Natural Environment Bill

Government Bill

As reported from the Environment Committee

Commentary

Planning Bill recommendation

The Environment Committee has examined the Planning Bill and recommends by majority that it be passed. We recommend all amendments by majority.

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Introduction

The Planning Bill (PB) and the Natural Environment Bill (NEB) would together replace the Resource Management Act 1991 (RMA) system. Both bills are omnibus bills that amend more than one Act.

The PB and the NEB have been designed to work together but have clear and distinct purposes. The PB aims to establish a framework for planning and regulating the use, development, and enjoyment of land. The NEB aims to establish a framework for the use, protection, and enhancement of the natural environment.

Committee process

We were referred both bills on 16 December 2025. Due to their interrelated nature, we decided to consider the two bills jointly. This involved one call for submissions, public hearings that traversed both bills at the same time, and receiving advice on both bills concurrently.

Consequently, we have prepared one commentary to explain our recommended changes and appended it to the revision-tracked version of each bill.

Advisers

We appointed the Ministry for the Environment as our departmental adviser on the two bills. We note that the ministry ceased to exist on 1 July 2026, and its functions transferred to the Ministry of Cities, Environment, Regions and Transport, which then continued to advise us. For ease of reference, we refer to them as the Ministry for the Environment throughout this commentary.

In addition, we appointed two independent advisers. The Parliamentary Commissioner for the Environment (PCE) advised us on areas within his expertise. The PCE is an independent Officer of Parliament, with broad powers to investigate and advise on environmental management issues, with a view to maintaining or improving the quality of the environment. The current Parliamentary Commissioner is Rt Hon Simon Upton.

We also sought independent advice from Bronwyn Carruthers KC, specifically on the purpose statements of the bills, the goals, and regulatory relief, and some specific questions about provisions relating to Treaty settlements.

Main features of the new system

The PB and the NEB are designed to create a new planning and environmental management system. Where the RMA covered these matters together, the bills separate them out. However, there is much content shared between the bills, and each bill relies on the content and processes of the other.

The system the bills would create operates like a "funnel". Each level of the system is designed to implement the level above it. In basic terms the levels are as follows:

- Purpose—each bill has a purpose statement.
- Goals—each bill has a set of goals that provide more information about the purpose.
- National instruments—a national policy direction for each bill would particularise the goals and resolve any conflicts between different goals. National standards would ensure procedural and administrative consistency nationwide.
- Regional combined plans—would be made up of:
  - a regional spatial plan
  - a natural environment plan
  - district-level land use plans.

Natural environment plans and land use plans would both be responsible for setting out how regional spatial plans would be implemented. There would be opportunities for engagement at several levels of the "funnel", including requirements to consult Māori.

Consents for land use activities would be managed under the PB, and permits for use of natural resources would be managed under the NEB. Activity classification would be split into four categories: permitted, restricted discretionary, discretionary, and prohibited activities.

Designations, compliance and enforcement, financial assurances, duties and restrictions, and subdivision would follow similar approaches to the RMA. New features of the system the bills would introduce include:

- more ministerial influence—national instruments would give Ministers a more active role in shaping the system
- greater use of regulations—primarily in the development of national instruments, but also for administrative and operational matters
- a new regulatory relief regime—councils would be required to provide relief to landowners if they are significantly adversely affected by certain planning controls
- a Planning Tribunal—this would be used in addition to the Environment Court to resolve lower-level disputes.

About this commentary

We propose extensive amendments to the bills. Many are technical in nature and focus on improving the bills' workability rather than signalling significant policy changes to the bills as introduced. This reflects the technical nature of the bills and the submissions we received. The commentary does not discuss every proposed amendment in detail; instead, we chose to focus on the most notable changes. In places, we have also included discussion of some amendments we considered but are not recommending.

Commentary structure

Rather than working through the changes sequentially by clause number, we have approached this commentary thematically by topic. Some themes only appear in one of the bills. Within each theme, we have explained in detail the changes that we consider most significant or noteworthy. We clearly signal which parts of each bill our proposed amendments relate to.

For brevity, we cover less significant changes in a table under the relevant theme. The table lists the bills' clause numbers as introduced, with a brief description of what the clause and our proposed amendment would do. We also provide a reference to the advice we received from the Ministry for the Environment that informed each amendment. Unless stated otherwise, our rationale for adopting the change is in line with the advice provided.

We hope our approach assists the House and the public in understanding our proposed amendments to the overall reform package in a more cohesive way.

The themes we discuss appear in the following order:

- Overarching themes
- Preliminary provisions
- Foundations
- Māori interests and Treaty provisions

- Māori interests and Treaty provisions
- Effects management
- Duties and restrictions
- Activity classes
- Environmental limits
- National instruments
- Regional spatial plans
- Plans and plan making
- Independent hearings panels
- Transition
- Regulatory relief
- Coastal matters
- Freshwater farm plans
- Consenting and permitting
- Notification, submissions, and hearings
- Allocation
- Central and local government functions
- Designations
- Subdivision
- Environment Court and Planning Tribunal
- Compliance and enforcement
- Financial assurances
- Levies
- Emergency works
- Regulations
- Wildlife approvals
- Amendments to other legislation
- Other matters.

Differing views can be found at the end of our commentary, before the appendices.

Reference material

Commonly used acronyms are defined in the relevant sections. However, we have appended a glossary for easy reference. (Appendix B.)

Where we have not provided a detailed explanation of a proposed change, we have included a reference to where further information can be found. We include a guide to these references and all the advice we received in Appendix C.

Overarching themes

This first section examines some of the overarching themes of our consideration. We are not proposing recommendations to the basic structure of the system. However, because we spent considerable time discussing the matters set out below, we wish to present some of our overall views.

Coordination between the bills

Each bill sets out how the "domains" it is responsible for would be treated. The PB would manage the use of land and activities on the surface of water, while the NEB would manage natural resources, including air, water, indigenous biodiversity, and the coastal marine area.

Despite their separate domains, the bills interact in several ways. These include:

- through national policy directions
- through regional spatial plans
- in administrative and procedural ways, such as plans being prepared jointly and joint hearings for consents.

Submitters expressed concern that the bills were insufficiently integrated with each other, and that separating the system would create structural issues and incoherence. For example, they argued that there is no clear statutory mechanism to resolve conflicts between the two bills. Several local authorities also requested that we insert explicit provisions relating to cross-referral, joint processing, shared information requests, joint hearings, and aligned time frames.

The Parliamentary Commissioner for the Environment (the PCE) provided robust feedback along similar lines, writing "while the Bills pretend that [the domains] can be treated as distinct and separate matters, they cannot in the real world be managed without reference to one another." Both the PCE and Bronwyn Carruthers KC told us that they could not find any stated rationale underpinning the Government's original decision to opt for the "two bills approach".

We echo the desire to streamline administration of the new system. We have proposed amendments throughout both bills to better align provisions and, in our view, improve the coherence of the overall system. The Ministry for the Environment has provided extensive advice detailing the careful design choices that underpin the various interactions between the bills.

Ultimately, the majority of us concluded that the "two bills approach" will promote a simpler system that would:

- allow targeted national instruments for each regime, and clearer roles for central and local government
- enable, but not mandate, coordinated and concurrent functions, while maintaining clear accountability under each piece of legislation
- create a more accessible system for users.

"Funnel" structure

The bills are designed to operate like a "funnel", with each level of the system designed to give effect to the one above it. For example, the national instruments would be implemented through the regional spatial plans, which in turn would be implemented through the land use and natural environment plans. Although the bills do not use the "funnel" phrase (apart from in the explanatory notes), we have found it a useful way to think about how the system would operate.

Standardisation

One of the reasons for implementing a top-down "funnel" is to deliver greater standardisation. Many submitters commented on the tension between national standardisation and the need for local flexibility. Some representative Māori groups expressed concern that standardised national rules could override tikanga-based approaches specific to their rohe. Many councils shared similar concerns about local needs and knowledge being deprioritised over a national approach. Submitters also suggested that bespoke plan provisions would effectively be discouraged by being hard to obtain.

The PCE is supportive of standardisation, particularly in urban areas. However, his view is that the system would not allow for enough bottom-up input. Most engagement would occur at the top of the "funnel", when the Minister creates national instruments. The PCE considers it good to have input early in the system, but thinks local-level input later on is equally important. He advised of the utility of operational management tools, such as freshwater farm plans. We discuss the PCE's advice regarding freshwater farm plans in more detail later.

These bills would introduce the ability for greater national standardisation to be directed through national instruments. The system is intended to be more efficient and consistent for users and local authorities. With the proposed system's enablement of bespoke provisions and public participation, we consider that it strikes the appropriate balance between top-down direction and bottom-up engagement.

System stability

Bronwyn Carruthers KC, an independent adviser, spoke about how a change at the top of the system, in the national instruments, would lead to changes in the rest of the system. The PCE noted that leaving the system direction to the discretion of the Minister, as proposed in the bills, has "the potential for endless churn following every change of government and resulting in uncertainty for system users." We discuss the PCE's suggestions for national instruments in that section.

We acknowledge the potential for instability in the system if a Minister were to set a different direction from their predecessor. However, we consider this to be a political decision and something a Minister would have to keep in mind, in addition to the legislated requirements, when developing any new national instruments.

Use of secondary legislation

The PB and the NEB would place more reliance on secondary legislation than the RMA does. This reflects the complexity of the planning and environmental management system, as well as lessons learnt from the RMA. Regulations should allow for more flexibility and adaptability. Regulations would be used to provide more technical detail and to allow rules to be updated over time. The use of national instruments would allow the government of the day to set direction for the system.

We note that in recent years the Parliamentary Counsel Office, which drafts legislation, has moved to including more operational and administrative matters in secondary rather than primary legislation across the board.

We received submissions that broadly supported the top-down "funnel" system proposed. However, they observed that much of the system's effectiveness would depend on instruments that are yet to be developed. It is therefore difficult to assess whether the new system would achieve its intended outcomes.

The Regulations Review Committee wrote to us about regulation-making powers in the bills. We will cover the specifics in the relevant sections. The committee commented in particular on the delegation of legislative power to Ministers for the setting of national instruments.

Our section on "Regulations" details the dedicated regulation-making powers in the bills. There are other powers throughout the bills that we discuss alongside their relevant subject matter.

Environmental protections

Submitters consistently expressed concern that the bills would weaken environmental protections compared to the RMA. They argued that many elements of the system would lead to poorer environmental outcomes because there are fewer clear, enforceable, and durable safeguards. Many were disappointed by what they saw as a lack of ambition to improve the natural environment. A central criticism was targeted at the environmental limits framework, which we cover in its own section.

The PCE is critical of the way the bills approach environmental protections. He considers that the framework for setting environmental limits may not result in any meaningful limits being set. The PCE provided advice that discussed approaches to the protection of indigenous biodiversity. One of the principles he advocates for is taking a holistic approach. He told us that the RMA attempted to do this through sections 6(c) and 17. The PCE is concerned that the proposed system "could potentially return us to the pre-RMA situation where the law doesn't address biodiversity as a whole".

The majority of us consider that the measures to protect the natural environment remain the same or similar to the RMA. However, the way the system is designed may affect the level of protection. There is intentionally greater flexibility in the level of environmental protection compared to the RMA—this could mean higher or lower levels of protection. The system would rely on the Minister to provide the appropriate amount of protection through national instruments.

Transition

We have a separate, detailed section on matters related to transitioning from the RMA to the new system. That said, transition is relevant to all aspects of the bills, and prompted particular debate for us on regional spatial plans and regulatory relief.

Preliminary provisions

PB clauses 3–10; NEB clauses 3–10

(DR3 recommendations 1–12)

The first clauses of both bills set out the interpretation and purpose. Together these preliminary provisions form the initial building blocks of the system. We have some notable recommendations to the purpose clauses.

Interpretation

PB clause 3; NEB clause 3

(DR3 recs 4–6, pp 41–43)

The interpretation clause defines terms used in each bill. We propose no major policy changes to the interpretation clauses, but propose changes to make them clearer and align the bills.

We recommend the following amendments to definitions:

- “built environment”—include the surface of water in the coastal marine area.
- “natural resources”—include that:
    - the management of land under the PB does not restrict land from being a natural resource
    - the description of natural resources is exhaustive and complete
    - humans are not a natural resource.
- “bed”—specify that methodologies for identifying the bed of braided (and other wandering) rivers can be set in national standards.

Definition of “infrastructure”

We also recommend inserting a definition of “infrastructure” that applies to the whole of both bills, rather than just designations. A definition is required that is flexible enough to apply in multiple contexts. We achieve this by reference to the services and public good outcomes that infrastructure provides to people and communities, rather than promoting an exhaustive list of different types of infrastructure.

We discussed whether the definition would include “green infrastructure”. This term is used to refer to a system or network that fuses natural and built elements with the aim to improve resilience and reduce negative effects on the environment. We wish to ensure that green infrastructure is captured in the definition of “infrastructure”. We recommend specifying infrastructure that includes a natural feature that is modified to perform certain functions is also "infrastructure" for the purposes of these bills.

Further amendments to the interpretation clauses are discussed under the theme that the definition relates to.

Purpose

PB clause 4; NEB clause 4

(DR3 rec 8, p 47)

Most modern legislation contains a purpose clause that explains the bill's overarching aim. The purpose clauses of these bills state that they are intended to:

- PB—establish a framework for planning and regulating the use, development, and enjoyment of land
- NEB—establish a framework for the use, protection and enhancement of the natural environment.

Many submitters expressed concern that these clauses do not clearly set out what the bills actually seek to achieve. They also commented that the purposes are conceptually different and it is difficult to understand how they would integrate with each other.

We note that each bill also contains a "goals" clause (clause 11). The goals define the outcomes that the system in each bill aims to achieve, and the intent of the bills is that these goals will be further detailed in national policy direction issued by the Minister.

Bronwyn Carruthers KC, an independent adviser, noted that, as introduced, the purpose of the bills appears to be limited to "establishing a framework". She noted that almost all subsequent provisions refer to the goals clauses, rather than the purpose clauses. Therefore, she advised, the role of the purpose clauses would likely be limited. Ms Carruthers suggested we amend the purpose statements to explain how the overall system is intended to operate, and how each bill's framework and implementation would relate to the other. The PCE provided similar advice, commenting that "they are purpose clauses that have no purpose". He provided drafting options for each purpose clause that included cross-references to the other bill.

Our majority view is that the goals provide sufficient detail to explain the policy objectives of each bill, so we do not consider that wholesale change is needed to the purpose statements.

Proposed amendment

As introduced, the PB's purpose is to "establish a framework for planning and regulating the use, development, and enjoyment of land." We recommend amending this clause to make it clearer that enjoyment of land is the key element: "to provide for the enjoyment of land by establishing a framework for planning and regulating the use and development of land." We acknowledge the PCE's concerns that "enjoyment of land" is subjective and ideological. He warned of unintended consequences of this language being included in the purpose clause.

Some of us also proposed amending the purpose clauses to include a reference to “benefitting current and future generations”. The Ministry for the Environment informed us that the Minister could consider including such a reference in national instruments.

Act binds the Crown

PB clause 6; NEB clause 6

(DR3 recs 10–11, p 48)

Clause 6 of each bill describes how compliance and enforcement mechanisms would be applied to the Crown. The bills contain specific exemptions for national security, certain conservation activities, and corrections facilities. These are equivalent to existing provisions in the RMA.

Proposed amendments

We note that the equivalent section of the RMA provided an exemption (with appropriate safeguards) for work undertaken by the Department of Conservation on conservation land. This provision was not properly replicated in the bills as introduced.

We recommend amending NEB clause 6(3) to exempt Crown activities on public conservation land from land use controls in NEB clause 17(1). This exemption would still require the Department of Conservation, on behalf of the Crown, to act in line with conservation plans and cause no significant adverse effects beyond the boundary of an area of land. We also propose amending PB clause 6(3) (also for Crown land use activities on public conservation land) to make it clear that exempt activities do not include designations under clause 17(2) or overflying aircraft under clause 17(3).

Foundations

PB clauses 11–13; NEB clauses 11–13

(DR3 recommendations 13–30)

The foundations of how the system would work are set up in Subpart 1 of Part 2 of each bill. This includes the goals, decision-making processes, procedural principles, and effects management. We discuss effects management in its own section.

Goals

PB clause 11; NEB clause 11

(DR3 recs 13–28, pp 49–67)

Each bill contains a list of separate and distinct goals which its framework would aim to achieve. All people exercising or performing functions, duties, or powers under each bill must seek to achieve the goals. For example, there are goals in the PB to enable the use and development of land, while ensuring that land use would not unreasonably infringe on others. In the NEB, there are goals to enable the use and development of natural resources while safeguarding the life-supporting capacity of resources and ecosystems. Both bills have the same goal relating to Māori interests.

The goals are designed to have no hierarchy. Clause 12 of both bills is important when considering the goals. It details how they interact with other key decision-making instruments. The Minister would particularise the goals in national instruments and determine how to resolve any conflicts between them.

Role of the goals

PB clauses 11–12; NEB clauses 11–12

(DR3 rec 13(a), p 51)

Submitters were generally in favour of a set of legislative goals, and many supported the intent and general direction of the goals as introduced. However, they also argued that the goals are too broad, undefined, and aspirational.

Like submitters, the PCE said that the goals are descriptive and do not set a clear legislative direction. He also noted that clause 12 limits the regard that can be given to the goals. For example, clause 12(3)(c) says that people "must not consider a goal directly" in specified circumstances, despite the overarching requirement that they "must seek to achieve" the goals. He expressed concern that unclear application of vague goals would create interpretation issues for decision makers, courts, and system users.

We were also advised, by the PCE and Bronwyn Carruthers KC, that the goals would only have meaning if given proper effect to in national instruments. Using the "funnel" analogy, they noted that once national instruments are set in place at the top of the "funnel", there would be very few situations in which lower-order instruments or decision makers would refer to the goals directly.

We appreciate the feedback from submitters and our advisers. However, we consider that the goals are an important feature of the bills, alongside the bills' purpose statements. The goals are designed to be primarily relevant to the Minister, and act as guardrails for setting national instruments. Once national policy direction is set, lower-order instruments would predominantly give effect to those directions (unless the subject matter of a goal is unclear or not covered by a higher-order instrument). Consequently, we do not recommend substantial changes to the role that the goals would play in the system.

We propose an amendment to the chapeau of the goals. We recommend removing the word "duties" from clause 11, so it reads: "All persons exercising or performing functions or powers under this Act must seek to achieve the following goals". This is to make sure the goals do not unintentionally apply to lower-level "duties" in the system.

"Seek to achieve"

PB clauses 11–12; NEB clauses 11–12

(DR3 rec 13(b), p 51)

Some submitters expressed concern about the legal weight of the requirement to "seek to achieve" the goals. For example, they noted that in some circumstances the goals (or the bills) could conflict with others, and one goal may be achieved at the expense of another. They questioned whether it would be lawful to not achieve a goal, and suggested that the bills should use more directive language.

In our view, the system should be led by the goals, rather than constrained by them. As introduced, the bills acknowledge that not all goals would be able to be achieved at the same time. This is reflected in PB clause 45(2)(b) and NEB clause 69(2)(b): when making national instruments "not all goals need to be achieved in all places at all times". To better reconcile the requirement to seek to achieve the goals with the recognition that not all goals would need to be achieved in all places at all times, we recommend moving the provision in PB clause 45(2)(b) to clause 11(1A) and NEB clause 69(2)(b) to clause 11(2). It means that "all persons exercising or performing functions, or powers" under the bills would not be required to seek to achieve all goals at all times. Previously, this only related to the Minister when setting national instruments.

Hierarchy of the goals

PB clauses 11–12; NEB clauses 11–12

(DR3 rec 13(c), p 51)

Many submitters proposed inserting a formal hierarchy or clear legislative process for resolving conflicts between goals. Some expressed concern that inconsistencies in the language of the bills appeared to give more weight to some goals over others.

In our view, the bills should contain no hierarchy between the goals. The Minister, through national policy direction, would set out how conflicts between goals are addressed.

We recommend adding "the order in which the goals appear […] does not assign their order of importance" to clause 11 of both bills to make it clear that there is no hierarchy. We also recommend wording changes to any goals that could be interpreted as giving a goal more or less weight than others. For example, "to enable infrastructure" rather than "to plan and provide for infrastructure" in PB clause 11(1)(e).

Proposed amendments to specific goals

PB clause 11; NEB clause 11

(DR3 recs 14–27, pp 52–65)

We received many suggestions from submitters to amend or add to the goals. For example, several recommended that climate mitigation, climate adaptation, and emissions reduction should be included. Others suggested goals that generally reflected their particular interests, for instance Fish and Game New Zealand requested that recreation, public access, and the protection of habitats for sport fish and game birds be included. The New Zealand Archaeological Association sought the inclusion of historic heritage in the NEB's goals.

We acknowledge that not every topic is covered in the goals. We recommend the amendments below to improve and clarify the existing goals. We also recommend adding a goal to the NEB.

