



**To:** Committee Secretariat  
Local Government and Environment Select Committee  
Parliament Buildings  
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**Submission on:**        **Resource Legislation Amendment Bill**

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**Submission from:**

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## 1. Introduction

- 1.1 Agcarm welcomes the opportunity to comment on the Resource Legislation Amendment Bill. As the peak industry association for crop protection and animal health manufacturers, Agcarm is supportive of amending the Resource Management Act (RMA) to provide central government with greater certainty and decision-making abilities to manage our environment.
- 1.2 **Agcarm would like to be heard in support of our submission.**

## 2. Recommendations

- 2.1 Agcarm recommends that the Government progresses with amending the RMA, so that central government can provide legal national direction to local government on policy matters of importance to New Zealand. This will go a long way to improving national consistency and direction through consolidation of the wide variety of rules across the country.
- 2.2 The development of a national planning template that provides national direction to local government is supported. As outlined in the Resource Management Act reform discussion document, this will strengthen and broaden the powers of national policy statements and national environmental standards, provide greater consistency and increase the ability of national government to make decisions that will preserve our environment for the better of all New Zealanders.
- 2.3 As a specific recommendation, Agcarm submits that the RMA is amended to remove the ability for local government to control hazardous substances and new organisms (GMOs) within their boundaries. The Environmental Protection Authority has a national role to manage GMOs and Hazardous Substances under the HSNO Act. A national level approach to managing GMOs will ensure consistency throughout New Zealand.
- 2.4 By making this change to the RMA legislation, duplication will be prevented. This has a number of advantages including reducing cost burdens on tax and rate payers, and avoiding confusion on different rules being applied from a national and regional basis.

## 3. Discussion

- 3.1 In the August 2013 Resource Management Act (RMA) reforms it was proposed by the Minister for the Environment that the explicit function for councils to control hazardous substances, and the ability for councils to control new organisms (GMOs) through the RMA, would be removed. The Government at the time considered that GMOs should only be managed under the Hazardous Substances and New Organisms Act (HSNO) via the Environmental Protection Authority (EPA).
- 3.2 The RMA requires local government to promote sustainable management of natural and physical resources. 'Natural and physical resources' includes all plants and animals; genetically modified plants or animals are not specifically excluded.
- 3.3 In this Act, *sustainable management* means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while:
  - (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

The RMA is regarded as New Zealand's main piece of legislation that sets out how we should manage our environment.

- 3.3 When the two Acts were drafted the intention was for the HSNO to be exclusive in its application to GMOs. It is noted that former Part 13 of the RMA applied to the management of GMOs, but was repealed by the HSNO, which is supportive of this contention.
- 3.4 Various legal opinions point to the problems with the Acts intentions. As a general comment the absence of express reference to GMOs in the RMA is not necessarily an indicator that GMOs were intended to be outside the RMA's jurisdiction. As an effects-based piece of legislation, the RMA does not need to refer to particular substances or activities before it will apply to them.
- 3.5 For example, the definition of "contaminant" in the RMA, in relation to discharges to water, refers generally to substances that can alter certain properties of water, rather than applying to particular named substances. Furthermore, although the RMA and the HSNO have similar purpose provisions, the Court has observed that the RMA allows for consideration of matters on a regional and district basis, including the preferences of particular communities, in a manner that the HSNO consenting process is prevented from managing.
- 3.6 The scope of a council's function under the RMA theoretically includes addressing the environmental risks arising from the development of GMOs in its region. However, the RMA does not specifically require councils to manage GMOs' environmental effects.

### **Options for getting better outcomes**

- 3.7 As highlighted by MfE in the 2013 proposed RMA reforms, the recommended solution is to remove the explicit function for councils to control hazardous substances and new organisms (GMOs) from the RMA. This will enable the EPA to manage GMOs under the HSNO Act, thus bringing national consistency.
- 3.8 A national level approach to managing GMOs ensures consistency throughout New Zealand and given the technical complexity of assessing GMO applications ensure that one agency (the EPA) is adequately resourced to provide this service. The EPA has the necessary risk assessment, legal, policy and scientific expertise required to consider GMO applications.
- 3.9 By making this change duplication will be prevented. This has a number of advantages including preventing duplication, reducing cost burdens on tax and rate payers, and avoiding confusion on different rules being applied from a national and regional basis.

## **4. Conclusion**

- 4.1 As the peak industry representative for Crop Protection and Animal Health within New Zealand, Agcarm recommends that the Government proceed with amendments to the RMA that will ensure national decision making is consistent, and that decisions on the environment made by national regulators cannot be overruled by local government.

## **5. About Agcarm**

Agcarm is the industry association for manufacturers and suppliers of crop protection and

animal health products. For further information see [www.agcarm.co.nz](http://www.agcarm.co.nz).

The products that our members produce protect public health, improve animal welfare and help environmental management. They:

- Play a pivotal role in growing high yield, sustainable food and fibre products;
- Help supply healthy, nutritional and affordable food;
- Keep New Zealand's agriculture, horticulture and forestry sectors internationally competitive.
- Our members are committed to safety, innovation and product stewardship.