doing everything we can to improve water quality in our waterways, including closing the loop-hole this Bill has identified.
9. EDS supports the Bill and does not request any amendments.
10. EDS wishes to be heard in relation to this submission.