- PB clause 11(1)(d)—The policy intent is to promote competitive urban land markets, to unlock housing and business development. The existing goal aims to "meet current and expected demand". In our view, competition is better served by creating abundant development opportunities and propose amending the goal accordingly.
- PB clause 11(1)(e)—This goal aims to "plan and provide for infrastructure to meet current and expected demand". In our view, "plan and provide for" is vague and should be made more definitive. We also consider that the goal should explicitly refer to future demand to promote longer-term thinking. Finally, we note that many submitters expressed concern at the lack of a consistent definition of "infrastructure". We discussed our recommended definition above.
- NEB clause 11(1)(a)—This goal aims to "enable the use and development of natural resources". Submitters recommended removing the reference to environmental limits to avoid inconsistency with later provisions that enable limits to be breached in certain circumstances. We note the PCE's concern that removing this reference could imply that the goal promotes unfettered development, and his reflection that development will always be constrained by biophysical factors. However, we consider that including environmental limits in this clause would imply a hierarchy of goals, which is not the intent.
- NEB clause 11(1)(a)—Many primary sector submitters argued that the goals do not adequately recognise food and fibre production, and recommended goals to promote specific primary industries. We recommend adding "including for the production of food and fibre (including aquaculture)", as an example of an activity that this goal would support. Our intention is to acknowledge the national importance of food and fibre production. However, we do not consider it necessary or desirable to promote every specific primary industry, and note this aligns with the PCE's advice against referencing specific sectors and not others. We also considered whether it would then be necessary to define "food and fibre" in the legislation. We concluded that the natural meaning of these words is sufficient (although, for completeness, we state here that we intend a broad interpretation that includes arable, dairy, forestry, horticulture, viticulture, aquaculture, meat and poultry, bees, wool, fisheries, and processing).
- NEB new clause 11(1)(ca)—We also propose adding a goal "to support and enable enhancement of the natural environment". We agree with submitters who said that the bill does not sufficiently provide for restoration or enhancement of the natural environment, which would create a disconnect between the goals and the NEB's purpose statement.
- PB clause 11(1)(h) and NEB clause 11(1)(e)—These goals relate to natural hazards. The PB aims to "safeguard communities from the effects of natural

hazards through proportionate and risk-based planning". The NEB aims to "manage the effects of natural hazards associated with the use or protection of natural resources through proportionate and risk-based planning". Submitters expressed concern that these similar issues, being addressed in different ways under each bill, could result in inconsistency. We agree that responsibilities should be split more clearly across the bills in line with their purposes, and recommend amending these clauses accordingly. We also wish to make it clear that the focus should be to manage natural hazard risks, rather than managing the effects of natural hazards. This would more clearly signal that decisions should consider both how likely hazards are to occur and how serious their effects would be. We recommend amending these clauses accordingly.

Decision making (the "funnel")

PB clause 12, NEB clause 12

These clauses are functionally identical and set out key instruments and decision-making processes in each bill. These clauses establish the "funnel" approach we mentioned earlier and explain how it would work. For example, clause 12(2)(a) sets out that each instrument must implement the instrument directly above it. Clause 3 of each bill provides the meaning of "key instrument". They would be one of:

- a national policy direction
- a national standard
- a regional spatial plan
- a land use plan (under the PB)
- a natural environment plan (under the NEB).

Procedural principles

PB clause 13, NEB clause 13

(DR3 rec 30, p 71)

These clauses would guide decision making across the system. They are intended to ensure that decisions are clear, timely, proportionate, and evidence based. We recommend some amendments in response to submitter comments, to improve clarity and workability. Specifically, we recommend:

- in clause 13(2)—distinguishing between those principles where a failure to comply would not invalidate the action taken, and those which are intended to have a more active role in decision making
- in clause 13(1)(b)—including the use of consistent processes
- in clause 13(1)(e)—clarifying that the intent of this principle is to require people exercising functions and powers to act in a pragmatic way that supports practical solutions
- in clause 13(1)(eb)—including a new procedural principle that encourages the use of technology, and digital tools and systems

- in clause 13(1)(ea)—including a new procedural principle that requires the setting of conditions in national instruments, plans, permits, consents, or designations to be no more onerous than necessary
- in clause 13(4)—excluding the courts from being required to adhere to the procedural principles.

Māori interests and Treaty provisions

PB clauses 8, 11, 69, 70, 80; NEB clauses 8, 11, 97

(DR3 recommendations 48–67)

Clause 8 of each bill sets out the specific provisions that recognise the Crown's responsibilities in relation to the Treaty of Waitangi/te Tiriti o Waitangi. Both bills include a goal that describes how Māori interests would be provided for in the system:

- Māori participation in the development of national instruments, spatial planning, land use plans, and natural environment plans
- the identification and protection of sites of significance to Māori
- enabling the development and protection of identified Māori land.

These would be further developed and detailed through national instruments.

Designation provisions under the PB would impose specific requirements on decision makers for certain classes of Māori land. This is designed to recognise the importance of those land classes.

Almost all Māori groups who made a submission opposed the bills. They, and others, expressed concerns that the bills' core decision-making framework is narrower than the RMA. Therefore, they think it would not adequately allow for recognition and protection of Māori relationships with ancestral land, water, and other taonga. They argued that the new system would not provide sufficient support for redress arrangements, or upholding planning arrangements established through existing Treaty settlements.

We received extensive advice from the Ministry for the Environment about how Treaty settlements would be upheld. This included a table showing how Māori rights and interests are provided for in these bills compared to the RMA, and to the repealed Natural and Built Environment Act 2023.

We split discussion of this topic into:

- how the bills interact with Treaty settlements
- consultation with Māori
- transition to the new system
- statutory acknowledgements
- the Marine and Coastal Area (Takutai Moana) Act 2011.

We propose some amendments on each topic, the most notable being to include on spatial plan committees someone with an understanding of te ao Māori and Māori development, to better understand Māori perspectives.

Interaction with Treaty settlements

PB clauses 9–10; NEB clauses 9–10

(DR3 rec 54, p 103)

Existing Treaty settlement redress and the Ngā Hapū o Ngāti Porou arrangements can be complex and bespoke, such as Te Ture Whaimana o Te Awa o Waikato | the Vision and Strategy for the Waikato River. Redress can include requirements for statutory acknowledgements, iwi advisory bodies, and regional council governance arrangements. Because these arrangements interact with the structure of the RMA, the Crown must work with post-settlement governance entities (PSGEs) and Ngā Hapū o Ngāti Porou to seek agreement on how Treaty settlement redress or arrangements would operate under the proposed system.

Clause 9 provides that the Crown would work with PSGEs and Ngā Hapū o Ngāti Porou for the first two years from when the bills are enacted to seek agreement on how relevant Treaty settlement redress could be given the same or equivalent effect to the greatest extent possible in the new system. (It should be noted that the bills do not prevent further discussions or agreements being reached after two years.) While agreement would be sought under clause 9, clause 10 would require redress or arrangements to be given the same or equivalent effect as under the RMA until an agreement is reached, to the greatest extent possible in the new system. Clause 10 would not apply to statutory acknowledgements, whereas clause 9 would.

Most submitters expressed opposition to clause 10 because they consider it:

- dilutes or undermines redress during the transition to the new system
- does not sufficiently protect the integrity and durability of, and intent underlying, existing settlements
- places a disproportionate burden on PSGEs to effectively "renegotiate", without guaranteed resource to support this.

Submitters also told us that "to the greatest extent possible under this Act" is vague, and incompatible with "the same, or equivalent effect" given the difference between the RMA's and the bills' frameworks. Local councils also noted that Treaty settlements are made between the Crown and Māori, and argued that it would be inappropriate for councils to be responsible for assessing how to provide the "same or equivalent effect".

Proposed amendments

We acknowledge the uncertainty that some groups may be feeling about transitioning to a new system. However, the majority of us ultimately decided not to propose large-scale amendments to these clauses.

In our view, provisions in clauses 9 and 10 are not intended to diminish the rights recognised in Treaty settlements or the Ngā Hapū o Ngāti Porou arrangements. Reaching agreement about how settlements and arrangements are given effect in a new system would take time, during which the new system would already be operating. The terms “equivalent effect” and “greatest extent possible” are intended to protect Treaty settlements during this transition, while ensuring that these provisions are not interpreted as preserving RMA mechanisms.

We heard from some submitters that it is not clear how clauses 9 and 10 interact. As introduced, clause 10 would cease to apply once an agreement is reached under clause 9, and clause 9 would be repealed two years after the bills’ commencement. However, the bills do not specify whether clause 10 would continue to apply if agreement under clause 9 had not be reached before it was repealed.

To provide more certainty for PSGEs and Ngā Hapū o Ngāti Porou, we recommend amending clause 10 so that it continues to apply until an agreement is reached, including after the repeal of clause 9. We also recommend amendments to the following clauses, to address further points raised by submitters:

- Clause 3—Include land acquired as Treaty settlement redress and vested or registered in named ancestors of a settlement group in the definition of “identified Māori land”.
- Clause 8—Update this clause so that it contains all provisions in each bill that recognise the Crown’s Treaty responsibilities which were missing from clause 8 in the bills as introduced.
- Clauses 9 and 10—Specify that redress under the Māori Commercial Aquaculture Claims Settlement Act 2004 and the Treaty of Waitangi (Fisheries Settlement) Act 1992 is not included as part of Treaty settlement redress or arrangements as defined in clauses 9 and 10.

Consultation with Māori

PB clauses 46, 70, 80, 188; NEB clauses 70, 97, 228

(DR3 recs 55–63, pp 106–114)

Clause 8 of both bills details how the Crown will uphold its responsibilities in relation to the Treaty of Waitangi/te Tiriti o Waitangi. This includes how Māori interests would be considered at different stages of the system through consultation, and through ensuring that relevant authorities have regard to agreements such as statutory acknowledgements or iwi participation legislation.

There was general support for consultation with Māori, and we note that many submitters called for more opportunities to participate in the system beyond consultation.

Requirement for Māori representation on spatial plan committees

PB clauses 69–73

(DR3 recs 56–57, pp 106–108)

Councils would need to agree how to consult with iwi authorities during the preparation of draft regional spatial plans. As introduced, these plans would have to identify and provide for statutory acknowledgements and sites of significance for Māori.

PB clauses 71 to 73 would require local authorities to form a spatial plan committee when preparing a regional spatial plan. Committees must consult iwi and customary marine title groups when preparing draft plans, or changing plans, and have regard to iwi feedback and iwi management plans. The bills contain no requirement for tangata whenua membership on the committee (although appointment of tangata whenua would not be precluded).

Many submitters, including local councils and PSGEs, suggested that the bills should require Māori representation on spatial plan committees to support legitimacy and durability of the planning system.

We agree, and recommend creating a new clause 71 on the appointment of spatial plan committees. This should require spatial plan committees to have at least one member with “knowledge, skill, and experience relating to te ao Māori and Māori development”, to address Māori interests in an appropriate way. This approach would align with requirements for expert panels under the Fast-track Approvals Act 2024.

We also recommend relocating PB clause 70 to PB Schedule 2, new clause 9 so it is grouped with other procedural matters. We recommend requiring spatial plan committees to carry out pre-notification consultation with iwi authorities by:

- establishing and maintaining processes to provide opportunities for iwi authorities to be consulted and identify relevant issues of concern
- indicating to iwi authorities how those issues have been or are to be addressed
- providing iwi authorities with drafts sufficiently early to ensure adequate time and opportunity to consider the draft and provide advice on them.

These requirements align with consultation requirements with iwi authorities on land use plans in PB Schedule 3.

Other proposed amendments

As introduced	Description of proposed amendment
PB cl 46 NEB cl 70 (DR3 rec 55, p 106)	These clauses would require the Minister to provide iwi authorities with draft national instruments, and have regard to their advice, before publicly notifying a national instrument. The intent of these clauses is to enable iwi authorities to engage early in the policy process. We recommend making this clearer in PB new clause 57 and NEB new clause 84. We also recommend clarifying that the responsible Minister should have the flexibility to seek advice on either a sufficiently detailed outline of the policy proposals or a draft proposal.
PB cl 188 NEB cl 228 (DR3 rec 59, p 110)	These clauses would require local authorities to maintain records of iwi and hapū in their region or district (such as contact details, planning documents recognised by each iwi authority, a record of any area over which one or more group exercises kaitiakitanga, and any initiated or existing Mana Whakahono ā Rohe).

	As introduced, subclause (6) would restrict councils from using any information collected under each bill for purposes outside that specific bill. However, we recommend an amendment to enable councils to use any information collected under either bill for the purposes of both bills. Our amendment would also state that, with written consent of the relevant party, councils may also use this information for any other agreed purposes.

Transition to the new system

PB clauses 193, 197, Schedule 1, clauses 19–21; NEB clauses 232, 236

(DR3 recs 64–67, pp 115–119)

The RMA contains three key tools for Māori participation in its processes. They include:

- transfers of power from local authorities to iwi authorities
- joint management agreements between local authorities and iwi authorities
- Mana Whakahono ā Rohe agreements.

The PB and the NEB have transitional provisions to carry across existing arrangements. Under PB clauses 193 and 197, territorial authorities would be able to transfer powers or enter into joint management agreements with public authorities. NEB clauses 232 and 236 would provide the same but for regional councils.

For the purposes of these clauses "public authority" does not include iwi authorities or any other type of representative Māori group. Once the RMA ceases to apply at the end of the transition period, there would be no ability for iwi authorities and local authorities to enter into new transfers of power or joint management agreements. There are no provisions for new Mana Whakahono ā Rohe agreements to be entered into either.

We have no major amendments in this area. We consider the bills provide sufficient mechanisms for iwi authorities to work with local authorities.

Proposed amendments

As introduced	Description of proposed amendment
PB cl 193, 197 NEB cl 232, 236 (DR3 rec 64, p 115)	These clauses relate to the ability for territorial authorities and regional councils to transfer powers and enter into joint management agreements. We recommend inserting PB new clause 192A and NEB new clause 231 to define "public authority" in the same way as for joint management agreements and transfers of power.
PB Sch 1, cl 19 (DR3 rec 65, p 117)	This clause sets out how a transfer of power or function by a regional council or a territorial authority would have effect before and during the transition period. We recommend clarifying that clause 19 applies to all transfers of power that exist immediately before the specified transition date.
PB Sch 1, cl 21 (DR3 rec 67, p 119)	This clause sets out how Mana Whakahono ā Rohe agreements that exist or have been initiated before the PB is enacted would have effect. We recommend inserting in Schedule 1, clause 21 and new clauses 21A and 21B that:

	• Mana Whakahono ā Rohe initiated before Royal assent must be negotiated in the transition period in accordance with the provisions of Part 5, Subpart 2 of the RMA (as modified in PB Schedule 11) • new Mana Whakahono ā Rohe cannot be initiated after Royal assent • where negotiations on a Mana Whakahono ā Rohe are not complete before the specified transition date, that agreement will not have effect in the new system • Mana Whakahono ā Rohe that exist immediately before the specified transition date will continue to have effect, through functions in the RMA that relate to equivalent functions under the PB and the NEB • provisions relating to the purpose, guiding principles, amendment, review, monitoring, and contents of Mana Whakahono ā Rohe would continue to apply, with appropriate modifications, to those transitioned into the new system.

Statutory acknowledgements

PB Schedule 12; NEB Schedule 6

(DR1 rec 239, p 285)

A statutory acknowledgement is a record of the Crown's acknowledgment of a group's cultural, spiritual, or historical association with an area of Crown-owned land. Statutory acknowledgments could also be in relation to the coastal marine area. They are included in most Treaty settlements.

In both bills, consent authorities would be required to have regard to statutory acknowledgments when considering who qualifies as affected parties to consents (PB) and permits (NEB). Statutory acknowledgments would be required to be attached to all plans and considered when those plans are being made. Clauses related to these provisions are included in the relevant parts of the bills. PB Schedule 12 and NEB Schedule 6 list Treaty settlement Acts that include statutory acknowledgements. We are only proposing technical amendments to statutory acknowledgements provisions, namely adding any settlement legislation that has been enacted since the bills were introduced.

Marine and Coastal Area (Takutai Moana) Act 2011

PB clause 82–83, 114, 118, 147

(DR1 recs 229–238, pp 271–280)

The Marine and Coastal Area (Takutai Moana) Act 2011 provides for the recognition of customary interests for iwi, hapū, and whānau in the common marine and coastal areas. The Act provides for the participation and involvement of rights holders in resource management processes. The rights under this Act were cross-referenced in the RMA. The PB and the NEB intend to uphold the rights in the Takutai Moana Act in a similar way.

The Takutai Moana Act is incorporated in several places in the bills. For example, when preparing natural environment plans one of the core obligations is to consider customary marine title (CMT) planning documents, as prepared under section 85 of the Act.

Proposed amendments

As introduced	Description of proposed amendment
NEB cl 103 (DR1 rec 231, p 275)	This clause provides that a natural environment plan or proposed plan cannot include a rule that permits an activity that may have an adverse effect on the relationship of a CMT group with their CMT area. We recommend including the following in NEB clause 103 and in PB new clauses 83A and 83B: • a requirement for regional councils to identify in the plan all permitted activities that will, or are likely to, have more than a minor adverse effect on the relationship of a CMT group with their CMT area (listed activities) • a requirement that the applicant may only proceed to undertake a listed activity if the applicant also obtains, and lodges with the council, evidence of a permission right granted by the CMT group. We recommend updating amendments to other legislation (PB Schedule 11) with corresponding changes to the Takutai Moana Act sections 66 to 68.
PB Sch 11 (DR1 rec 238, p 280)	In our section on amendments to other legislation, we recommend including amendments to the Takutai Moana Act. We recommend appropriately aligning exemptions to produce justification reports for bespoke plan provisions in natural environment plans with relevant provisions in the NEB.

Effects management

PB clauses 14–15; NEB clauses 14–15

(DR3 recommendations 31–47)

Clauses 14 and 15 in both bills set out a framework for considering and managing the effects of activities on people and the environment. They specify what effects would be managed, how they would be managed, and the thresholds for when they should be managed.

Each bill approaches the consideration of effects differently. The PB excludes some effects from consideration, while the NEB specifically identifies what effects must be given particular attention. The management framework would require particular consideration of positive effects of enabling activities, effects on natural resources, and effects of natural hazards. Any effects regulated under the PB would not be able to be considered under the NEB.

The bills take largely the same approach to managing adverse effects of activities. Where practicable, adverse effects would have to be “avoided, minimised, or remedied”. Where appropriate, adverse effects may be “offset or compensated”. Less than minor effects would not be able to be considered, except where two or more effects create a cumulative effect that is “greater than less than minor”.

National instruments would be able to provide direction on how effects are managed. The NEB would enable national instruments to specify frameworks to guide offsetting and compensation of effects.

Proposed amendments

Effects outside the scope of the Planning Bill

PB clause 14

(DR3 rec 31, pp 73)

PB clause 14(1) lists the effects of activities that would be out of scope, and therefore would not be considered under the bill. Many submitters commented on the listed activities, and suggested that some activities were poorly defined and could lead to uncertainty or disputes. We recommend a series of changes to improve the clarity and workability of clause 14(1).

As introduced	Current wording and recommended change
PB cl 14(1)(a) (DR3 recs 32–33, p 74)	This paragraph would set "internal and external layout of buildings on a site" as an effect that must not be considered. We recommend splitting this paragraph so that the internal layout of a building is separate from the external layout of buildings on a site. We also clarify that the external layout of buildings is out of scope where there is no effect beyond the boundaries of a site.
PB cl 14(1)(b) (DR3 rec 34, p 75)	This paragraph would set "negative effects of development on trade competitors, including on competing providers of input goods and services" as an effect that must not be considered. We recommend specifying that this relates to trade competition generally, and that landowners cannot oppose development or rezoning of other land on competition grounds.
PB cl 14(1)(d) (DR3 rec 36, p 77)	This paragraph would set "the demand for or financial viability of a project unless it is a matter to which clause 11(1)(b) or (d) relates" as an effect that must not be considered. We recommend amendments to clarify that the decision maker must disregard any lack of demand for the project, and must not consider whether the project is financially viable.
PB cl 14(1)(e) (DR3 rec 37, p 78)	This paragraph would set "the visual amenity of a use, development, or building in relation to its character, appearance, aesthetic qualities, or other physical feature" as an effect that must not be considered. We recommend making this less subjective by phrasing it as "the character, appearance, aesthetic qualities of a use, development, or building".
PB cl 14(1)(f) (DR3 rec 38, p 79)	This paragraph would set "the type of residential use and the social and economic status of future residents of a new development" as an effect that must not be considered. We recommend better reflecting the policy intent that the exclusion applies to the consideration of the types of residents, but that consideration of housing typology or the type of development remains in scope.
PB cl 14(1)(h) (DR3 rec 40, p 80)	This paragraph would set "the effect on landscape" as an effect that must not be considered. We recommend clarifying that effects on landscapes and natural character must be disregarded only where the landscape is not outstanding, or the area is not of high natural character.
PB cl 14(1)(j) (DR3 rec 42, p 82)	This paragraph would set "any matter where the land use effects of an activity are dealt with under other legislation" as an effect that must not be considered.

	We recommend adding that natural hazards and contaminated land are not excluded from consideration.

Climate change and greenhouse gas emissions reduction

PB clause 14(1)

(DR3 rec 319, p 387)

Many submitters noted the bills' lack of an explicit climate change goal. They expressed concern that climate considerations are predominantly addressed via the lens of natural hazards, and commented on the bills' limited integration with the Climate Change Response Act 2002, and the lack of references to climate change mitigation.

We agree that it is not clear how emissions reduction and climate mitigation measures are intended to interact with the bills. We considered three options. Some of us consider that it would be appropriate for the bills to be able to consider the positive effects of a reduction in greenhouse gas emissions. However, by majority, we have decided to recommend that the PB and the NEB explicitly not be able to regulate adverse effects of greenhouse gas emissions. This removes any risk of duplication with the Climate Change Response Act.

We recommend inserting PB clause 15A and NEB clause 15A. They would make clear that adverse effects of greenhouse gas emissions are out of scope of the bills, but the positive effects and benefits of activities that avoid, reduce, remove, or displace greenhouse gas emissions are within scope.

To provide an example of what our amendments would mean—a council would not be able to limit development in greenfield areas in order to limit associated vehicle emissions. Neither would they be able to decline applications for consents or permits based on concerns about greenhouse gas emissions. National standards would not be able to control adverse emission effects. However, national standards would be able to provide direction for the construction and installation of electric vehicle chargers.

