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NEW REGULATION ON STRATEGIC ENVIRONMENTAL ASSESSMENT

Last November 4th Decree No. 32/2015, issued by the Ministry of the Environment, became law. This act approves the Regulation of Strategic Environmental Assessment (hereinafter, "SEA").

Decree No. 32/2015 regulates the procedure for the application of SEA, an environmental management instrument that was included in the General Framework for Environmental Law in 2010.

Objective

SEA aims to incorporate environmental considerations of sustainable development into public policy planning and land management instruments established by law, as well as any significant amendments.

Scope of application

The SEA only applies to public policies. Among these, Decree No. 32/2015 distinguishes between those policies that must be strategically evaluated, and those that may be determined by the President of Chile to be subject to SEA.

Instruments that must be submitted to SEA are those known as Land Planning Instruments, such as: Regional Land Use Plans; Inter-municipal, Municipal and Sectional Zoning Plans; Regional Urban Development Plans; the zoning of coastal areas and maritime territory; and the comprehensive management of basins, as well as significant amendments to such policies.

Moreover, if the Sustainability Council introduces a proposal, it is at the discretion of the President to decide if a regulatory policy that could have an impact on the environment or sustainability should be subject to the SEA.

Participation of the private sector

Before the SEA came into force, land planning instruments were

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assessed under the Environmental Impact Assessment System, where the standard submission procedure –an Environmental Impact Declaration– excluded the possibility of public participation within the assessment process.

In order to address the fact that public policies and land planning instruments have a direct impact on the private sector, the SEA aims to incorporate the interests of private stakeholders (corporations, business associations, civic organizations, among others) within the formulation process.

Decree No. 32/2015 provides two stages at which public participation is admitted during the assessment. The first option is at the beginning of the process when a public participation period is opened for at least 30 days, allowing the public to submit documentation that may be relevant for the creation of the policy, plan or instrument, and to contribute observations to the process.

The second opportunity for public comment is available once a draft version of the policy, plan or instrument has been prepared and published in a national, regional or local newspaper. At this point a public consultation period will be opened for at least 30 days, during which any person may submit observations. The relevant body shall consider said observations and make a decision, citing how the public contributions were taken into account.

If public observations are not duly considered in the resolution that concludes the SEA process, the decision may be appealed according to Law No. 19,880.

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