Considering adverse effects of activities

PB clause 15; NEB clause 15

(DR3 rec 46, p 91)

As explained above, clause 15 in both bills sets out how adverse effects of activities are to be managed. Adverse effects would have to be avoided, minimised, remedied, offset, or compensated if the effect is not "less than minor". PB clause 15(4) and NEB clause 15(5) define "less than minor" as "an adverse effect that is acceptable and reasonable in the receiving environment with any change being slight or barely noticeable". Less than minor effects would only be able to be considered if they contributed to cumulative effects which are "greater than less than minor".

Many submitters commented on these clauses. They expressed concern:

- that the threshold was either too high or too low
- about how the "less than minor" threshold would be applied

- that framing cumulative effects as “greater than less than minor” was complex and unclear
- that the term “minimise” is subjective, and less clear than the equivalent term “mitigate” in RMA section 17.

The PCE also advised that, because the bills apply a higher threshold than the RMA for what effects can be considered and managed, it is imperative that the bills appropriately account for cumulative effects.

In our view, large-scale policy changes are not necessary. However, to make the language clearer, we recommend clause 15(1)(b) in both bills is amended to specify that a cumulative effect must be considered if it “results in a minor or more than minor adverse effect”.

We agree that “mitigate” is a preferable term, as it allows more flexibility and aligns better with the role of national instruments. We recommend replacing the term “minimise” with “mitigate” throughout both bills. This is relevant to duties in regards to the treatment of adverse effects.

We also suggest that clause 15(2) of both bills, relating to matters that national instruments may specify concerning adverse effects, would sit better with other clauses that deal with national instruments. We recommend shifting this provision into the part related to national instruments: for national policy direction PB new clause 48 and NEB new clause 72, and for national standards PB new clause 52 and NEB new clause 77.

Other proposed amendments

As introduced	Description of proposed amendment
PB cl 14 NEB cl 14 (DR3 recs 43–45, pp 83–84)	PB clause 14(2) lists areas that clause 14(1) does not restrict the management of. We recommend: • amending clause 14 in both bills so it is clear that the consideration of effects relating to the matters listed in clause 14(2)(a) to (e) is not excluded • amending NEB clause 14(b) so it does not have a prohibition on considering effects regulated under the PB • amending the chapeau of NEB clause 14 so it aligns with the chapeau in PB clause 14.

Duties and restrictions

PB clauses 16–26; NEB clauses 16–27

(DR1 recommendations 1–14)

Duties and restrictions provisions generally follow the approach taken by the RMA. Land use under the PB would be enabled unless restricted by a national instrument or land use plan. Where land use is restricted then a consent would be required. The NEB would generally restrict the use of natural resources unless the use is permitted through a national instrument, a natural environment plan, or a natural resource permit.

The PB allows existing uses of land to continue when they otherwise would not be permitted without a consent under a new national or plan rule. Where an existing use of a natural resource would contravene a new national or plan rule, the NEB allows that use to continue while seeking a permit to continue the activity.

Both bills include a general duty to avoid, minimise, or remedy adverse effects. The duty would be enforced through abatement notices or enforcement orders. PB clause 24 includes an additional duty to avoid unreasonable noise.

Existing use protections and natural hazards

PB clauses 20–22

(DR2 rec 138, p 186)

These clauses relate to existing use protections, including how existing land uses and related building work would be treated in the new system. Submitters generally supported continuation of existing use rights. However, some submitters noted that clause 20 could "over-protect" existing uses in hazard-prone areas, which could undermine the ability of councils to reduce risk over time. We share these concerns.

We recommend inserting new clause 20(3)(aaa), and amending clause 22, to provide that specified natural hazard rules override existing use protections and related building work protections. They may be rules in land use plans, proposed land use plans, or national instruments.

However, we also propose adding a "continuation mechanism" in new clause 22A for existing activities that are affected by a proposed rule about natural hazards in a land use plan. Such activities would be allowed to continue on an interim basis until the relevant rule is tested through the planning process. In our view, this would reduce the potential for natural justice issues However, we do not think this should be applied if an activity has been discontinued for a continuous period of over 12 months.

Restrictions on use of beds of rivers and lakes

NEB clause 19

(DR1 rec 5, p 21)

NEB clause 19 would restrict certain uses of river and lake beds. Clause 19(3) lists things a person must not do if it goes against a rule or standard. They may be able to obtain a natural resource permit to undertake their activity. They include not to "damage, destroy, disturb, or remove" plants or the habitats of plants. One submitter suggested adding a reference to fungi as they are a distinct biological kingdom and not covered by the term "plant". We agree but think a broader term would be more useful. We recommend adopting the same approach as in clause 18(4) for protections in the coastal marine area, which uses "natural resource" as a catch-all term. We recommend amending clause 19(3) to use broader phrasing and "natural resource" to ensure that all natural resources are protected.

Restrictions relating to water

NEB clause 20

(DR1 rec 6, p 23; Responses 20/05/2026 rec 6, p 6)

NEB clause 20 contains restrictions relating to water. They include that a person must not “take, use, dam, or divert, or take or use any heat or energy” from specified water types unless expressly permitted in certain circumstances. Clause 20(4)(b) includes an exemption to this general rule for stock drinking water for animals. This exemption would only apply if the taking or use of the water would not, or is not likely to, have an adverse effect on any natural resource.

The provision for stock drinking water was an important issue for submitters. They wanted to understand how adverse effects would be measured and how cumulative effects would be treated. Some primary sector representatives sought retention of the general right for taking stock and domestic water. Others asked for adverse effects to be considered when they are “greater than less than minor”, as in other places in the bills.

We recommend adding a “no more than minor” adverse effects threshold for the statutory authorisations in clauses 20(4)(b) to (d). These subclauses relate to the taking, using, damming, or diverting of fresh water (including for stock drinking water), geothermal water, and coastal water, under certain circumstances. This would mean that actual or likely adverse effects would need to be minor or lower. We think this would establish a nationally consistent baseline that would allow proportionate management of material effects, and aligns with the approach to adverse effects taken elsewhere in the bills.

We also consider that national standards should be able to specify a greater level of permissible effect to allow the taking, using, damming, or diverting of water where it may cause a more than minor adverse effect. We recommend amending clauses 20(4)(b) to (d) and inserting clause 20(5) to allow for a higher level of effect to be prescribed.

We also propose clarifying the relationship between clause 20 and environmental limits. In practice, impacts on (and of) domestic and stock water would already be considered under NEB clause 56(b) (which requires an assessment of the impact of a proposed environmental limit). However, we consider it would be helpful to explicitly require clause 20 activities to be considered when setting limits. We recommend amendments to this effect.

Other proposed amendments

As introduced	Description of proposed amendment
PB cl 17 (DR1 rec 12(a), p 28; DR3 rec 265, p 327)	The PB did not specify restrictions on the coastal marine area. PB matters in the coastal marine area, such as historic heritage and high natural character, are intended to be managed under the PB by regional councils. We recommend inserting new clause 17A to allow activities in, on, under, or over the coastal marine area to be regulated. This aligns with the proposed changes at clause 184(3) and new clause 184A (discussed in our section on

	coastal matters), that would clarify that regional councils can perform all the responsibilities, functions, and powers that a territorial authority has under the PB in respect of matters wholly within the coastal marine area.
PB cl 21 (DR1 rec 9, p 25)	This clause would allow extensions to be granted to continue land use in a manner that contravenes a rule, even if the use has been discontinued for a continuous period of more than 12 months. We recommend removing clause 21(1) and including the reference to discontinuation of an existing use in clause 20(3)(a).

Activity classes

PB clauses 31–38; NEB clauses 32–39

(DR3 recommendations 68–77, pp 120–133)

Activity classes are the basis for rules in national instruments, land use plans, and natural environment plans. They are intended to support national consistency and to guide those exercising or performing powers, functions, and duties under the legislation.

As introduced, PB clause 31 and NEB clause 32 set out the principles for classifying activities into four categories:

- permitted activities
- restricted discretionary activities
- discretionary activities
- prohibited activities.

New activity class and guidance for classifying activities

PB clauses 30–31; NEB clauses 31–32

(DR3 rec 71, p 127)

The RMA contains a category called "controlled activities" which must generally be granted. It is not included in the bills as introduced. Broadly speaking, "controlled activities" would sit between the thresholds of "permitted" and "restricted discretionary" in the new system. Some submitters expressed concern that the bills' drafting could result in "controlled activities" under the RMA becoming "restricted discretionary activities" in the new system. This would result in more-restrictive controls on those activities, and lead to uncertainty for long-term planning for these submitters.

We note that these bills are intended to be more enabling than the RMA. Based on these concerns, we recommend inserting a new "controlled activities" class to the NEB. We do not consider it appropriate to make the same amendment in the PB because established existing uses already have stronger protections under that bill. We note that the PCE supports this recommendation.

We recommend several further amendments to PB clause 31 and NEB clause 32 relating to activity classes to help improve the clarity and workability of these classifications:

- reframing these clauses as “guidance” (compared to “principles”) as these are not intended to be strict requirements
- clarifying that the guidance applies to the Minister (through national standards) and councils (through plans) when making rules
- removing the references to environmental limits and allocation from the principles in NEB clause 32
- inserting subclause (1)(b) to PB clause 31 and NEB clause 32 so that non-regulatory measures and other regulations (such as freshwater farm plans) can form part of the considerations for activity classifications
- making a series of small changes to address inconsistencies between the two bills.

Registering permitted activities

PB clause 38; NEB clause 39

(DR3 rec 77, p 133)

PB clause 38 and NEB clause 39 would allow national standards, natural environment plans, or land use plans to make permitted activity rules that require registration for certain purposes. For example, obtaining written approval, obtaining a certificate, or paying a fee. Most submitters were opposed to these provisions. They commented that the drafting implied that all permitted activities would need to be registered, and that the registration regime is unclear, complex, and an unnecessary cost.

We agree that the drafting could be clearer. The new system is proposed to be more enabling, and most permitted activities would not need to be registered. National standards would provide more detail on what permitted activities would need to be registered, and how registration would work. Therefore, we recommend some changes to make the framework clearer, including:

- clarifying that not all permitted activities would need to be registered
- adding that the registration of permitted activities could only occur when required or allowed by national standards
- clarifying the relationship between certificates of compliance and registered permitted activities.

Other proposed amendments

As introduced	Description of proposed amendment
PB cl 29 NEB cl 30 (DR3 rec 69, p 121)	These clauses state that an objective, policy, rule, or method of a key instrument may apply to all or part of specified geographical areas. We recommend enabling rules to apply to specified activities or classes of activities.
PB cl 30 NEB cl 31 (DR3 rec 76, p 131)	These clauses provide the meaning of a rule. We recommend providing in subclause (1)(g) that a “controlled” (NEB only), “restricted discretionary”, or “discretionary” activity could include conditions requiring an adaptive management approach.

Environmental limits

NEB clauses 45–67

(DR3 recommendations 122–174)

Environmental limits are set out in the NEB to define either the acceptable level of protection of human health or the life supporting capacity of the natural environment (ecosystem health). Environmental limits would be required to cover five domains: air, land and soil, freshwater, coastal water, and indigenous biodiversity.

Human health limits would be:

- set by the Minister in national standards
- required for all domains except indigenous biodiversity
- required to be at or above a level that would "prevent significant or irreversible harm to people and communities".

Ecosystem health limits would be:

- set by regional councils in natural environment plans (NEPs), following any methods set in national standards
- required for all domains except air quality, although ecosystem health limits for air quality could be included if directed by national standards
- required to "protect the life-supporting capacity of the natural environment" to an acceptable level.

When setting limits, the Minister and regional councils would need to balance environmental protection with social and economic aspirations of communities. The Minister could set a minimum acceptable level for ecosystem health limits in national standards. Regional councils would have to prepare a justification report if they set a limit that was less stringent than a minimum acceptable level.

Regional councils would have to avoid limits being breached in their region. Where a limit was breached or likely to be breached, councils would need to prepare an action plan to address the issue, change their NEP, or take any other action that they consider necessary to avoid or remedy the breach.

Most submitters supported the environmental limits framework and principles of national consistency. However, submitters expressed varied views on the role of limits in the proposed system. For example, we heard that:

- the limits framework does not sufficiently protect the environment, nor address cumulative environmental degradation, and could be undermined through discretionary exceptions
- limits should recognise economic considerations and provide flexibility by not being set in a way that unduly restricts resource use
- limits should function as enforceable biophysical thresholds, and the bills could set binding national "bottom lines", similar to the National Policy Statement for Freshwater Management under the RMA

- the limits framework should ensure that councils would be able to set stricter limits than national standards, to protect taonga and give effect to Treaty settlements.

We received advice from the PCE that effective implementation of environmental limits would require robust monitoring, data, and enforcement. He identified that, compared to the RMA, the NEB generally raises the threshold for what effects are managed—the impact of an effect would need to be larger before it must be managed. Cumulatively, this would place more pressure on the way the environment is protected through limits.

The PCE generally supported the framework proposed for human health limits but expressed significant concern about the bill's approach to ecosystem health limits. His criticism has two key facets.

First, the PCE suggested that the bill would give the Minister significant influence over decision making. He noted that the NEB contains at least five statutory opportunities for ministerial discretion in setting ecosystem health limits. Depending on the Minister at the time, the PCE stated that this could lead to ecosystem health limits that are "fairly protective" but could equally "permit an increase in pollution and environmental degradation". In his advice to us, the PCE said "Parliament is effectively being asked to delegate environmental protection to the Executive on terms that are completely open-ended."

Second, like submitters, it is the PCE's view that the limits framework provides no "bottom line". He noted that RMA sections 70 and 107 act as "legislative backstops to prevent pollution" but the NEB contains no equivalent. Councils would be able to set lower limits than the minimum acceptable levels specified in national standards. Although councils would be required to present a justification report for this, he is concerned that the NEB contains few details about how robust these would need to be, and how they would be assessed and challenged. The PCE suggested that, like human health limits, ecosystem health limits should "prevent significant or irreversible harm" to the natural environment.

We appreciate the time submitters and advisers have taken on this subject. Protecting the natural environment is vital for the future of New Zealand and its citizens, biodiversity, and businesses. The majority of us consider that the NEB strikes a good balance between using resources sustainably and future-proofing economic growth. Consequently, we recommend some amendments to the limits framework which are mostly focused on workability.

Rather than addressing this topic in clause order, we address these themes:

- ministerial decision making
- developing environmental limits
- limit management tools
- general environmental limit provisions.

Ministerial decision making

Minister may make national standards authorising activities to breach environmental limits

NEB clauses 85–86

(DR3 recs 168–174, pp 213–214)

NEB clause 85 would require the Minister to set national standards that enable resource use only within environmental limits. Clause 86 would enable national standards to establish a pathway for significant infrastructure activities to breach environmental limits, subject to checks and balances on the use of any such pathway.

We understand that the intent of the bills is for national standards to allow certain activities to breach environmental limits in some situations. We cannot see any reason why this should be limited to "significant infrastructure", and propose amending these clauses to allow other publicly beneficial activities to breach environmental limits in specific circumstances.

We note the PCE's critique of these amendments. He advised that widening the Minister's ability to override limits set by local authorities (where this ability was previously constrained to infrastructure) could undermine limits set by regional councils. We also note his concern that this could increase instability in the "funnel" system.

Our proposed amendment is set out in new clause 79 and would enable the Minister to make national standards that authorise activities or resource use that breach environmental limits where criteria are met. This could be human health limits as set in national standards, or ecosystem health limits set in NEPs.

This amendment would make clause 86 (exemption for significant infrastructure) redundant, and so it can be deleted.

Guardrails for decisions that authorise breaches

NEB clause 86

(DR3 rec 169, p 213)

Given the risk to environmental protections, we consider it important to limit the circumstances in which an exemption may be used. We recommend adapting the guardrails set out in clause 86 to make new clause 79. We recommend the following guardrails:

- national standards must be clearly identified as enabling specific activities or classes of activities that are allowed to breach identified limits (so it is clear the clause is invoked, and that councils would be required to follow the standards even if it leads to a breach)
- there must be a test of the public benefits relative to the harm to ecosystem or human health
- the wider implications for natural resource use must be considered

- the likely opportunity costs associated with not requiring compliance with environmental limits must be considered.

Council obligation and options to remedy the breach

NEB clause 66–67

(DR3 recs 170 and 171, p 213)

If a breach of an environmental limit happens due to an exemption made by national standards, councils may not be able to meet their duty in clause 66(1) to avoid limit breaches in the short- to medium-term. We suggest that, in these cases, a council's duty should instead be to take actions towards remedying the breached limit. We recommend that this be their duty until such time as they update a limit to account for the consequences of the exemption. This is the same approach as in clause 66(3).

NEB clauses 66 and 67 set out the actions a regional council must take if an environmental limit were likely to be breached or were breached. We acknowledge that it may be difficult for councils and communities to remedy a breach that has resulted from an exemption in national standards. We recommend adding an additional action to this clause to require councils to review environmental limits or interim limits to account for the effects of the national standard when it next reviews its natural environment plan.

Other proposed amendments

As introduced	Description of proposed amendment
NEB cl 164 (DR3 recs 173–174, p 215)	This clause outlines matters that a permit must not be granted for, and generally precludes the grant of a permit that would breach an environmental limit. We recommend clarifying that councils must not grant a natural resource permit if it would breach an environmental limit or, if applicable, an interim limit during the period that the interim limit applies. We recommend that, where a national standard authorises specific resource uses and activities to breach an ecosystem or human health limit, councils may (but would not be required to) grant permits for other activities or uses that affect the same limit. When deciding whether to grant such a permit, councils must have regard to remedying the breach of the limit.

Developing environmental limits

NEB clauses 53–55

(DR3 recs 137–152, pp 189–198)

Human health limits would be developed by the Minister. Ecosystem health limits would be set by regional councils with the NEB specifying certain considerations and requirements. NEB clauses 53 to 55 would move to new clauses 49 to 50B.

Developing human health limits

NEB clause 53

(DR3 recs 137–138, p 189)

NEB clause 53 sets out the matters a Minister must consider and be satisfied of when developing human health limits.

In clause 53(1)(a) the Minister would have to be satisfied that a proposed human health limit is to an “acceptable standard”. Some submitters were concerned that this clause could introduce a hierarchy where environmental factors were given more weight than economic or social factors. There should be no hierarchy. We recommend setting out in new clause 49A that “acceptable level” of human health means that the Minister must be satisfied that the level is acceptable based on consideration of clauses 56 and 57 (assessing limit impact and existing capacity), with no hierarchy between environmental, social, and economic factors. Three other clauses as introduced, include the consideration of factors in the development of other environmental limits—clauses 54(2)(c), 55(1)(c), and 56(b). We recommend that these be similarly amended to ensure there is no hierarchy.

Clause 53(2)(a) would require the Minister to consider all the goals in NEB clause 11, and any national policy direction (NPD). We do not consider it necessary to have this provision here, as it duplicates existing duties at a higher level of the “funnel”. Clause 11 would already require all persons performing duties to seek to achieve the goals. Similarly, the provision drafted here is weaker than the requirement in clause 12 for national standards to implement an NPD. We recommend removing clause 53(2)(a).

We note the PCE’s concern that these changes could result in environmental limits “no longer [being] a specific consideration” and “particularisation of the goals that provides almost unfettered priority for growth and development”. However, the majority of us do not share these concerns.

Specifying methodologies for setting ecosystem health limits

NEB clause 54

(DR3 recs 139–141, p 190)

National standards would specify the methodologies that regional councils must follow when setting ecosystem health limits. This provision in clause 54 would move to new clause 58A. We recommend amendments to clarify how methodologies are set. The effect of our proposed changes would be the following:

- When specifying methodologies for councils to follow, the Minister must also consider natural variability, and how to accommodate future improvements to science and monitoring methods in a timely manner.
- The Minister must be satisfied that the methodology for setting an ecosystem health limit protects the life-supporting capacity of the natural environment to “an acceptable level”.
- Removing ambiguity about what is meant by “minimum acceptable level”, by defining it as “the minimum level of protection for the life-supporting capacity of the natural environment”. We note that this would not prevent councils from setting more stringent limits (or, with a justification report, setting less stringent limits).

Developing ecosystem health limits

NEB clause 55

(DR3 recs 142–143, p 192)

NEB clause 55 sets out the requirements (in addition to those in clause 52) on regional councils when setting ecosystem health limits in their NEPs. It would become new clause 50B.

In general, NEB clauses 12 and 97 would require decision makers to implement regional spatial plans when determining the content of NEPs. Ecosystem health limits are set in NEPs. Some submitters were concerned that regional spatial plans may pre-determine ecosystem health limits. We consider it important that regional spatial plans do not pre-empt the limit-setting process. Instead, regional spatial plans should have detail to support planning for urban and infrastructure development, within known environmental constraints.

We recommend making an exception for the duty on regional councils to implement spatial plans when setting ecosystem health limits.

Other proposed amendments

As introduced	Description of proposed amendment
NEB cl 56 (DR3 recs 144–146, p 194)	As introduced, this clause sets out how councils should "assess" the impact of a proposed environmental limit or methodology. We recommend: • amending the clause so that councils must "have regard to" the matters listed in clause 56 rather than implying that councils must undertake a specific or fixed level of assessment • clarifying that, when setting limits, consideration must be given to any cost–benefit analysis prepared in accordance with regulations (provided for in new clause 57A).
NEB cl 57 (DR3 recs 147–149, p 196)	This clause lists considerations that councils must use to assess existing capacity of the natural environment to withstand or recover from pressure and disturbances. We recommend amending the clause so that councils must: • "have regard to" the matters listed rather than implying that councils must undertake a specific or fixed level of assessment • consider the listed matters to the extent appropriate when applying new clause 50B (clause 55 as introduced). We note that this would need to be read alongside the proportionality approach reflected in NEB clause 13. We recommend amending clause 57 to state that when decision makers consider the existing state of the natural environment they consider: • naturally occurring processes, levels, and variability • We recommend clarifying that "best obtainable information" means the best obtainable information available to the decision maker at the time the decision is made. We also recommend deleting clause 59 and inserting it as new clause 57B, and specifying that it applies to all decisions made under subpart 4.
NEB cl 59	This clause would establish the standard of evidence for decision making for environmental limits.

(DR3 recs 151–152, p 198)	We recommend clarifying that "best obtainable information" means the best obtainable information available to the decision maker at the time the decision is made. We also recommend deleting clause 59 and inserting it as new clause 57B, and specifying that it applies to all decisions made under subpart 4.

Limit management tools

NEB clauses 60–65

(DR3 recs 123, 153–165, pp 176, 200–207)

The bills would give councils two specific tools to manage natural resources that are subject to an environmental limit: action plans and resource caps.

Action plans would be used to manage compliance within a limit, or to avoid or remedy a breach. They could set out matters relating to how councils decide applications for natural resource permits, review conditions of existing permits, prepare rules in an NEP, or implement caps on resource use to avoid or remedy the breach. When an action plan is put in place to remedy a breach of environmental limits, the council would set a target date for the breach to be remedied, and set interim limits as "stepping stones" back to the original limit.

Resource caps describe the maximum amount of resource use that could occur without breaching an environmental limit. They would not be binding rules, but would act as an intermediate step between a limit and its management methods. They are designed to help inform decision makers, resource users, and the community about how much of a resource is available for use. Caps could be expressed as a land use, or an input or output, and would be published on council websites.

We heard concerns about the clarity and legal status of these limit management tools. We recommend several amendments to improve the clarity and workability of these provisions (and we note that further detail would be set out in national instruments and regulations).

Preference for resource caps over action plans

NEB clause 60

(DR3 rec 153, p 200)

The policy intent is that councils should, where feasible, use resource caps in the first instance. We note that a cap may only be effective or feasible for some attributes or resources, and may not be effective where the relationship between the natural resource and a cap is weak. We would like to make this preference clearer, and recommend amendments to this effect in new clause 60A.

Role of interim limits in action plans

NEB clause 65

(DR3 recs 125, 128(a), 162–165, pp 176–177, 207)

Under this clause as introduced, if an environmental limit were breached, councils must set a target date by which the breach should be remedied. If this target date is longer than 10 years away, the council would be required to set interim limits at intervals of no more than 5 years. Interim limits would be accompanied by actions and outcomes to help progress back towards the original environmental limit.

"Interim limits" are referred to in the clause 3 definition of "environmental limits". However, the term is not itself defined. We recommend this term be defined. Most simply put, interim limits are "a temporary environmental limit".

We understand that the requirement for interim limits to be set at intervals of "no more than 5 years" was selected to align with typical environmental reporting cycles. However, we consider this overly burdensome and suggest aligning this with the 10-year plan-making cycle instead. We recommend amending clause 65(2) so that a plan "must contain 1 or more series of interim limits at 10-year intervals".

As introduced, interim limits could only be used in action plans where a limit is breached. However, in some situations, the activities that lead to limits being breached have already happened and the breach is inevitable. We recommend adding new clauses 49B (for human health) and 50C (for ecosystem health) to enable the use of interim limits in more situations.

Finally, we recommend the following amendments, in response to submitter feedback, to improve clarity around interim limits:

- specifying when an interim limit must be recommended in an action plan
- specifying when an interim limit must be included in an NEP
- adding matters decision makers must consider when setting interim limits
- specifying that when an interim limit applies, the interim limit has effect instead of the limit
- allowing interim limits to be included in NEPs at the same time as environmental limits (in which case the interim limit would not have to be proposed through an action plan).

Other proposed amendments

As introduced	Description of proposed amendment
NEB cl 45 (DR3 recs 123–124, p 176)	This clause sets out definitions related to environmental limits. We recommend moving operational matters related to action plans to clauses 60 to 65, as they are not defining the term. We also recommend defining an "action plan", in new clause 60, as a plan containing measures to manage compliance with, avoid breaching, or remedying any breach of, an environmental limit.
NEB cl 61 (DR3 recs 154–155, p 201)	We recommend providing that the decision-making process for action plans follow either: • a process set out in national instruments • the requirements of sections 76 to 82A of the Local Government Act 2002 where national instruments do not specify a process. We recommend including in new clause 61A that: • where proposals in an action plan would affect permit decisions, the action plan must be subject to a consultation process before having effect under clause 156 (consideration of a natural resource permit)

	• where proposals in an action plan would not have implications for decision making (non-regulatory measures), councils would not be required to carry out consultation.
NEB cl 62 (DR3 recs 156–159, p 202)	This clause describes how caps on resource use would work. We recommend amendments to make it clear that: • caps are a tool to help councils manage resource use within environmental limits • caps do not impose a direct control on individual resource users • caps should be developed using best obtainable information (new clause 57B “decisions must be based on best obtainable information” would still apply) • caps for limits in the freshwater domain (including water takes and discharges to water) are not to be applied at the individual property level unless the property covers the entire management unit. We also recommend inserting wording to specify that caps would only directly control a natural resource if the cap is included in a rule in an NEP.
NEB cl 64 (DR3 recs 160–161, p 207)	This clause sets out that where a regional council prepares an action plan, it would not be able to include controls on land use or inputs unless other specified measures are insufficient. We recommend inserting subclause (3) to state that controls on land use included in an action plan may only be proposed rules, as any proposed rules will need to be brought into effect through a plan change. We recommend clarifying that such rules are recommended to be included in an NEP.
NEB cl 65 (DR3 rec 165, p 207)	This clause sets out the requirement for councils to set, in an action plan to remedy a breach, a target date and interim limits. This clause sets out the requirement for councils to set, in an action plan to remedy a breach, a target date and interim limits. We recommend clarifying that any proposed rules in an action plan do not have effect unless they are included as rules in an NEP. (Clause 97 requires councils to have regard to relevant action plans when preparing their NEP.)

General environmental limit provisions

NEB clauses 45–52

(DR3 recs 127–136, 166–167, pp 177–187, 208–210)

NEB clauses 45 to 52 set up how environmental limits would work. We have two proposed amendments to highlight.

Limits definitions

NEB clause 45

(DR3 rec 128, p 177)

The environmental limits subpart of the NEB begins with relevant definitions. We recommend updates to some of them in other areas of this section. Additionally, we recommend:

- aligning terms used in clauses 3 and 45 to avoid duplication, including the difference between “coastal water” and “coastal water ecosystem”

- amending the definition of “freshwater” to refer to ecosystems including rivers, lakes, wetlands, and groundwater, but excluding geothermal water and coastal ecosystems
- adding that the scope of “ecosystems” includes biological life of both indigenous and introduced species
- amending the definition of “land and soil” to include contaminated land
- adding a definition of “decision maker” to mean a person who makes decisions related to this subpart of the NEB.

How environmental limits are expressed

NEB clause 48

(DR3 rec 131, p 181)

NEB clause 48 would require an environmental limit to be expressed as a biophysical state, or an amount of stress or harm to the natural environment that is allowed to occur. It must be possible to measure performance against the limit to determine breach situations. We recommend amending clause 48 to specify that environmental limits may be expressed numerically or as narrative descriptions. This expression must be in relation to a measurable attribute, either a state or a stress attribute.

Other proposed amendments

As introduced	Description of proposed amendment
NEB cl 49 (DR3 rec 132, p 182)	This clause would require the Minister to set human health limits for certain domains. We recommend clarifying that the list of domains for human health is an exhaustive list comprising freshwater, coastal water, land and soil, and air.
NEB cl 50 (DR3 rec 133, p 183)	This clause would require regional councils to set ecosystem health limits for certain domains. We recommend specifying that the list of domains for ecosystem health is an exhaustive list comprising freshwater, coastal water, land and soil, and indigenous biodiversity (and air if directed through national standards).
NEB cl 52 (DR3 rec 136, p 187)	This clause sets out decision-making criteria for environmental limits. It becomes new clause 55. We recommend adding in new clause 48A that the decision-making criteria apply to: • the Minister before notifying a national standard, and before recommending one for approval • regional councils before notifying and making a final decision on NEPs.
NEB cl 67 (DR3 rec 167, p 210)	This clause set out how breaches of environmental limits would be managed. We recommend inserting subclause (4) stating that councils may identify a range of causes of a breach.

National instruments

PB clauses 44–52; NEB clauses 68–76

(DR3 recommendations 78–121)

"National instruments" is an umbrella term that refers to any national policy direction (NPD) and national standard issued under either bill. National instruments may apply to all of New Zealand or to any specified district, region, or part of the country.

The Minister would be required to produce one NPD for each bill, providing direction on how to give effect to the goals and manage conflicts between them. NPDs are new instruments with no clear equivalent in the RMA.

National standards would implement the NPDs. National standards would ensure procedural and administrative consistency nationwide and are analogous to National Policy Statements, National Environmental Standards, and National Planning Standards under the RMA. National standards could set methodologies for councils to follow when developing lower-order plans (regional spatial plans, natural environment plans, and land use plans). They could also include standardised zones and land use rules that councils must include in plans (PB only) or direction on the allocation of natural resources (NEB only).

The bills set out the process a Minister must follow when developing national instruments, including relevant considerations and consultation requirements.

Overarching comment on ministerial discretion

We spent considerable time discussing the level of ministerial discretion that the bills propose. If passed, the bills would enable Ministers to set the NPDs and national standards as secondary legislation. These instruments sit at the top of the "funnel" so all decisions in the system would flow from them.

The Regulations Review Committee wrote to us, expressing its concern that "the NPDs are a significant delegation of legislative power". It identified them as "Henry VIII powers" that would enable the Minister to develop secondary legislation that could significantly alter the primary legislation's effect. The committee noted that, although NPDs are intended to be broadly consistent with existing practice and jurisprudence under the RMA, their effect would depend heavily on the exact drafting and implementation through lower-order instruments.

The PCE and Bronwyn Carruthers KC echoed similar concerns. For example, Ms Carruthers said that exact settings in the NPD were of "the utmost importance", yet the bills are silent on how the NPD should determine the importance of different goals in different situations. Similarly, although submitters supported the purpose of national instruments, many told us that the language used in the bills (such as requirements for a Minister to "have regard to" various matters) was weak and open-ended. They argued that a Minister could therefore justify almost any direction, or change, which would undermine stability of the system.

Our independent advisers also warned us that the "funnel" approach could result in "churn" in the system. If a Minister were to amend national instruments for any reason, every lower-order instrument would need to be reviewed and updated to reflect this change. The PCE noted that, in his experience, changes in ministerial direction have caused similar problems under the RMA.

The PCE specifically proposed amending the bills to include a procedural option to curtail broad ministerial discretion, encourage long-lasting policy development, and help reassure the public about top-level decision making in the new system. Submitters suggested that national instruments could be set using an independent Board of Inquiry (BOI) or Technical Advisory Group (TAG) process. They said that these would protect the integrity of the system following a change in Ministers, for example.

We note that BOIs were permitted (but not mandated) under the RMA for national policy setting until 2024. However, this mechanism was not used often. We also note that these bills do not preclude a Minister from using an advisory group to support developing national instruments.

Ultimately, we do not consider it necessary to change the overall approach to national instruments in the bills. However, we recommend significant changes to how the NPD and national standards would work and how the Minister would set them.

The role of NPDs and national standards

PB clauses 44–45; NEB clauses 68–69

(DR3 recs 78–84, pp 135–139)

We do not consider that the bills are clear enough on the role of each national instrument. As introduced, there is substantial overlap between the role and purpose of the NPD and national standards. For example, in PB clause 44 and NEB clause 68, the role of the NPD and national standards are described in the same way. We propose amendments to distinguish and clarify the role of each instrument. As we are restructuring the role of each instrument, we recommend PB Part 2, Subpart 4 and NEB Part 2, Subpart 5 are restructured accordingly.

In relation to NPDs, we recommend inserting PB new clauses 46 to 48 and NEB new clauses 70 to 72 to:

- clarify that one NPD would be developed under each bill, but that NPDs can have content that applies to both bills.
- emphasise that an NPD's purpose is to set high-level policy direction that is intended to particularise the goals, identify key conflicts between them, and resolve (or direct how to resolve) these conflicts.
- specify that NPDs must particularise all goals in the bill to which it relates. By "particularise" we mean further elaborate and provide direction on how the goals are to be achieved, including how to implement their intent. Given that the bills set no hierarchy within or between each bill's goals, we consider it important that the NPD provide this direction.
- better reflect that resolving conflicts between the goals is about addressing tension. We acknowledge that setting an NPD could have the effect of "a goal

being prioritised over another" in certain places and circumstances (PB clause 58 and NEB clause 85).

- specify that NPDs cannot directly include contents of regional spatial plans, land use plans, and natural environment plans (only national standards can).

We also discussed whether and how these clauses could better support NPDs to resolve conflicts between goals across the two bills (for example, if a goal under the PB conflicts with a goal under the NEB). Our proposed re-drafting is currently focused on setting out how to resolve conflicts within each bill. We encourage the House to continue discussing this matter at later stages of the legislative process, and consider whether further changes are needed.

In relation to national standards, we recommend inserting PB new clauses 49 to 56 and NEB new clauses 73 to 83. These should emphasise that the purpose of national standards is to provide procedural or regulatory consistency across the country.

PB new clauses 57 to 62B and NEB new clauses 84 to 90A provide the process for how national instruments would be created and amended. They set out matters that the Minister must have regard to when preparing national instruments. Our proposed amendments to these clauses are intended to reflect the separated purposes of NPDs and national standards mentioned above.

Role of the Minister

PB clauses 44–62; NEB clauses 68–90

(DR3 recs 85–89, pp 138–139)

We recommend several amendments to these clauses which are intended to define more clearly the Minister's role in setting national instruments and address concerns about the level of ministerial discretion in the bills.

Consolidate provisions

PB clauses 44–62; NEB clauses 68–90

(DR3 recs 85, 87, p 138)

We recommend consolidating the various provisions that set out how the Minister creates national instruments.

For example, PB clauses 45 and 46 would require the Minister to consider certain matters, or follow certain processes when making or notifying a national instrument. PB clauses 56 and 57 then contain specific tests for making an NPD. This structure makes it difficult to understand the full extent of ministerial obligations in relation to making national instruments.

The list below sets out various matters, already in the bills, that we propose consolidating:

- The Minister is to give notice summarising how national instruments are consistent with their statutory purpose.

- The Minister must have regard to achieving compatibility between the goals in the NPD.
- The NPD must particularise the goals by identifying conflicts and determining how they should be addressed.
- The Minister must consider the extent to which national instruments need to be consistent with other national instruments.
- Other ministerial obligations are addressed, including following procedural principles and establishing human health limits.

These changes are reflected in PB new clauses 58 and 59 and NEB new clauses 85 and 86.

How the Minister must treat goals

PB clause 45; NEB clause 78

(DR3 rec 86, p 138)

In our view, the legislation could be clearer about how the Minister must treat the goals when making an NPD. We recommend specifying that, when considering whether to promote certain goals over others, the Minister must consider "any severe and irreversible adverse effects" and "the current and long-term impacts" of the different goals. This is reflected in PB new clause 58(3) and NEB new clause 85(3).

Remove unnecessary ministerial considerations to reflect new role of NPD

PB clauses 56–57; NEB clauses 80–81

(DR3 rec 88, p 138)

As introduced, PB clause 56(2)(a) and NEB clause 80(2)(a) would require the Minister to be satisfied that the NPD does "not unreasonably restrict the ability of territorial authorities to undertake their functions and responsibilities to manage land use". Our earlier recommendation that NPDs should not be used for this level of detail makes this consideration irrelevant. We recommend removing it.

For similar reasons, we recommend deleting PB clause 57(1)(b)(i) and NEB clause 81(1)(b)(i). These would require the Minister to consider whether a proposed NPD "enables development to occur within environmental limits". We note the PCE's view that these provisions ensure a "basic, but critical baseline" for environmental limits and his recommendation that they be retained. However, our majority view is that they are not required for the NPD.

Setting out timing of various considerations

PB clause 45; NEB clause 69

(DR3 recs 89, p 139)

The bills do not specify the order in which the Minister must meet various obligations. For example, PB clause 45 and NEB clause 69 detail matters the Minister must consider when setting national instruments, but not at what stage they apply. In our view, the bills should specify this. We recommend PB new clause 58(2)(a)(iii) and NEB new clause 85(2)(a)(iii) include that consideration requirements must be satisfied at the time of public consultation.

Other proposed amendments

As introduced	Description of proposed amendment
PB cl 45 NEB cl 69 (DR3 recs 91–92, p 142)	These clauses outline matters the Minister would have to consider when making a national instrument. We recommend clarifying the relationship between national instruments and clauses 14 and 15 of both bills (which list effects and adverse effects that the Minister must or must not consider). Our changes would: • require the Minister to consider adverse effects (subject to clauses 14 and 15) for national standards, but not NPDs • permit the Minister to include direction in the NPD about which effects management approach (avoid, remedy, mitigate, offset, or compensate) should be applied in national standards to resolve conflicts between goals. We also recommend removing the requirement for the Minister to consider all submissions received. Instead, we recommend specifying that submissions be considered in the report required under PB new clause 57 and NEB new clause 84.
PB cl 46 NEB cl 70 (DR3 recs 93–95, p 146)	These clauses set out the procedural requirements for making national instruments. In PB new clause 57 and NEB new clause 84, we recommend: • specifying that the Minister must provide a draft proposed national instrument to other groups or sectors that the Minister considers appropriate (such as relevant industry groups) and have regard to their comments, alongside the existing requirement to do so for iwi authorities. We do not recommend a prescriptive list, and instead expect Ministers to use good judgement to pre-notify relevant persons. • when the proposed national instrument is notified under subclause (2), requiring the Minister to issue a summary of the reasons for the proposal, why it is consistent with the purpose of the national instrument, and how the matters for consideration have been addressed. • removing the requirement for the chief executive to consider “whether the proposal provides for 1 or more goals” in subclause 5(a) as this is sufficiently addressed by subclause 5(b).
PB cl 47 NEB cl 71 (DR3 recs 96–98, p 147)	These clauses would require plans under each bill to implement national instruments. We recommend amending these provisions (moved to PB new clause 45 and NEB new clause 69) to better focus on the requirement to implement national instruments, and consequential amendments to give effect to our earlier recommendations about the purpose of NPDs and national standards.
PB cl 48 NEB cl 73 (DR3 rec 99, p 149)	These clauses allow national instruments to direct plan provisions in land use plans and natural environment plans respectively. We recommend PB new clause 54 ensures a national standard may also contain plan provisions that must be included in regional spatial plans.
PB cl 50 NEB cl 74	These clauses outline the process by which the Governor-General, by Order in Council, could approve a national instrument on recommendation of the Minister.

(DR3 rec 101, p 150)	We recommend amendments to NEB clause 88 to acknowledge that the process to approve national instruments interacts with the limits framework when limits are set in national standards.
PB cl 53–57 NEB cl 77–81 (DR3 recs 103–108, p 157)	These clauses relate to the content of national policy direction. They are consolidated into PB new clause 48 and NEB new clause 72. We recommend: • amendments to specify that the requirement to have an NPD does not apply until the first NPD is made • adding that an NPD must include directives to achieve its purpose, may provide for other approaches relevant to the purpose of the NPD, and may include monitoring and review provisions • removing the ability for an NPD to include objectives and policies • making amendments to the definition of "directive" in clause 3 of both bills to include "the content of national policy direction" • removing the requirement for an additional report under PB clause 56 and NEB clause 80.
PB cl 58 NEB cl 82 (DR3 recs 109–110, p 159)	NEB clause 82 states that there must always be national standards. PB clause 58 states that there must always be national standards providing direction on the evidence base that supports combined plans, and on the establishment of standardised plan provisions. We see no need for the elaboration in the PB, and recommend deleting the subclauses. We also recommend amending the transitional provisions so that this requirement only takes effect after the first national standards are made.
PB cl 59 NEB cl 83 (DR3 rec 111, p 160)	These clauses set out the purpose of national standards. We recommend deleting PB clause 59(1)(d) and NEB clause 83(1)(d). They provide that a purpose of national standards is to specify direction on how a goal is to be achieved in relation to a matter that is not covered by an NPD. This is no longer needed.
PB cl 60 NEB cl 84 (DR3 recs 112–113, p 163)	These clauses set out what national standards could direct or require. We recommend minor amendments, for consistency with amendments discussed earlier (for example, national standards may provide direction to regional spatial plans). We also recommend: • stating in NEB new clause 77, for the avoidance of doubt, that national standards may contain content and directions relating to the allocation of resources • aligning PB clause 52 with PB clause 20 (so that new national rules override existing-use protections in relation to natural hazards, as provided for in clauses 20 to 22).
PB cl 62 NEB cl 90 (DR3 rec 116, p 164)	These clauses set out the circumstances in which the usual process would not be required for amending a national instrument. We recommend removing references to national adaptation plans in PB new clause 62A and NEB new clause 90.
PB cl 39 NEB cl 40 (DR3 rec 117, p 167)	These clauses set out what would be meant by instruments that are either more or less restrictive than a national rule. We recommend updating the meaning of PB clause 39(3) and NEB clause 40(3) to be clear that an instrument could be more enabling than a national rule in certain circumstances. For example, if it classifies an activity less restrictively than the national rule.

PB cl 41 NEB cl 42 (DR3 rec 119, p 169)	These clauses would establish the interaction between national rules and planning consents for the PB, and between national rules and natural resource permits for the NEB. We recommend better aligning these provisions and providing that a planning consent that is granted before the date on which a national rule is published prevails over the rule unless the rule expressly states otherwise.
PB cl 42 (DR3 rec 120, p 170)	This clause sets out when designation or construction project plans may prevail over national rules. We recommend amending PB clause 42 to specify that an existing designation would prevail over a national rule unless a national rule says it cannot, including for national rules that relate to contaminated land.

Regional spatial plans

PB clauses 64–74, Schedule 2

(DR3 recommendations 207–239)

All councils in a region would jointly prepare a regional spatial plan (RSP). RSPs are intended to set the strategic direction for growth and change in a region for a period of no less than 30 years. RSPs are one of the primary places where the two bills come together. The RSPs are designed to bring the national instruments from both bills into one coherent spatial plan for each region.

Land use plans (LUPs) and natural environment plans (NEPs) would be required to implement their relevant RSP. RSPs would provide direction to regional land transport plans and long-term plans. They would also interact with national infrastructure plans and policies.

To develop an RSP, councils would appoint a spatial plan committee. This committee would recommend the draft plan to the council or councils in the region. The councils would approve public notification and the opening for submissions. An independent hearings panel (IHP) would hear submissions and make recommendations to the councils. In some cases, they might make recommendations to the Minister or a designating authority. Clauses related to other plan making provisions and IHPs are dealt with in the next two sections of this commentary.

Our discussion below covers the following themes:

- defining regional spatial plans
- creating regional spatial plans
- transition to the new system
- committees and appeals
- adopting and reviewing regional spatial plans.

We are recommending restructuring to all provisions related to plans, so all types of plans across the bills work in broadly the same way. Therefore, some provisions for RSPs have moved between PB Part 3 and PB Schedule 2.

Defining regional spatial plans

PB clauses 64–74, Schedule 2, clauses 1–4

(DR3 recs 207–218, pp 254–269)

The mechanisms of how RSPs would work are set out in PB clauses 64 to 74. These clauses state that every region must have an RSP, the RSP's purpose, and the role of the spatial plan committee. Schedule 2 is dedicated to the preparation, review, and implementation of RSPs.

Purpose of regional spatial plans

PB clause 67

(DR3 rec 209, p 256)

PB clause 67 states the purpose of RSPs, including setting strategic direction for a region for no less than 30 years and coordinating decision making under the PB, NEB, and other relevant legislation.

The style of this purpose clause is at odds with other purpose clauses in the bills. We recommend making it more descriptive by only referring to subclause (a) as the key purpose of RSPs. We recommend moving the matters referred to in subclauses (b) to (e) to new clause 63C.

Form, contents, and general requirements of regional spatial plans

PB Schedule 2, clauses 1–4

(DR3 rec 217, p 269)

The first four clauses of Schedule 2 set out the form, contents, mandatory matters, and general requirements for the use and presentation of information in RSPs. First, we consider clause 1 redundant because there is an empowering provision for national standards to provide direction on the form of RSPs. We recommend deleting this clause.

Clauses 2 and 3 relate to the content of RSPs. We received feedback on how the clauses could be made clearer. Some submitters requested clarification of terms and the implications of different matters. Others sought additions to the list of mandatory content for spatial plans. Further, we note that the bills as introduced do not set out the core obligations of RSPs. It would be useful to address both matters. We recommend inserting new clause 67B setting out core obligations for the preparation of RSPs. This would be consistent with the approach taken for land use plans. These obligations should include that a RSP must:

- map, or otherwise record, the broad spatial layout of the region over the next 30 years or longer
- identify priority locations for growth and change
- identify drivers of change over time
- identify significant existing and future infrastructure

- identify significant constraints on using or developing the land or coastal marine area
- identify priority locations for climate change adaptation planning
- implement relevant national instruments under both the PB and the NEB in a way that helps to resolve any conflict between them.

We recommend moving how information should be used in an RSP into new clause 67C (as introduced in PB Schedule 2, clause 4). The level of detail should promote alignment between planning under the PB and the NEB, infrastructure planning, and investment decision making.

In addition, we recommend PB new clause 67B requires RSPs to record any of the following that apply in the region:

- statutory acknowledgements
- sites of significance to Māori
- customary marine title areas
- protected customary rights areas
- aquaculture settlement areas.

Spatial plan committee membership

PB clauses 71–73

(DR3 rec 214, p 264)

PB clauses 71 to 73 would require councils in each region to form a spatial plan committee. They also set out the membership and role of the committees, including that the Minister may appoint members. Each committee would appoint a chairperson and secretariat in accordance with any regulations.

We heard a range of views on the ability of the Minister to appoint members to spatial plan committees. Most who submitted were supportive of having an element of mandatory central government participation. They argued that it would be beneficial to share knowledge of national strategy, spending, and infrastructure planning.

We note that the PB would empower secondary legislation to mandate central government membership participation in the secretariats that would support spatial plan committees. However, as this would establish a new role and function, we agree with submitters that this matter is more appropriate for primary legislation. We recommend PB new clause 73A requires central government participation in each spatial plan committee's secretariat. Other detailed direction for secretariats could be set out in regulations, as provided for in new clause 67B(3)(c).

Other proposed amendments

As introduced	Description of proposed amendment
PB cl 64	This clause would require each region to have an RSP at all times.

(DR3 recs 207–208, p 254)	We recommend amending clause 64 so that the requirement for RSPs to align with regional boundaries does not prevent RSPs from focusing in greater detail on particular geographical areas. We recommend new clause 74D provides that territorial authorities of districts located in two or more regions must fully participate in the spatial planning process for one of the regions. They may, but are not required to, fully participate in the spatial planning process for other regions of which they are part.
PB cl 68 (DR3 rec 210, p 258)	This clause summarises the legal effect that RSPs would have on other plans, including on relevant operational provisions in the PB and the NEB. We recommend that consequential amendments be made to the Local Government (Water Services) Act 2025 to reflect the role water services strategies could play in implementing RSPs.
PB cl 69 (DR3 rec 212, p 264)	This clause would require local authorities in each region to create a “process agreement” setting out how they will prepare an RSP. We recommend amendments to this clause to: • require local authorities to agree their respective responsibilities for making decisions about recommendations from the IHP • require local authorities to agree how they will work with others to prepare an RSP (including who they will engage with and how) • clarify that local authorities must engage with central government, other local authorities, iwi authorities, infrastructure providers, development and sector groups, and communities when preparing a draft RSP before it is publicly notified • require the process for preparing an RSP to be in accordance with any applicable iwi participation legislation • require process agreements to set out how the spatial plan secretariat will be established and managed • allow local authorities to decide on amendments to the process agreement. We also recommend relocating these matters to PB Schedule 2.
PB cl 71–73 (DR3 rec 213, p 264)	These clauses relate to spatial plan committees. We recommend new clause 71 clarify the policy intent for spatial plan committees and secretariats by: • ensuring that all local authorities in a region are entitled to appoint at least one member of the spatial plan committee but may choose not to • specifying that clauses 30 and 30A of Schedule 7 of the Local Government Act 2002 apply to the establishment of new spatial plan committees • specifying that where local authorities choose to use an existing statutory committee (for example, one established under the Local Government Act), it must be a committee that has a regional planning function, and its existing arrangements and procedures continue to apply but must be modified to comply with the requirements in the PB.
PB cl 64–74 (DR3 rec 215, p 264)	Regulation-making powers for RSPs are set out with alongside their relevant provisions. We recommend amending these provisions to ensure that regulations may specify: • procedures and processes for spatial plan committees (beyond the appointment of a chairperson and secretariat)

	• the role, procedures, and processes for secretariats • procedures and processes for the process agreement, including time frames • relevant government policy statements and other statutory documents that will inform RSPs • the manner and procedure of dispute resolution • the content of, and procedures and processes associated with, an implementation plan (introduced as "co-ordination documents", see recommendation below).

Creating regional spatial plans

PB Schedule 2, clauses 5–14

(DR3 recs 219–224, pp 271–278)

The spatial plan committee would recommend the draft RSP to the local authorities in the region, who would then approve the draft plan for public notification. All local authorities would need to agree before a draft RSP is notified (unless a process agreement states otherwise), and regulations are expected to set out a dispute resolution process.

The Minister would have the ability to audit draft RSPs. This would ensure that the Minister can check the plan complies with the PB's requirements, or with national instruments made under the PB and the NEB.

We have no major changes to propose.

Proposed amendments

As introduced	Description of proposed amendment
PB Sch 2, cl 5 (DR3 rec 219, p 271)	This clause would require spatial plan committees to have regard to listed documents when preparing the draft RSP. It would become Schedule 2, new clause 6. We recommend amendments to the list of documents that the committee must have regard to, to improve their workability. We also recommend an amendment to clarify that this list does not prevent spatial plan committees from considering other documents and matters that they consider relevant.
PB Sch 2, cl 7 (DR3 rec 221, p 274)	This clause would require a spatial plan committee to invite designating authorities to seek a proposed designation or an indicative location for a future designation through an RSP. It would become Schedule 2, new clauses 12 and 13. We recommend amending this clause to: • state that the time frame for designating authorities to respond to an invitation is 20 working days or "any later deadline specified in the invitation" • clarify which designating authorities the spatial plan committee must invite to apply.
PB Sch 2, cl 9–14 (DR3 rec 223, p 278)	These clauses set out the process for preparing RSPs. These would be moved to Schedule 2, new clauses 15 to 18. We recommend:

	• removing the requirement for a spatial plan committee to prepare a draft RSP in accordance with consultation requirements applicable to joint committees under the Local Government Act 2002 • removing the requirement to prepare scenarios for the purpose of testing options • adding a requirement for spatial plan committees to identify the key drivers of demand or pressure likely to face the region, and their level of certainty, to inform the scope of an RSP. We also recommend: • amending the obligation on spatial plan committees related to "identified Māori land" so it would only apply when the potential location of the infrastructure, infrastructure corridor, or site may affect identified Māori land • enabling the councils to set a public notification and submission period for a draft RSP that is longer than the 20-working day minimum.

Transition to the new system

This section of our commentary covers transitional matters related to RSPs. We have set out broader transitional considerations in other sections.

The first iterations of key instruments in the new system would be in the following order:

- national policy direction (NPD)
- national standards
- RSPs
- LUPs and NEPs.

We discussed the sequencing of the first instruments in some depth. When the first RSPs are developed, NEPs and LUPs would not have been created. Various submitters were concerned that the first RSPs would be decided before ecosystem health limits are set through NEPs. They cautioned that RSPs could lock in development patterns before environmental constraints are known. The PCE provided similar advice. He advocated that environmental capacity should be understood and provided for before the first RSPs are made. The PCE expressed concern that making decisions on RSPs may restrict limit-setting, or create uncertainty and risk, if activities become non-compliant with limits that are set after those activities have begun. He advised that this risk would be exacerbated for designations, if they are proposed through the RSP process, before biophysical constraints are properly understood.

We acknowledge and share these concerns. We understand that the first RSPs may have gaps related to environmental limits. On the other hand, we consider it important that the transition to the new system is timely and reasonably simple for users.

Although we do not propose changing the sequencing of these various documents, we recommend several amendments to allay some of these concerns.

Incorporating information from land use plans and natural environment plans

PB Schedule 2, clause 6

(DR3 rec 220, p 272)

PB Schedule 2, clause 6 states that an RSP may incorporate information from the region's NEP and LUP about the state or characteristics of the environment. This would be moved to Schedule 2, clause 7. However, the first RSP will not have these lower-order instruments to draw from. As introduced, PB Schedule 1 did not include an equivalent transitional provision allowing the incorporation of information from RMA instruments.

We recommend that the first RSPs should be able to incorporate information from existing sources. We recommend adding a new transitional provision in Schedule 1 to allow the use of information about the state and characteristics of the environment contained in national direction, policy statements, and plans developed under the RMA. This could include information about constraints and environmental limits, where the information is consistent with the PB, the NEB, and national instruments. To streamline the process for this information, we recommend not requiring decision makers to consider any comment or submission on that information. They would still need to consider any comment or submission on whether the information in RMA instruments is consistent with the PB, the NEB, and national instruments.

Some submitters sought clarification that existing designations would be automatically included in RSPs. They argued that not including them would result in unnecessary duplication and litigation risk, given that those designations have been subject to scrutiny under the RMA. We agree and recommend providing that RSPs can show existing designations that are of strategic importance to the district, region, or country in PB new clause 67B.

Committees and appeals

PB Schedule 2, clauses 18–28

(DR3 recs 225–232, pp 282–286)

PB Schedule 2, clauses 18 to 21 set out how recommendations from independent hearings panels (IHPs) would be treated. Recommendations would have to be considered by local authorities and, where relevant, the Minister and designating authorities. With the restructure of Schedule 2, they become new clauses 24 to 28.

Minister may make decisions on recommendations relating to certain matters

PB Schedule 2, clause 19

(DR3 rec 226, p 283)

PB Schedule 2, clause 19 (new clause 27) would allow the Minister to make decisions on any IHP recommendations that relate to matters of national interest. Several submitters suggested this power be removed. They argued that it could potentially create adverse impacts such as disputes or delays. The PCE considers that if national instruments are appropriately directive, there should be no need for ministerial intervention at lower levels of the system.

We consider it appropriate for the Minister to have discretion regarding some elements of RSPs. We note that the power in clause 19 was included so that the central government could have input throughout the spatial planning process. However, we acknowledge that there is risk that the criteria for ministerial decision making in clause 19(1) could be interpreted more broadly than intended. We consider it appropriate to specify the areas in which the Minister's decision would prevail over the local authority's. We recommend amending the criteria in subclause (1) so that the Minister may only make decisions on IHP recommendations that relate to:

- the delivery, use, or renewal of nationally significant infrastructure and other assets that are or will be owned, or funded, by the Crown (in whole or part)
- nationally significant matters in the coastal marine area identified in a national instrument.

Other proposed amendments

As introduced	Description of proposed amendment
PB Sch 2, cl 18, 21 (DR3 rec 225, p 282)	These clauses would require a spatial plan committee to provide advice to the relevant local authorities on the IHP's recommendations on the draft RSP. Clause 18 moves to new clause 24, and clause 21 moves to new clause 25. We recommend amending these clauses to reduce the potential for delays in the decision-making process by: • requiring a spatial plan committee to provide advice on an IHP recommendation or recommendations only if, and to the extent that, advice is requested by one or more of the region's local authorities • clarifying that this function does not apply to IHP recommendations on proposed designations sought through the spatial planning process • requiring the spatial plan committee to provide its advice to the Minister and all local authorities in the region within the time frame set by the local authority that requested the advice • removing the requirement in clause 21(1) for local authorities to have received advice from the spatial plan committee before making decisions.
PB Sch 2, cl 19–21 (DR3 rec 227, p 283)	Clauses 19(5), 20(3), and 21(2) require decision makers to consider whether their decisions would be consistent with relevant PB requirements. Clause 19 would become new clause 27, clause 20 would become new clause 28, and clause 21 would become new clause 25. We recommend amending these clauses to better align with the equivalent provisions for LUPs, including by requiring the Minister and local authorities to make decisions in accordance with the relevant requirements of the PB, or to be satisfied that their decision would be in accordance with the PB. For better alignment we also recommend deleting the requirement for designating authorities to consider whether their decision is consistent with requirements of the PB.
PB Sch 2, cl 21 (DR3 recs 228–229, p 283)	This clause would require local authorities in the region to make decisions about IHP recommendations. Clause 21 moves to new clause 25. We recommend: • removing the requirement in clause 21(4) that local authorities must publicly notify their decisions within 40 working days of receiving the IHP report

	• enabling local authorities to apply to the Minister for an extension to the 12-month time frame for publishing their decisions about IHP recommendations for draft RSPs. This is provided for in new clause 26 of Schedule 2.
PB Sch 2, cl 24–28 (DR3 rec 231, p 286)	These clauses relate to the ability to appeal to the Environment Court. They would become new clauses 29 to 33. We recommend inserting wording into new clauses 29 and 30 to clarify that appeal rights apply to ministerial decisions on IHP recommendations (as well as to decisions of a local authority or local authorities).

Adopting and reviewing regional spatial plans

Schedule 2, clauses 29–35

(DR3 recs 233–238, pp 287–290)

PB Schedule 2, clauses 29 and 30 would require each local authority to adopt an RSP once all decisions have been notified and any appeals on decisions have been determined. These would be merged into Schedule 2, new clause 34. Clauses 31 to 35 relate to the review and amendment process for RSPs. They would be moved from Schedule 2 to clauses 74 and 74A. We propose one major amendment in this area.

Reviewing first RSPs in response to setting environmental limits

PB Schedule 2, clause 33

(DR3 rec 236, p 289)

PB Schedule 2, clauses 33 to 35 set out when RSPs may be reviewed and amended, and when this would be required. Clause 33 would require a spatial plan committee to give public notice at the start and completion of a review, and publish their review report.

As discussed above, we heard concerns that the first RSPs would be prepared before ecosystem health limits are set. Some submitters suggested that, rather than amending the sequencing, we could consider requiring the first RSPs to be reviewed once environmental limits are set. We like this suggestion. We recommend new clause 74(3) require spatial plan committees to consider new information from time to time, including information about the natural environment (such as environmental limits). Committees should consider new information and identify whether and when to initiate a review of an RSP. We tested this approach with our advisers. The PCE considered this an improvement but still recommended that a better approach would be to amend the sequence of plan making to “avoid [an] almost immediate review”.

Other proposed amendments

As introduced	Description of proposed amendment
PB Sch 2, cl 31 (DR3 rec 234, p 289)	This clause sets out when a spatial plan committee may review an RSP. Matters related to reviewing RSPs are moved from Schedule 2 to PB clause 74. We recommend adding a new customary marine title planning documents as a mandatory review trigger for RSPs in PB new clause 74(1).

PB Sch 2, cl 34 (DR3 rec 237, p 289)	This clause sets out the process for amending an RSP following the recommendation from a review. We recommend adding a high-level explanation of a review report in new clause 74(7). This should include that a review report should summarise the reasons for undertaking the review and whether amendments to the RSP are proposed as a result.
PB Sch 2, cl 36–38 (DR3 rec 239, p 290)	These clauses relate to the implementation of RSPs. They move from Schedule 2 to PB new clauses 73B to 73D. We recommend renaming "coordination documents" as "implementation plans". We recommend providing in new clause 73B that the role of a implementation plan is to support the implementation of an RSP. This would be through: • listing the actions required to implement the RSP • setting out details about the relative priority, responsible actor, timing and funding of each action.

Plans and plan making

PB clauses 63–85, 93–104, 292–293, Schedule 3, Parts 1–3; NEB clauses 91–98, 101–104, 112, 117–121, 332

(DR1 recommendations 15–58)

Types of plans

Plans are a key part of the proposed system. National standards would set out rules and standardised zoning provisions that councils would insert directly into plans. All regions would be required to have a regional combined plan. These would consist of:

- a regional spatial plan (RSP)—jointly prepared by councils and provided for in the PB. They would set the strategic direction for urban development and infrastructure over the next 30 years or more.
- a natural environment plan (NEP)—prepared by regional councils and provided for in the NEB only. They are intended to implement national instruments, the RSP, and nationally set environmental limits relating to human health. These plans would enable regions to develop environmental limits for ecosystem health.
- land use plans (LUPs)—prepared by territorial authorities and provided for in the PB only. These local-level plans would be used to implement the RSP, through the application of zones standardised across the country.

Standardised and bespoke plan provisions

Plans would contain provisions about zoning, district-wide rules, and overlays. Councils may use nationally standardised provisions or develop their own bespoke provisions. Nationally standardised provisions would be simpler for councils, as these provisions would require less evaluation and have limited submission and appeal processes (because these would have been consulted on higher in the "funnel").

If councils decide to create bespoke provisions, they would need to prepare a justification report outlining why they are deviating from the national approach. Proposed bespoke provisions would be evaluated through submissions, further submissions, and merits appeals.

Developing plans

PB Schedule 2 (RSPs) and PB Schedule 3 (LUPs and NEPs) set out the process for developing each type of plan. The approach is broadly based on the RMA, although more details would be established through regulations.

When developing plans, a council would be required to undertake targeted pre-notification consultation with specified groups. These groups include the Minister, any other affected Ministers, nearby local authorities, tangata whenua, and customary marine title groups. After this, councils would be able to notify the proposed plan, the evaluation report, and any justification reports.

Changing plans

Councils would be able to update an LUP or NEP to reflect any changes in an RSP or to give effect to national instruments. Plan changes follow the same process as developing a plan.

There are four types of plan changes:

- Council-initiated plan changes—used when a council needs to change a plan to reflect national instruments or local changes.
- Private plan changes—used when a person requests a plan change.
- Future plan provisions—these would enable land or land-use changes to occur in the future without a formal plan change.
- Plan change with planning consent—this would allow an applicant to seek the application of standardised plan provisions through a consent application.

Proposed amendments

In addition to our changes set out below, we are recommending moving certain clauses between the main body of the bills and the Schedules. As introduced, the provisions for each plan were drafted separately and are not always consistent. Our changes aim to make the provisions easier to follow and to have each plan take a similar approach, without changing the overall effect of these clauses.

Submissions on proposed plans

PB Schedule 3, clauses 18–22

(DR1 Rec 44(b), p 64)

Certain notified proposed plans would be open to public submissions. PB Schedule 3, clauses 20 and 21 relate to who can make further submissions on proposed plans and their content. We recommend an additional requirement—that a further submission in support or opposition to a primary submission can only be made on bespoke provisions. This would respond to submitters' concerns about the cost and limited value of further submissions. We think this change in clause 21(1) would make further submissions more targeted.

Grounds for rejecting requested plan change

PB Schedule 3, clauses 51–52

(DR1 Rec 56, p 74)

PB Schedule 3, clause 51 sets out the requirements and process for a local authority to decide how a requested plan change for an LUP will proceed. Clause 52 lists the grounds on which a local authority may reject some, or all, of a plan change request. It is important to note that clause 52 relates only to lodging and processing plan change requests, rather than the substantive decision-making process itself.

Many submitters proposed changes to the list of grounds for rejecting a plan change request. Most of their reasons were based on existing practices under the RMA. However, we note that many of these proposals do not align with the bill's intent to make private plan changes responsive to development capacity and changing environments.

Further, we consider that private plan change requests should be able to be evaluated on their merits once they have been lodged. Our view is that councils should have minimal grounds for rejecting and not processing a plan change request. We recommend deleting all the grounds for rejecting a plan change request in PB Schedule 3, clause 52, apart from paragraphs (b) and (e) which relate to timing of lodgement.

We note that paragraphs (b) and (e) would mean that change requests for provisions in plans set over the preceding two years would be rejected. This was carried over from RMA Schedule 1, clause 25. The proposed new plan-making process would require plans to be completed within one year from notification to decisions. We recommend that time frames for plan change rejections be shortened to 12 months to reflect this. We have also moved these provisions to clause 51(1)(c) as they no longer require their own clause.

Other proposed amendments

As introduced	**Description of proposed amendment**
PB cl 80 NEB cl 97 (DR1 rec 21, p 39)	PB clause 80 sets out the core obligations for territorial authorities when making decisions on their LUPs. NEB clause 97 does the same for regional councils for NEPs. We recommend: • excluding the effects of trade competition and trade competitors from consideration in the NEB • specifying that plans implement national direction to the extent permitted by clause 12 (PB and NEB) • replacing the reference to the Climate Change Response Act 2002 with a more general reference to adapting to the effects of climate change.
PB new clause NEB new clause (DR1 rec 24, p 42)	We recommend specifically enabling the PB and the NEB to have higher performance standards to manage the effects of surface water than provided for in the Building Act 2004. We recommend inserting PB new clause 83C and NEB new clause 103B.

PB cl 87 NEB cl 106 (DR1 rec 26, p 44)	These clauses specify what must be in evaluation reports before councils notify a proposed plan. We recommend an amendment to require that any deviation from the relevant RSP is required to be addressed in an evaluation report. We recommend moving this provision to PB Schedule 3, and removing it from the NEB (as PB Schedule 3 applies to both bills).
PB cl 97–98 (DR1 rec 30, p 50)	These clauses relate to the process for authorising changes to plan provisions. We recommend including a requirement in clause 98(2A) that the proposed changes cannot be inconsistent with an RSP.
NEB cl 121 (DR1 rec 35, p 54)	This clause provides for how an NEP would be treated if the boundaries of a region were changed. We recommend amending NEB clause 121 to use "natural resources" instead of "land" when referring to what is managed in NEPs following a boundary adjustment.
PB cl 292–293 (DR1 rec 36, p 55)	These clauses relate to joint regional and district planning documents and how they must be prepared and implemented. This mechanism might be used by smaller districts, such as Nelson and Tasman. We recommend moving these provisions to PB clauses 74E and 99A and NEB clause 116A, and allowing: • local authorities of two or more regions to prepare a joint RSP for their combined regions • two or more territorial authorities to prepare, implement, and administer a joint LUP for the whole of their combined districts • two or more regional councils to prepare, implement, and administer a joint NEP for the whole of their respective regions.
PB Sch 3, cl 17–22 (DR1 rec 44(a), (c), p 64)	These clauses relate to making submissions on plans. We recommend: • inserting a requirement into clause 18 that a submission or further submission cannot seek the withdrawal of the whole plan • specifying in clause 22 that councils have flexibility to strike out submissions, rather than being required to do so.
PB Sch 3, cl 23–25 (DR1 rec 44(e), p 64)	These clauses relate to the consideration of proposed plans by independent hearings panels (IHPs). We recommend inserting clause 23A to require a local authority to provide specific information to the IHP, no later than 20 working days after the closing date for further submissions.
PB Sch 3, cl 36 (DR1 rec 49, p 68)	This clause would prevent the complete withdrawal of a proposed plan being requested on appeal. We recommend amending clause 36 to specify that private plan changes are not subject to this restriction.
PB Sch 3, cl 48 (DR1 rec 54, p 71)	This clause sets out the circumstances in which a local authority may amend an operative plan without using the formal plan change process. We recommend amendments to clause 48 to clarify how information may be used to amend plans without a formal plan change.
PB Sch 3, cl 49 (DR1 rec 55, p 72)	This clause would allow any person, other than a local authority, to request a plan change in a prescribed manner.

	We recommend allowing applications on the joint matters of a plan change and an exchange of recreation reserve land. We recommend adding clauses 49A and 56(6A) to this effect.
PB Sch 3, cl 56 (DR1 rec 57, p 78)	This clause sets out the process that would apply where a local authority decides to process all or part of a requested plan change as a private plan change. We recommend inserting PB Schedule 3, clause 56(7A) to include that a rule in a private plan change has legal effect when the private plan change becomes operative.
PB Sch 3, cl 58 (DR1 rec 58, p 78)	PB Schedule 3, Part 3 provides for the legal effect of rules in proposed plans. Within this, clause 58 would enable most rules in a proposed plan to have legal effect on the date that the local authority notifies its decisions on the plan. We want to make it clear that, when a rule relates to significant historic heritage in the coastal marine area, it also has immediate legal effect. The changes we have made to PB clause 76, and elsewhere, clarify that LUPs would apply to the coastal marine area. This would ensure that the reference to significant historic heritage in Schedule 3, clause 58 would apply to the coastal marine area.

Independent hearings panels

PB clauses 294–295 and related clauses in Schedules 2–4; NEB clause 337

(DR2 recommendations 25–35)

An independent hearings panel (IHP) would be set up for each region to hear submissions about draft regional spatial plans and make recommendations. They would not have decision-making powers. IHPs would also be responsible for considering submissions and making recommendations on proposed land use plans and natural environment plans. Clauses in PB Schedules 2, 3, and 4 provide for the establishment and membership of the panels, and their roles in each of the plans. They are split as follows:

- Schedule 2–IHPs for regional spatial plans
- Schedule 3–IHPs for land use plans and natural environment plans
- Schedule 4–general provisions on IHPs.

Establishing IHPs

PB Sch 2, clause 15 and Sch 3, clause 23

(DR2 rec 26(b), p 51)

The PB would require local authorities to assign an IHP for draft regional spatial plans and proposed land use plans and natural environment plans. They provide for the IHP's functions, powers, and duties to be set by regulations.

Some submitters suggested that powers and duties of panels should be inserted into these clauses, rather than being set by secondary legislation. In our view, specifying these matters in primary legislation would be overly prescriptive. However, we consider that the primary legislation should more clearly indicate the matters that any regulations should cover.

Consequently, we recommend specifying in PB new clause 282A that regulation-making powers could cover:

- the appointment and powers of the chairperson
- the indemnity of panel members
- the term of the panel and individual panel members
- time frames
- processes that are relevant to the conduct of hearings.

We also note that Schedule 3 specifies that an IHP's functions are to conduct hearings and make recommendations. In the bills as introduced, this was not specified in the corresponding provision in Schedule 2. We recommend a minor amendment to Schedule 2, new clause 20 to align these provisions.

IHP may hold hearings

Schedule 3, clause 24

(DR2 rec 27, p 52)

Many submitters expressed concern that this clause, which allows (but does not require) IHPs to hold hearings on proposed plans, could undermine community participation and confidence in these important processes. They suggested that hearings should be mandatory if requested by submitters.

Ultimately, we are not proposing changes to this clause. However, we wish to note that we discussed this extensively with our advisers. Our overarching view is that IHPs, as independent experts, can decide for themselves whether hearings are appropriate for any proposed plan change process. We trust that they would exercise this discretion in a principled way. For example, we strongly expect IHPs to hold hearings for a full plan review, specifically focused on complex or controversial matters, without requiring the primary legislation to mandate this.

Other proposed amendments

As introduced	Description of proposed amendment
PB Sch 3, cl 25 (DR2 rec 28, p 53)	Schedule 3 would require a local authority representative to attend IHP hearings for land use and natural environment plans. There is no equivalent provision in Schedule 2 for hearings on draft regional spatial plans. In PB Schedule 2, new clause 22, we recommend requiring a representative of the spatial plan committee (or if delegated, the secretariat) to attend IHP hearings on the draft regional spatial plan.
PB Sch 2, cl 17; Sch 3, cl 26 (DR2 rec 29, p 55)	These clauses would require IHPs to make recommendations on a draft regional spatial plan within 40 days of hearings ending. Recommendations for land use and natural environment plans would have to be made 5 months after a summary of submissions is published. The clauses set out the matters that IHPs must consider. Schedule 2, clause 17 would move to Schedule 2, new clause 23. We recommend amendments that would: • remove time frames for making recommendations and allow local authorities to set deadlines on a case-by-case basis (noting that local authorities must still make final decisions within 9 months for the first regional spatial plans and 12 months for land use plans and natural environment plans, so will apportion time to IHPs accordingly)

	• require IHPs to make recommendations in accordance with the core obligations, use of information, and level of detail for regional spatial plans set out in PB new clauses 67B and 67C (moved from PB Schedule 2, clauses 2 to 4) • require that where the IHP makes recommendations on a proposed designation, it must comply with PB Schedule 5, clauses 24(1) to (3) as if it were the recommending authority for the purposes of that section.
PB Sch 4, cl 5 (DR2 rec 33, p 58)	This clause would allow the Minister to appoint one or more central government members to an IHP that is considering a proposed plan or private plan change. We recommend an amendment so that the Minister may appoint central government members to a panel assigned to a draft RSP as well.
PB Sch 4, cl 6–7 (DR2 rec 34, p 58)	These clauses set out the matters that would need to be decided and agreed when IHPs are appointed by local authorities. We recommend amending these clauses to clarify that elected members of a local authority cannot be appointed to an IHP. This supports independence of IHPs and better reflects the policy intent.

Transition

PB Schedule 1

(DR2 recommendations 104–125; DR3 recommendations 316–318)

Transitioning from one system to another is complex. A transition period would enable parts of the system to be gradually switched on, while retaining some elements of the RMA system for a period. PB Schedule 1 sets out the transitional provisions for both bills.

Commencement clauses provide that the "transition period" would begin one month following Royal assent of the bills. During this period all RMA national direction, policy statements, plans, and regulations would remain in effect.

Other areas of the RMA would be amended to create a "transitional consenting framework". It would include new "transitional national rules" being able to be made, some effects being out of scope, and new compliance and enforcement tools being available under the RMA. This is intended to begin implementing some aspects of the new system with minimal disruption, while national instruments and plans are developed.

We debated the merits and drawbacks of implementing a new system region-by-region or all at once. We note that the Natural and Built Environment Act 2023 intended to take the former approach. These bills set a preference for the latter. We consider this appropriate for how this system would work. It is simpler to plan for and beneficial for companies that operate in more than one area.

Creation of first key instruments

PB Schedule 1, clause 5

(DR3 recs 316–318, pp 382–383)

Key instruments would be developed during the transition period. National instruments and regional spatial plans would be able to come into force during the transition period. Once all land use plans and natural environment plans are notified, a date could be set for the end of the transition period.

As introduced, the sequence of events for key instruments would be:

- within 9 months after enactment—national policy directions (NPDs) finalised
- within 9 months after enactment—national standards set evidence base to support combined plans
- within 9 months after enactment—national standards set most human health limits
- within 9 months after enactment—national standards set methodologies for ecosystem health limits
- within 18 months after enactment—national standards set standardised provisions
- within 18 months after enactment—national standards set human health limits for land and soil
- within 15 months after enactment or 6 months after the first NPDs—councils notify draft regional spatial plans
- within 6 months after notification of draft regional spatial plans—regional spatial plans decided
- within 9 months after regional spatial plan decisions—draft natural environment and land use plans notified
- within 12 months after notification—natural environment and land use plans decided.

Submitters were primarily concerned that time frames for the first instruments to be notified and decided were too short. Local government entities and practitioners submitted that tight time frames would lead to low quality documents that would influence decisions at each level of the system for years to come. They also expressed uncertainty about how they would manage this at the same time as other local government reforms. PSGEs requested that the development of regional spatial plans not commence until Treaty settlements and related arrangements have been transitioned under clause 9. Others argued that the sequencing of instruments (particularly regional spatial plans being set before environmental limits in natural environment plans) could mean that decisions are made based on assumptions that may later have to be unwound.

We agree with submitters that the time frames are ambitious and would place particular pressure on local authorities. We also note that time frames for developing the first instruments are shorter than those for updating or replacing instruments once the system is up and running. In our view, this is inappropriate as it is likely that developing the first instruments would take more time, not less.

We propose extending the time frames for most of the first instruments, to more closely reflect those that would apply once the system is in place. Our proposal would extend the overall transition period by 9 months. This should ease the pressure on councils, and experts who would be advising them, as regions are more likely to decide their plans at different times. We acknowledge that there is a high likelihood that spatial planning would still begin before Treaty arrangements are fully agreed. However, it would allow more time for equivalency agreements to be set.

We recommend that the timings for the creation of the first key instruments be extended to:

- within 12 months (not 9) after enactment—Minister finalises national policy direction (NPD)
- within 12 months after enactment and not before NPD—national standards provide direction on structure and form of regional spatial plans (rather than standards setting the evidence base to support combined plans, that would have been within 9 months)
- within 18 months (not 9) after enactment—national standards set human health limits
- within 18 months (not 9) after enactment—national standards set methodologies for ecosystem health limits
- within 21 months (not 18) after enactment—national standards set standardised provisions for land use and natural environment plans
- within 21 months (not 15) after enactment or 9 months (not 6) after first NPD—councils notify draft regional spatial plans
- within 9 months (not 6) after notification of draft regional spatial plans—regional spatial plans decided
- within 9 months after regional spatial plan decisions (no change)—councils notify draft natural environment and land use plans
- within 12 months of notification (no change)—natural environment and land use plans decided.

PB Schedule 1, clause 7 sets out the transitional process for developing the first national instruments (as distinct from the transitional process for subsequent national instruments). Given that we are aligning the time frames, PB Schedule 1, clause 7 is no longer required and we recommend deleting it. We discuss other changes specific to the first regional spatial plans in our section on that plan type.

The Ministry for the Environment provided diagrams setting out what the amended timeline might look like if the PB and the NEB were passed in mid-2026. This indicated that the transition period could end in late 2029. It can be found on the Parliament website, alongside all the advice we received.

We also recommend amendments to insert a contingency mechanism in clause 4 that would enable the transition to proceed even if some regions have not developed their plans on time. This would ensure that the national transition is not affected by delays in one region or district.

Transitional consenting framework

PB Schedule 11, Part 2

(DR2 rec 123(b), p 154)

Under PB Schedule 11, Part 2, a new transitional consenting framework would be introduced through amendments to the RMA. It would come into effect one month after Royal assent and work by:

- applying new procedural principles
- providing that some effects would be out of scope
- providing that “transitional national rules” can have effect on RMA consenting during the transition period (similar to national environmental standards under the RMA)
- requiring consent decision makers to consider regional spatial plans that have been made under the PB
- removing the special circumstances test for notification.

Amendments would be made to RMA section 104 to set out that when considering an application for a resource consent, a decision maker must not have regard to certain effects—those that would be out of scope in the new system. We recommend inserting a provision into the RMA that enables district councils, during the transition period, to make targeted updates to RMA district plans to remove plan provisions relating to effects that are out of scope without having to use the standard plan change process. This would enable those effects to be removed from the system before reaching the consent decision-making stage, and may prevent unnecessary consent applications.

Transitional and savings regulation-making powers

The Regulations Review Committee wrote to us about Henry VIII powers—provisions that would enable secondary legislation to amend or repeal provisions in the primary Act. Regulations made under the bills related to transition and savings would expire 5 years after the relevant Act’s commencement date. Given the complexity of moving from the RMA to a new system, the Regulations Review Committee considered such powers appropriate in the circumstances. However, it suggested inserting further safeguards, such as the requirement for a statement of reasons.

We recommend inserting PB new clause 283A that provides for regulation-making powers related to the transition. In subclause (3), we propose including a safeguard for the Minister to be satisfied that the regulations are necessary or desirable for the orderly implementation of the PB, and are consistent with the purposes of the PB and the NEB.

Other proposed amendments

As introduced	Description of proposed amendment
PB Sch 1, cl 1–10	These clauses describe the overall approach to transition.

(DR2 rec 104, p 139)	We recommend: • clarifying the legal status of notified plans on and after the specified transition date • setting out the expectations as to when a region-by-region transition may apply • stating provisions where a territorial authority is located in more than one region, including the requirements for joint IHPs • providing that the spatial planning provisions in the Local Government (Auckland Council) Act 2009 cease to apply once a new regional spatial plan for Auckland has been adopted, rather than notified.
PB Sch 1, cl 5 (DR3 rec 317, p 382)	In addition to the time frame changes set out above, we recommend: • providing that later instruments cannot be issued before the earlier instruments in the system hierarchy, and clarifying that where two deadlines are given for the same instrument the later deadline applies • providing that reasonable efforts must be made to achieve the time frames for each.
Sch 1, cl 6 (DR2 rec 105, p 139)	This clause would allow an Order in Council to extend the time frame of the first key instruments under both bills. We recommend that this provision is consolidated in PB new clause 238A, along with the regulation-making powers in PB clause 281(1)(n) and NEB clause 307(1)(l). We also recommend adding in PB Schedule 1, clause 33 a regulation-making power to prescribe matters in relation to transitioning out of the RMA and the ability to amend national direction instruments made under the RMA.
PB Sch 1, new clause (DR2 rec 106, p 139)	We recommend providing in Schedule 1, new clause 17A targeted transitional provisions to confirm the continuation of existing use rights where RMA plan rules fall away.
PB Sch 1, cl 11–16 (DR2 recs 107–108, p 141)	These clauses set out transitional provisions for existing applications and approvals under the RMA and how they are to be treated during and after the transition period. We recommend: • setting out how each kind of application or approval is to be transitioned • ensuring consistency of terms where the policy intent is the same • setting out how applications and approval processes commenced under the RMA are to be continued on and from the specified transition date • making other changes to improve application of the transitional provisions. We also recommend including additional targeted transitional provisions to ensure continued operation of instruments and matters not currently provided for. These should be: • outline plans of works • consent reviews and changes to consent conditions • certificates of compliance • existing use certificates • existing privileges that are not required to comply with the RMA • permitted activities under the RMA, that would continue to be permitted.
PB Sch 1, cl 13	This clause would continue enforcement processes that exist under the RMA.

(DR2 rec 109, p 142)	We recommend ensuring in clause 13 and new clauses 13A to 13H: • that enforcement and compliance action can continue after the specified transition date for actions, events, contraventions, and offences that occurred while the RMA applied • that compliance instruments in force at the specified transition date continue to have effect, and that failure to comply with those instruments remains enforceable under the new system • that compliance instruments may be issued or made under the new system in relation to actions, events, contraventions, and offences that occurred under the RMA • that liability for offences committed under the RMA continues after the specified transition date, including where enforcement action is taken after the specified transition date • that compliance and enforcement functions, duties, and powers in the new system may be exercised in relation to actions, events, contraventions, and offences that occurred under the RMA • that the transitional provisions are flexible enough to support ongoing enforcement and remediation matters, including in relation to contaminated land.
PB Sch 1, cl 17 (DR2 rec 110, p 144)	This clause would extend the duration of consents that would expire during, or 24 months beyond, the transition period. We recommend providing that regulations may set consent durations between 24 and 48 months after the specified transition date. We recommend adding that, if an extension to a water consent under clause 17(2) would breach the 35-year limit, then the resource consent would be extended to the date 35 years from its commencement. We recommend excluding any resource consent for an activity associated with constructing or operating a wastewater network.
PB Sch 1, cl 18 (DR2 rec 111, p 146)	This clause would prevent councils from progressing replacement consent applications if processing has been suspended at the applicant's request. A new expiry date would still apply. We recommend providing that anyone operating under RMA section 124 immediately before the specified transition date can continue to operate from that point under PB clause 164 or that provision as it is applied by NEB clause 181. We recommend setting out in new clause 18A that while replacement consent applications may be placed on hold where the parent consent has been extended, they may be taken off suspension and processed at the applicant's request.
PB Sch 1, cl 23 (DR2 rec 112, p 147)	This clause relates to existing water conservation orders under the RMA and would provide for them to be continued into the new system with the same effect. We recommend inserting new clause 22A to provide for water conservation orders that are in progress through transitional provisions.
PB Sch 1, cl 25 (DR2 recs 113–114, p 147)	This clause would enable the continuation of specified regulations under the RMA. We note consequential amendments are needed to make regulations workable. We recommend that regulations continued by clause 25 be treated as if made under the relevant new Act, but with the following regulations revoked on the specified transition date (along with any other regulations that are appropriate to be revoked): • Resource Management (Forms, Fees, and Procedure) Regulations 2003

	• Resource Management (Discount on Administrative Charges) Regulations 2010. We also recommend adding a power in new clause 32 to make regulations to consequentially amend other regulations under other Acts.
PB Sch 1, new clause (DR2 rec 115, p 147)	Submitters commented that there were no transitional provisions for existing heritage orders. We recommend that transitional provisions for existing heritage orders be added in new clause 34.
PB Sch 1, new clause (DR2 rec 116, p 147)	We recommend adding savings provisions for coastal matters in new clauses 18E and 18F, similar to the Natural and Built Environment Act 2023 sections 77 and 78. This would ensure continuity of existing coastal authorisations and suspensions.
PB Sch 1, cl 26–28 (DR2 recs 117–118, p 148)	Clauses 26 and 27 would continue designations and requiring authority status from the RMA. Clause 28 would continue specific requiring authority approvals in Orders in Council. We recommend: • setting out that the previous terms and conditions continue to apply to designations transitioned through this clause • providing that clause 26(1) applies to an existing designation only until the relevant land use plan becomes operative • providing for how outline plans are to be treated under the new system • providing a transitional provision for applications to become a requiring authority. We note that there are inconsistencies in these clauses. We recommend deleting clause 28, and revising clause 27 as necessary to continue all requiring authority statuses.
PB Sch 1, cl 30–31 (DR2 recs 119–120, p 150)	Clause 30 would ensure the Environment Court continues. Clause 31 sets out that the Planning Tribunal would have a role in relation to RMA decisions during the transition period. We recommend deleting clause 30(2), and relying on section 33 of the Legislation Act 2019 to allow proceedings before the Environment Court to continue, even if they relate to legislation other than the RMA. We recommend amending the commencement of the Environment Court to be on Royal Assent of the PB. This would enable it to continue as the Act it is constituted under is updated. We recommend providing for objection processes underway at the time of the establishment of the Planning Tribunal, and objections to events that occurred prior to the establishment of the Planning Tribunal, to remain with the local authority.
PB Sch 11 (DR2 rec 121, p 150)	This schedule provides consequential amendments to the RMA, including providing for the role of the Planning Tribunal, which does not exist under that Act. We recommend amending Schedule 11 to give the tribunal the following functions from its establishment: • making declarations on the proper interpretation of the conditions of a consent • reviewing requests for further information or the commissioning of a report from a person applying for a resource consent or designation

	• reviewing extensions of statutory time frames based on special circumstances • reviewing decisions not to proceed with a resource consent because other consents are required • reviewing decisions to decline requests for permission to undertake work on designated land.
PB Sch 11 (DR2 rec 123, p 154)	In addition to the major change to Schedule 11 that we set out earlier, we recommend: • clarifying the provisions and terminology relating to “transitional national rules” • stating that the transitional amendments to RMA section 104 apply only to district land use activities during the transition period • including a deemed permitted activity pathway for district land use activities that would otherwise be permitted but for a trigger relating solely to an out-of-scope effect • making necessary changes to ensure that out-of-scope effects are not relevant in other parts of the consenting process, including for notification and information requests • refining the layout-related exclusions for the transition period to more clearly identify specific layout matters that are out of scope (for example, internal fitout and balconies) • amending RMA section 166 to add Health New Zealand and emergency services as new network utility operators, to align with the provisions for core infrastructure operators in the PB.
PB Sch 11 (DR2 rec 124, p 157	In relation to RMA planning requirements, we recommend: • extending the duration of the RMA regulation-making power to modify or remove plan provisions until the specified transition date • suspending the requirement for regional councils to map areas of highly productive land under the National Policy Statement for highly productive land until the specified transition date • removing the requirements under the RMA for councils to prepare a Housing and Business Development Capacity Assessment, or to prepare, review, implement, and update a Future Development Strategy • specifying that no new private plan change requests can be lodged or processed during the transition period unless an exemption is obtained from the Minister.
PB Sch 11 (DR2 rec 125, p 158)	Financial assurance provisions would commence one month after Royal assent, through amendments to the RMA during the transition period. We recommend removing the financial assurance provisions from consequential amendments to the RMA. However, we recommend ensuring that the financial assurance framework would commence for the purpose of developing national instruments and plans under the bills.

Regulatory relief

PB clauses 86, 92, Schedule 3, clauses 34, 62–75; NEB clauses 105, 111, 122

(DR3 recommendations 176–206)

The PB would introduce a new concept—regulatory relief. Regulatory relief is intended for landowners who are likely to have the reasonable use of their land significantly impacted by specified rules in a plan. Each local council would prepare its own regulatory relief framework set out in its land use plan or natural environment plan. The council would set out how relief would be assessed and provided. For example, a regulatory relief framework could result in monetary payments to the landowner, reduced rates, or extra development rights on other parts of their land.

Only certain types of land use controls (rules on “specified topics”) would give rise to regulatory relief considerations. Where a council intended to impose a rule about a specified topic, they would be required to consider whether that rule has a significant impact on a landowners’ reasonable use of land. Relief would be granted by assessing the impact against the council’s regulatory relief framework. Council actions regarding regulatory relief would be able to be challenged in the Environment Court.

There was a high level of interest in these provisions and hundreds of submitters shared their thoughts on the proposed regulatory relief system. Nearly all of these expressed opposition, with a few expressing mixed or supportive views. We discuss specific feedback from submitters below.

Specified topics

PB clauses 3, 86, 92; NEB clauses 3, 105, 111

(DR3 recs 176–180, pp 222–228)

PB clause 92 and NEB clause 111 signal the obligation relating to regulatory relief. However, the substantive provisions are set out in PB Schedule 3, Part 4. Obligations would be “where a rule in a plan or proposed plan relates to a specified topic” and relief entitlements “where that rule has a significant impact on the reasonable use of land.” We recommend removing the detail from these clauses and to simply refer to the matters set out in PB Schedule 3, Part 4 for regulatory relief obligations.

Specified topics are set out in clause 3 of each bill. Relief could be available for rules under the PB about:

- sites or structures of significant historic heritage
- sites of significance to Māori
- outstanding natural landscapes or features
- areas of high natural character in the coastal environment, wetlands, lakes, rivers, or their margins.

Relief could be available under the NEB for rules relating to:

- significant natural areas
- sites of significance to Māori
- terrestrial indigenous biodiversity.

Submitters argued that regulatory relief would create tension between these specified topics and national instruments because councils must account for both in their plans. They noted the potential cost of this regime and expressed concern that councils would be disincentivised to implement environmental or cultural protections if they may then be liable for regulatory relief. We received many requests to remove various topics from the specified topics.

We acknowledge the tensions and trade-offs for various specified topics, and appreciate the rationale for deleting individual specified topics. However, we consider that the existing list is needed to realise the purpose of the regime, and we recommend that specified topics remain largely as they are.

Terrestrial indigenous biodiversity and significant natural areas

NEB clause 3

(DR3 rec 179, p 227)

Many councils and Māori, community, and civil society groups were opposed to the inclusion of terrestrial indigenous biodiversity and significant natural areas as specified topics. These submitters argued that their inclusion for regulatory relief could deter recognition and protection of indigenous biodiversity. The PCE is concerned about a lack of good data on where important biodiversity is located. Therefore, he thinks that it would be difficult for councils to determine where restrictions should apply and what the cost of relief should be.

The majority of us do not wish to change the Government’s intent behind the inclusion of these topics. However, we consider it confusing to include both these topics, as they overlap. For example, significant natural areas are currently described in the National Policy Statement for Indigenous Biodiversity, while terrestrial indigenous biodiversity is not defined in the bills. We think the two topics should be combined. We recommend new topic (c) is “terrestrial indigenous biodiversity to the extent it relates to an identified area”.

Title clauses and key processes for councils

PB Schedule 3, clauses 62–67

(DR3 recs 182–193, pp 229–238)

Schedule 3, clauses 62 to 64 provide the context and first steps required under the regulatory relief regime. The next three clauses, 65 to 67, set out a duty to prepare a relief framework and what it must cover. We recommend some amendments in this area, set out below.

Proposed amendments

As introduced	Description of proposed amendment
PB Sch 3, cl 63 (DR3 rec 184, p 232)	This clause provides definitions for Part 4, regulatory relief. We recommend replicating the definition of “reasonable use” from PB clause 105 and NEB Schedule 3, clause 122, with minor changes to reflect the different context.
PB Sch 3 (DR3 rec 186, p 233)	We recommend specifying the word “adverse” in relevant provisions of Schedule 3 to provide that a person is eligible for relief where a specified rule has a significant adverse impact on the reasonable use of land.

PB Sch 3, cl 65–67 (DR3 recs 188–189, p 236)	We recommend that the heading and substance of clause 66 be amended so that "materiality" is deleted and replaced with the requirement to determine whether there are "significant" adverse impacts. We recommend that the heading and substance of clause 66 be amended so that references to materiality are removed and are replaced by the concept of assessing the significance of the impact. We propose amending clause 67 to clarify what constitutes significant impact. We recommend amending: • clause 67(a) to provide that both the types and levels of impacts are to be informed by the assessment in clause 66 • clause 67(a) and (b) to align and enable the levels of impact to be based on what the council considers is "reasonably likely to occur".
PB Sch 3, cl 66 (DR3 rec 190, p 237)	Clause 66(2)(a) would require a local authority to assess the materiality of impacts by considering the extent to which a specified rule "creates compliance costs or regulatory constraints that affects the reasonable use or enjoyment of land". We recommend removing the phrase "or enjoyment".
PB Sch 3, Part 4 (DR3 rec 193, p 238)	We consider that it would be useful to align the bill's use of "land", "site", and "property". We recommend amending PB Schedule 3, Part 4 so that these words are used appropriately in context and are consistent throughout the Part.

Transition and eligibility

PB Schedule 3, clause 68

(DR3 recs 194–197, pp 240–242)

PB Schedule 3, clause 68 sets out the eligibility criteria for regulatory relief. Clause 68(1) provides that a person would only be eligible if they own the land that is impacted by a specified rule in the plan, at the time that plan is made operative. Clauses 68(2) to (5) provide for exceptions to eligibility.

Clauses 68(6) to (8) relate to how regulatory relief would be introduced during the transition period. A person would be eligible for relief at the time the first plans are created if all the following apply:

- they owned the land when the most recent (district or regional) plan under the RMA was publicly notified
- that land was impacted by a similar provision in the most recent plan under the RMA
- the property has not changed ownership since the most recent plan under the RMA was notified.

Following the transition period, once the new system is fully in place, the duty to create a relief framework would only apply if a rule was substantially different to an earlier plan. A landowner is not intended to be eligible for relief if they received compensation relating to a substantially similar rule.

Submitters were generally opposed to the transitional provisions for regulatory relief. We heard from many councils that they considered the provisions to act retrospectively—eligibility is established through RMA plans, the majority of which have not been able to be updated since August 2025. They were concerned that this could reopen long-settled planning outcomes and impose significant administrative and financial burdens. Determining eligibility would require the council to establish when each property was purchased and what regulatory restrictions applied at the time.

As well as the amount of potential relief, councils argued that many landowners have already been provided regulatory relief through voluntary mechanisms under the RMA.

We were concerned about the feedback we received from submitters. Guidelines from the Legislation Design and Advisory Committee provide that "legislation should be prospective, not retrospective in effect". To understand more about whether these provisions would act retrospectively, we sought further advice from the Ministry for the Environment and our independent adviser, Bronwyn Carruthers KC.

Ms Carruthers found the provisions to be "neither retrospective nor transitional". She explained that regulatory relief would only be available if existing restrictions on the specified topics were rolled into a new plan. For example, if an RMA plan contains specific environmental protections and a council continues to implement a similar protection under the new system, regulatory relief could apply when the new system takes effect. Therefore, the relief legally exists under the new plan. The advice we received from the Ministry for the Environment made similar arguments. The majority of us are satisfied that regulatory relief provisions are not retrospective.

We also received advice from the ministry about the potential cost of regulatory relief as set out in the bills. A ministry-commissioned report from advisory firm Martin Jenkins estimated this liability to be between $7 million and $1.99 billion nationwide. This large range, which accounted for the specified topics in the bills as introduced, reflects that local authorities may take a range of approaches to setting their relief frameworks. The report concluded that the bulk of costs would sit in the transition period. The PCE added that costs could apply unevenly. For example, some regions with valuable indigenous biodiversity and a small rate-paying population could face a large implementation cost for regulatory relief.

We acknowledge that councils may feel apprehensive about how regulatory relief would work. The regime has been designed to require councils to carefully consider the impact of specified planning controls on landowners' reasonable use of land. Relief would only need to be granted when impact is "significant", and we would expect councils to factor in any voluntary relief mechanisms that have already occurred under the RMA. We also note that regulatory relief does not need to be monetary; other arrangements may be appropriate and less burdensome.

Proposed amendments

We recommend no substantive amendments to the transitional provisions in clauses 68(6) to (8). However, we consider it suitable these are grouped with other transitional provisions in PB Schedule 1. We recommend they be moved to Schedule 1, clause 37.

We have small amendments to other eligibility provisions.

As introduced	Proposed amendment
PB Sch 3, cl 68(3) (DR3 rec 194, p 240)	We recommend inserting new subclause (3) and (3A) to enable a person to submit on a plan and remain eligible for regulatory relief, unless that submission requests the application of a specified rule to their land.
PB Sch 3, cl 68(4) (DR3 rec 195, p 240)	We recommend inserting new subclause (4) so it is clear that a landowner with land impacted by a specified rule is not excluded from eligibility in respect of that land due to voluntary incentives relating to other land.
PB Sch 3, cl 64 (DR3 rec 205, p 249)	This clause would impose a duty to consider the impact of specified rules proposed in a plan. We recommend amending PB clause 64(1) to make it clear that eligibility under a regulatory relief framework arises in response to each specified rule and the impact of each specified rule on specific land. We also recommend specifying in clause 65(1)(b) that eligibility may arise from the cumulative impact of multiple "specified rules" in a plan over the same land. New clause 66(aa) would clarify that national instruments or regulations set criteria that apply when assessing the extent to which two or more specified rules collectively have a significant adverse impact.

Making and reviewing decisions

Schedule 3, clauses 69–75

(DR3 recs 198–205, pp 243–249)

Schedule 3, clauses 69 to 75 cover matters related to the relief framework and reviewing decisions. We recommend restructuring Schedule 3, Part 4 so that it aligns with the steps of the plan-making process. We have one other recommendation to highlight.

Types of relief

Schedule 3, clause 69

(DR3 rec 200, p 245)

PB Schedule 3, clause 69 sets out the matters a local authority must consider when developing and implementing its relief framework. Clause 70 sets out the nature that relief might take. We note the list in this clause is not exhaustive, and councils may opt for other forms of relief.

In addition to general comments about potential costs, we received submissions on relief mechanisms in clause 70, and how they may draw on council resources. As previously mentioned, it is important that types and scales of relief are determined by councils. To make this clearer, we recommend amending the phrasing from "relief need not be granted on a like-for-like basis" to "is not required to provide relief on an equivalent basis nor fully address any significant adverse impact of any specified rule". This new wording is reflected in new clauses 66A(3) and 73(3)(b). Clause 69 would be removed from the PB completely as part of restructuring these provisions. We are proposing some restructuring to regulatory relief provisions to make clearer what is required when making and implementing plans.

Other proposed amendments

As introduced	Description of proposed amendment
PB Sch 3, cl 71 (DR3 recs 201–202, p 246)	This clause describes the process for implementing a relief framework once a plan has become operative. In new clause 71A, we recommend enabling an eligible landowner to decline to receive regulatory relief in accordance with requirements prescribed in regulations. This approach would enable a person to "opt out" of receiving regulatory relief and ensures that a council can rely on a landowner's decision to decline relief. We recommend amending references to "affected person" in clause 71 to make it clearer that it aligns with "eligible person" and entitlement due to a relief framework in a plan.

Coastal matters

PB clauses 183–184; NEB clauses 88, 106, 113–116, 123, 220–222, 310–312, 321, Schedule 3

(DR3 recommendations 260–298)

The coastal marine area (CMA) refers to the foreshore, seabed, coastal water, and air space above the water. Currently, it is managed under the RMA, with interactions with other relevant legislation such as the Fisheries Act 1996. Matters related to the Marine and Coastal Area (Takutai Moana) Act 2011 are covered in our section on Māori interests and Treaty provisions.

In the new system, regional councils would primarily manage the CMA through natural environment plans under the NEB. Regional councils would also manage any relevant PB matters where activities take place wholly in the CMA. NEB Schedule 3 would carry over RMA and Natural Built Environment Act 2023 provisions for coastal tendering and occupation of space.

We received extensive submissions about the CMA from businesses, Māori organisations, and community groups. We heard concerns about the potential reallocation of resources held under existing permits, and how public access and the natural character and landscape of the coastal environment would be managed. We have discussed submitter comments about goals, allocation, and environmental limits in other sections of this commentary.

Interface with the Fisheries Act 1996

NEB clauses 88, 106, 113–114, Schedule 3, clauses 12, 18, 58

(DR3 recs 267–268, p 330)

Currently, the RMA and the Fisheries Act allow the effects of fishing on biodiversity to be controlled. The Fisheries Act provides for the utilisation of fisheries resources while ensuring sustainability. The RMA has a broader focus on managing and protecting the coastal environment generally. Recent amendments to the RMA have clarified and constrained the extent to which regional councils can control fishing to protect biodiversity and other related values.

We recommend that, rather than regulations setting out the details of how rules to control fishing can be made, the NEB and the PB be amended to include all these details. This would include the process requirements and constraints in the RMA, as amended by the Resource Management (Consenting and Other System Changes) Amendment Act 2025.

We also recommend inserting new clauses 84A and 84B to make clear that rules to control fishing may also be made under the PB. Any proposed rules would be subject to the same requirements and constraints as proposed rules to control fishing under the NEB.

Functions of regional councils

NEB clause 222

(DR3 rec 281, p 339)

NEB clause 222 lists the functions of regional councils in relation to the CMA. Within clause 222, subclauses (3), (4), and (5) are specifically about regional councils' functions relating to fisheries. We wish to make these clearer. We recommend stating that a regional council must not control the taking, allocating, or enhancement of fisheries resources in the CMA for the purpose of managing fishing or fisheries resources under the Fisheries Act. However, a regional council may control aquaculture activities in the CMA to avoid, minimise, or remedy the effects of aquaculture activities on fishing and fisheries resources. This would align with the RMA, including the 2025 amendments.

We note that the list of functions in subclause (4) is included elsewhere in the bill. We therefore recommend that the list be removed to avoid duplication.

NEB clause 222(3)–(5) contains references to the Minister of Conservation. We understand that the Minister of Conservation's current role in relation to these matters is limited to approving regional coastal plans. The new system does not include regional coastal plans, so we recommend that references to the Minister of Conservation be removed. Ministerial input to the "funnel" is provided for at the level of national instruments. This includes a requirement for the responsible Minister to consult the Minister of Conservation on any proposals that relate to the CMA.

Coastal occupation charges

NEB clause 321

(DR3 recs 282–283, p 340)

NEB clause 321 would require a regional council to consider whether a natural environment plan should include a coastal occupation charging regime (similar to RMA section 64A). Some submitters questioned how these charges would interact or overlap with natural resource levies. We consider natural resource levies to be a more effective tool (and discuss levies elsewhere in the commentary). Further, coastal occupation charging has been used very infrequently under the RMA. We recommend removing coastal occupation charging from the NEB.

Marlborough District Council has the only notified coastal charging regime currently in existence. We recommend adding existing coastal occupation charges to the RMA savings provisions in NEB Schedule 1 so they continue to apply until replaced by a natural resource levy.

Other proposed amendments

As introduced	Description of proposed amendment
NEB cl 3 (DR3 recs 260–264, p 326)	We recommend amending: • the definition of "aquaculture area" to state that it is an area established in a management plan for aquaculture activities • the references to the Minister of Conservation in the definition of "mouth" in NEB clause 3 to the responsible Minister for the NEB. We also propose inserting definitions of "open coastal water" and "space", using language from the RMA.
PB cl 17 NEB cl 18 (DR3 recs 265–266, p 327)	These clauses set out restrictions on activities in the CMA. We recommend including a provision like NEB clause 18(4)(a) in PB clause 275 and new clause 275A. This would allow the regulation of activities in, under, or over the CMA for PB matters. We recommend inserting PB new clause 17A and amending NEB new clause 18(7) to state that the carve-out for overflying aircraft applies to land use as well as use of the CMA.
NEB cl 113 (DR3 rec 269, p 332)	This clause would provide that a regional council plan may only include a rule to control fishing in the CMA if the rule was in the proposed plan when it was notified. We recommend that it be amended to state that, despite local authorities having the general power to make rules for classes of activities, the requirements for rules to control fishing would still apply to them.
PB Sch 3, cl 12, 58(3) NEB cl 106(3) (DR3 recs 270–272, p 334)	These clauses set out what regional councils must do when proposing a rule to control fishing in the CMA in a plan. Schedule 3, clause 12 would move to Schedule 3, new clause 10A. We recommend amending it to: • better align these clauses with the existing provisions in the RMA. This would include adding the specific requirements relating to pre-notification and evaluation reports for proposed rules that control fishing. • clarify that the Director-General of the Ministry for Primary Industries must not agree with a proposed rule to control fishing if it would adversely affect specified matters (which would be the same as RMA section 32(2A)(a)). • clarify that a submission must not seek to enlarge the area to which the rule applies or add any other area to which the rule would apply.
PB cl 183 NEB cl 220 (DR3 recs 274–276, p 336)	These clauses set out powers that the Minister of Conservation, rather than local authorities, would hold for specific islands. We recommend amending PB clause 183(1) and NEB clause 220(1) to state that the Minister has the responsibilities, functions, and powers that a regional council would have under the Act if the CMAs of the islands were within its region. We also recommend allowing the Minister to exercise the responsibilities, functions, and powers that a territorial authority (PB) or a regional council (NEB) would have if the islands were within that district.

	We recommend amending the PB, by adding new clause 104A, to provide that land use plans are optional for islands administered by the Minister for Local Government under section 22 of the Local Government Act 2002.
PB cl 184 (DR3 recs 277–280, p 338)	This clause describes territorial authorities' responsibilities. We recommend amendments to this clause and adding provisions that would: • provide that a regional council has all the responsibilities, functions, and powers that a territorial authority has under the PB in respect of matters wholly within the CMA (PB new clause 184A) • state that a territorial authority may regulate matters that are partly within its district and partly within the CMA (PB clause 184) • allow public access to be considered as part of an NEB coastal permit application (NEB new clause 158A) • remove the exclusion of clause 184(2)(h) from clause 184(4) (now PB new clause 184A(2)).
NEB cl 116 (DR3 rec 284, p 342)	This clause would place a restriction on classifying aquaculture as a permitted activity in the CMA. We recommend specifying that a permitted activity rule for aquaculture activities can only apply to a space that has a coastal permit which authorises aquaculture activities at the time the permitted activity is undertaken.
NEB cl 123 (DR3 rec 286, p 344)	This clause states that the provisions in Schedule 3 relating to coastal matters have effect according to their terms. We recommend amending PB Schedule 2, clause 35 to require regional spatial plans, land use plans in the CMA, and natural environment plans to be updated when new aquaculture settlement areas are gazetted or when the location or size of an existing aquaculture settlement area changes. Further, we recommend that PB Schedule 3, clause 48 provide that these updates can be made without using the full plan change process.
NEB Sch 3, cl 14 (DR3 rec 289, p 347)	This clause would enable the Minister to approve a method to allocate authorisations to occupy space in the common marine and coastal area, when requested by a regional council. We recommend requiring that the time period to which an allocation approval applies be specified in secondary legislation.
NEB Sch 3, cl 38–41 (DR3 rec 292, p 351)	These clauses relate to how regional councils may process and hear together applications for aquaculture activity permits. We recommend that these clauses be simplified, through merging clauses 40 and 41 into clause 39. We recommend enabling regulations to set out how councils must process and hear together any applications as required under a rule or *Gazette* notice.
NEB Sch 3, cl 63–71 (DR3 recs 296–297, p 356)	These clauses relate to reviewing extensions for marine farm coastal permits and port company coastal permits. We recommend they be removed as the relevant RMA provisions would continue to apply. These clauses were intended to carry over a bespoke review process for consents extended under the RMA. We recommend consequential amendments to RMA sections 165ZFHHA and 165ZFHI to provide that reviews of conditions for extended marine farm coastal permits would be required to start no later than the specified transition date.
NEB Sch 3, cl 72–80 (DR3 rec 298, p 358)	These clauses relate to reviewing the conditions of extended permits for coastal permits issued to port companies. We recommend they be removed. The clauses are not necessary because equivalent provisions of the RMA would continue to apply during the transition

	period, and after the transition date for any review processes that are yet to be completed.

Freshwater farm plans

NEB clause 125, Schedule 5

(DR3 recommendations 299–311)

The NEB would enable the use of freshwater farm plans. These were established in RMA Part 9A in 2020 and amended in August 2025. The NEB would mostly carry over the existing regime. Freshwater farm plans are used to control adverse effects from farming on freshwater and freshwater ecosystems within specified districts, regions, or parts of New Zealand.

Schedule 5, clauses 1 to 4 set out preliminary provisions for freshwater farm plans. Clauses 5 to 9 set out operational matters, including:

- the land use threshold for when a farm would be required to have a freshwater farm plan
- the main duties of farm operators
- the contents of a freshwater farm plan
- certification and audit requirements.

The final clauses, 10 to 15, of Schedule 5 provide functions of local and central government. Regional councils would conduct compliance and enforcement functions. The Minister would approve an industry organisation to provide certification and audit services.

Submitters expressed concern that these provisions could create unnecessary duplication with other regulatory mechanisms (including activity classes, consenting processes, or resource caps for environmental limits). They also asked how freshwater farm plans would recognise the potential role of grassroot approaches, such as catchment groups.

The PCE gave us detailed advice on freshwater farm plans. He recommended that freshwater farm plans, which he considers to be operational management tools, should be set in secondary legislation rather than primary legislation. He also told us that the relationship is unclear between freshwater farm plans and action plans for environmental limits. The PCE strongly suggested that we use the bills as an opportunity to place more emphasis on community-led action. He spoke to us about how catchment-scale plans could fill the gap between action plans for environmental limits and property-scale farm plans.

Overall, we support the flexibility that freshwater farm plans give farmers to manage their own risks. In our view, a freshwater farm plan would manage effects of lower-risk activities on farms, and natural resource permits would manage higher-risk activities. The use of natural resource permits and freshwater farm plans would also depend on the extent of improvements needed, or of overallocation in a catchment area (as identified through limit setting).

Proposed amendment

NEB Schedule 5, clauses 6–11, 15

(DR3 rec 307, p 370)

NEB Schedule 5, clause 8 describes the basic requirements of certification of freshwater farm plans. Regulations would prescribe which farms would require certification. Clause 9 would require a farm operator to arrange an audit of their compliance with their freshwater farm plan, whether certified or not.

Some submissions called for targeted auditing for higher-risk farms, or for making auditing random. We support the suggestion of making auditing more cost effective and risk based. We recommend amendments to Schedule 5, clauses 6, 9, 11, and 15 to only require an audit where certification is already required. As freshwater farm plans would continue to operate under the RMA during the transition period, we recommend updating consequential amendments to the RMA accordingly. Councils would still be able to utilise other compliance and enforcement functions, but only farm plans that are certified would be able to be audited.

Consenting and permitting

PB clauses 107–130, 137–180, Schedule 6; NEB clauses 129–143, 154–202, Schedule 2

(DR1 recommendations 59–112)

Together, consenting and permitting refer to the processes of obtaining approval to undertake an activity. The PB would operate under the assumption that land use is permitted unless specifically restricted. Therefore, consent would be required where a land use activity contravenes a rule.

The NEB would operate under the assumption that use of natural resources is restricted unless allowed. A permit would be required unless the use of a natural resource is expressly allowed by a rule. Rules would be set in the relevant plans or as part of national standards.

We deal with notification, hearings, and submissions on consents and permits in the next section.

The bills would set statutory time frames for councils to process consent and permit applications. Regulations would be able to set shorter time frames. There are pathways for an applicant to ask the Planning Tribunal to review decisions made in the processing of consents and permits. An applicant may appeal decisions to the Environment Court.

Generally, consents under the PB would have an unlimited duration. Under the NEB the maximum duration is:

- unlimited for land use or coastal permits for reclamation
- 50 years for permits for structures in the beds of lakes and rivers or the coastal marine area
- 35 years for other activities.

Deferral pending application for additional consents or permits

PB clause 116; NEB clause 137

(DR1 rec 73, p 93)

PB clause 116 and NEB clause 137 would allow a council to defer the processing of a consent or permit if the broader proposal would also require additional consent or permit applications, and those additional applications would give a better understanding of the overall proposal.

As introduced, the clauses do not apply across the two bills. For example, a consent authority cannot defer a consent application that has pending additional permits applied for under the NEB. Many councils submitted that “cross-Act deferral” would be a helpful function and would ensure that proposals are assessed and notified as complete projects.

We are concerned that cross-Act deferral in this instance would undermine a system designed to treat land use and natural environment matters separately. Regulations would be empowered to prescribe procedural matters for consent and permit processing. We expect regulations would include the reasons for which an application could be suspended, including when an applicant requests it. This would allow an applicant to undertake their own due diligence and consider if additional approvals are required.

To make it clearer when in the process a deferral decision would be made, we recommend amending PB clause 116(2) and NEB clause 137(2). A deferral decision would need to be made before a notification decision or a hearing, but would not require an application to be notified or a hearing to be held.

Natural hazard risks

PB clause 146; NEB clause 163

(DR1 rec 84, p 109)

PB clause 146 and NEB clause 163 would enable a consent or permit authority to refuse a planning consent or land use permit on the basis of significant risk from natural hazards. Alternatively, the authority could grant a consent or permit with conditions, based on the natural hazard risk. These are similar to provisions introduced to the RMA in August 2025.

Certain exclusions would apply to these protections for natural hazard risks. PB clause 146 would not apply to land use consents for infrastructure or primary production activities. NEB clause 163 would not apply to land use permits for primary production activities. We note an omission in the NEB as introduced: the exclusion for infrastructure was designed to apply to both bills, as it is in the RMA. We recommend inserting this exemption into NEB clause 163(4).

We received submissions from local authorities, legal bodies, and technical organisations expressing concern about the exclusions for infrastructure and primary production activities. The PCE was similarly concerned about the exclusion of certain activities from natural hazard risk conditions. He noted the increase in effects in recent years from natural hazards and was concerned that councils might not be able to prevent activities in the highest-risk areas. On the other hand, primary sector organisations and infrastructure providers were supportive of the exclusions.

We acknowledge these concerns about potentially allowing activities where they could be at significant risk from natural hazards. We consider it appropriate that broad exclusions are outlined in primary legislation, but we wish to add the ability to narrow these exclusions through national standards. We recommend amending PB clause 146(4) and NEB clause 163(4) to state that national standards prevail over exclusions for primary production and infrastructure. This would enable exclusions to be targeted and adaptable depending on the natural hazard risk profile and the infrastructure or primary production activities proposed.

PB clause 146(3) and NEB clause 163(3) would set requirements for assessments of the risk from natural hazards. We recommend replacing these subclauses with (1A), and providing for assessment methods prescribed in national standards to take precedence over those set out in primary legislation. This is to ensure the risk assessment process can be consistent with nationally prescribed methodologies as they evolve over time.

Precautionary principle in the NEB

NEB clause 166

(DR3 rec 312, p 374)

As introduced, NEB clause 166 would require a permit authority to favour caution and environmental protection when deciding whether to approve a permit application. This would only be if available information was uncertain or inadequate. Clause 166 also provides that, if that approach meant that the permit was likely to be refused, the permit authority must consider whether an adaptive management approach would address the concerns arising from the uncertainty or inadequacy of the information.

We received mixed feedback on this clause. Some submitters noted that the precautionary principle used under the RMA had been developed through case law and the focus on uncertainty of information may result in this principle being applied incorrectly.

We note that national instruments would be able to apply a precautionary principle for specific areas, or for specific activities or resource uses. Our view is that the national instrument setting process has the flexibility to consider and set precautionary principles as appropriate. The majority of us think there is no need to set a precautionary principle in primary legislation. We recommend deleting NEB clause 166.

Other proposed amendments

As introduced	Description of proposed amendment
PB new clause NEB new clause (DR1 rec 62, p 86)	Several submitters noted that there was no equivalent provision to RMA section 42A. This section allows councils to require the preparation of a report on information provided by an application or submitter on specified matters, including plans and applications for resource consents.

	We recommend inserting PB new clause 286C and NEB new clause 320C to act as equivalents to RMA section 42A.
PB cl 109 NEB cl 130 (DR1 rec 66, p 88)	These clauses set out how to apply for a planning consent or natural resource permit. We recommend linking the proportionality of information required in applications to the scale and significance of the "effects of the activity" proposed, rather than the "matter" to which the application relates.
PB cl 111 NEB new clause (DR1 rec 68, p 90)	PB clause 111 would enable a person to make a joint application for a consent and the exchange of recreation reserve land under the Reserves Act 1997. This would only be allowed when the consent authority also administers the reserve land and agrees to a joint process. We recommend inserting NEB clause 131A to include equivalent provisions for permits.
PB cl 115 NEB cl 135 (DR1 rec 72, p 92)	These clauses describe the circumstances when a consent or permit authority would be able to deem an application incomplete and could return it to the applicant. We recommend specifying that a consent authority could determine an application incomplete if it does not include information prescribed in regulations.
PB cl 117 NEB cl 138 (DR1 rec 74, p 95)	These clauses set out the maximum processing times for planning consents and natural resource permits. We recommend including a maximum processing time frame of 50 working days for a non-notified consent or a permit with a hearing.
PB cl 118 NEB cl 139 (DR1 rec 75, p 97)	These clauses would require consent or permit applications for specified energy activities or wood processing activities to be decided within one year of the application being lodged. We recommend inserting a definition of "wood processing activity", based on the current RMA definition, in clause 3 of both bills.
PB cl 119–122 NEB cl 140–143 (DR1 rec 76, p 99)	These clauses relate to consent or permit authorities requesting further information or reports in support of an application. We recommend three amendments to these clauses: • specifying that requests for further information or reports must be "sufficient and necessary" to understand the effects of the activity • adding provisions so that councils can request further information if this is necessary due to materially new information, or there is a change to the application, or the applicant agrees • specifying that, before a report can be commissioned, the authority considers the activity may have significant adverse effects.
PB cl 139 NEB cl 156 (DR1 rec 79, p 103)	These clauses set out matters that a permit authority must or may have regard to when considering an application. We recommend removing the requirement for a consent or permit authority to consider any relevant provisions of the regional spatial plan for discretionary activities.
PB cl 145 NEB cl 162 (DR1 rec 83, p 107)	These clauses would enable a consent or permit authority to have regard to an applicant's compliance history when considering their application. We recommend: • amending these clauses to allow a council, when considering a consent or permit, to have regard to any abatement notice, infringement notice,

	enforcement order, or conviction received by a person under the RMA or the other bill • adding pecuniary penalties to the list of compliance history matters.
PB cl 148 NEB cl 165 (DR1 rec 86, p 111)	These clauses set out how a consent or permit authority may determine the result of an application. We recommend inserting PB new clause 149A and NEB new clause 167A to enable a consent or permit authority to grant a consent or permit that does not comply with a water services standard where a provision in a plan, or proposed plan: • gives effect to Te Ture Whaimana o Te Awa o Waikato	the Vision and Strategy for the Waikato River • is more stringent than the water services standard.
PB cl 150 NEB cl 168 (DR1 rec 88, p 113)	These clauses set general requirements that councils must satisfy before including conditions in consents or permits. We recommend specifying that a consent or permit authority must not impose a condition unless it is one of the following: • agreed to by an applicant • to manage adverse effects • directly connected to provisions in a plan or national rule.
PB cl 152 NEB cl 170 (DR1 rec 90, p 115)	These clauses would enable an applicant to request a review of any draft conditions of a consent or permit. We recommend inserting a maximum time frame of 10 working days for an applicant or submitters to provide their comments on draft conditions, and removing the restriction that processing time frames can only be suspended once.
PB cl 157 NEB new clause (DR1 rec 94, p 117)	This clause would provide that a planning consent granted before a stormwater or wastewater environmental performance standard prevails over those instruments. We recommend inserting an equivalent provision into NEB new clause 174A.
PB cl 163 NEB cl 178–180 (DR1 rec 98, p 121)	These clauses relate to the duration of planning consents and natural resource permits. We recommend amending PB clause 163 to state that the default duration is unlimited, unless otherwise specified in the consent. We recommend amending NEB clauses 178 to 180 to: • provide that the default duration of a land use permit is unlimited, unless otherwise specified in the permit • extend the 50-year maximum duration for structures to long-lived infrastructure that occupies the beds and lakes of rivers, or the coastal marine area • specify that permits for activities that meet the requirements of a wastewater or stormwater environmental performance standard, or an infrastructure design solution, must be granted for a period of 35 years • include a definition that sets out that a “relevant group” means a group who may or must be involved in planning or permitting processes under the NEB because of Treaty settlements, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or the Marine and Coastal Area (Takutai Moana) Act 2011.
PB cl 165	PB clause 165 sets out when a consent lapses. It is cross-referenced in the NEB.

NEB cl 181 (DR1 rec 99, p 123)	We recommend amending PB clause 165 to provide that an application to extend a lapse date must be lodged at least 20 working days before the consent is due to lapse.
PB cl 168–173 NEB cl 186–191 (DR1 rec 101, p 127)	These clauses relate to the reviewing of consent and permit conditions by the relevant authorities. We recommend enabling a council to review the conditions of a natural resource permit, for an activity that is regulated by a wastewater or stormwater environmental performance standard, when that standard is made or amended.
NEB cl 196 (DR1 rec 105, p 130)	NEB clause 196 would enable a discharge permit to be transferred by the holder to different owners or occupiers of the same site, or to another site if allowed by a plan. We recommend including that, if a transfer is not allowed by a rule, it must be authorised through a permit process.
PB cl 178 NEB cl 200 (DR1 rec 107, p 131)	These clauses would enable a person to apply to a consent or permit authority for a certificate of compliance for activity that may lawfully be carried out without a consent or permit. We recommend: • enabling consent or permit authorities to correct minor mistakes or defects in a certificate of compliance within 20 working days of the certificate being issued • specifying that a certificate of compliance must be issued within 20 working days from the date a certificate is requested, or from when further requested information is received.
PB cl 179 NEB cl 201 (DR1 rec 108, p 132)	These clauses would enable a person to request a consent or permit authority to issue an existing use certificate. We recommend specifying that an existing use certificate must be issued within 20 working days from the date a certificate is requested, or from when further requested information is received.
PB Sch 6, cl 1–4 NEB Sch 2, cl 1–4 (DR1 rec 111, p 135)	These clauses set out the information required in an application for a consent or a permit. We recommend removing PB Schedule 6, clause 1 and NEB Schedule 2, clause 1 as they are duplications. As introduced, there were omissions from the PB. We recommend: • including provisions from NEB Schedule 2, clause 3(c) in PB Schedule 6, clause 3(c) • including provisions from NEB Schedule 2, clause 4 in PB Schedule 6, new clause 4A.

Notification, submissions, and hearings

PB clauses 123–136; NEB clauses 144–153

(DR3 recommendations 248–259)

Notification, submissions, and hearings processes are used to assess consent and permit applications. Notifying people about a proposed activity allows affected persons to participate in decision making by making a submission or, in some cases, sharing their views at a hearing. Under the RMA, relatively few activities are required to be notified. For example, 1.3 percent of all projects were publicly notified in 2023/24.

The PB and NEB would require mandatory public notification where:

- an applicant requests it
- an applicant fails or refuses to respond to a request for further information
- a national rule or a rule in a plan requires it
- an application is made jointly with an application to exchange recreation reserve land under the Reserves Act 1977 (PB only).

Only a qualifying resident, or a person who is not a qualifying resident but is an affected person, would be able to make a submission on an application that is publicly notified.

If mandatory public notification does not apply, an application would be required to be notified to targeted groups:

- affected protected customary rights groups
- affected customary marine title groups
- persons to whom statutory acknowledgements area are made (if they are an affected person)
- affected persons (if they can be identified).

An affected person is defined as a person who will, or is likely to, experience more than minor adverse effects from an activity. If targeted notification does not happen because there are no affected persons or because none can be identified, public notification may be required. It would be required if:

- a consent application under the PB is likely to have adverse effects that are "more than minor"
- a permit application under the NEB is likely to have adverse effects that are "significant".

Most submitters were opposed to narrowing the situations for public notification, and limiting public submissions to qualifying residents. They suggested that this would risk undermining confidence in the proposed system. Local government, Māori groups, and environmental organisations were critical of the "significant" threshold for public notification of natural resource permit applications. They were concerned about reducing participation rights. Councils also told us that being required to verify "qualifying residents" would increase administration costs and litigation risks.

We consider it is appropriate to increase the thresholds for notification. The new system is designed for public participation to take place at higher levels of the "funnel", primarily in the development of national instruments. We have no major recommendations to make, but propose amendments to improve clarity and workability.

Proposed amendments

As introduced	Description of proposed amendment
PB cl 125 NEB cl 146	These clauses set out notification requirements that consent or permit authorities must follow if notification is not mandatory.

(DR3 rec 250, p 307)	We recommend requiring mandatory public notification of NEB permits for applications made jointly with an application to exchange recreation reserve land under the Reserves Act 1977.
PB cl 125 NEB cl 146 (DR3 rec 251, p 309)	These clauses set out notification requirements if public notification is not mandatory. We recommend allowing regulations to prescribe procedural matters for identifying affected persons, including process steps and circumstances when it is impractical to identify affected persons.
PB cl 126 NEB cl 147 (DR3 rec 252, p 310)	These clauses would require a consent or permit authority to publicly notify an application if it has requested further information from an applicant, and the applicant does not fulfil the request. We recommend deleting these provisions. The bills provide other mechanisms that encourage applicants to respond to requests for further information, such as providing that an application may be treated as incomplete and returned if an applicant fails to respond.
PB cl 127 (DR3 rec 253, p 311)	This clause sets out what must and may be considered when determining whether adverse effects are likely to be more than minor (and therefore meaning the application must be notified). We recommend removing the ability for a consent authority to consider whether adverse effects are consistent with those anticipated by a land use plan or a regional spatial plan in this process.
PB cl 128 NEB cl 149 (DR3 rec 255, p 315)	These clauses define “affected person” for the purpose of targeted notification. We recommend amending NEB clause 149 to specify that it is the effects of an activity on the persons within a management unit that are relevant, rather than effects on a management unit itself. We also recommend amending this clause so a person does not need to reside within a management unit to be considered an affected person.
PB cl 132 (DR3 rec 258, p 318)	This clause sets out that a submission must be in a prescribed form and make a case that is reasonable and relevant to the application. We recommend removing clause 132(2)(b), related to treatment of submissions that do not meet requirements. Treating a submission as invalid, regardless of whether it is struck out, may raise natural justice concerns as there is no right to review that decision. In practice, consent authorities are unlikely to give weight to submissions that do not disclose a relevant case.
PB cl 134–136 NEB cl 153 (DR3 rec 259, p 322)	These clauses relate to hearings. We recommend amendments that would: • enable a consent authority or commissioner to direct parties to attend a conference or mediation, and direct experts to attend a conference • specify that a consent authority or commissioner may decline to process an application or consider a submission if an applicant or submitter fails to attend a conference or mediation and does not give a reasonable excuse • provide further direction on a “joint hearing” and “combined hearing” • only require a decision by a commissioner if the applicant requests it or a hearing is required.

Allocation

NEB clauses 87, 99–100, 136, 182–184, 204–214, 223, 309, 316, 327

(DR3 recommendations 240–247)

The NEB would enable a framework for allocating the use of natural resources. Allocation methods could be set through national instruments and plans. Allocation clauses do not have a standalone area of the bill, and are located where relevant.

Existing allocation methods in the RMA would be retained. Two new methods are proposed, but as explained below we are recommending that both be removed.

Regulations may also establish a new process for reducing allocations in existing permits. The NEB includes a preservation clause confirming that it would not create, transfer, extinguish, or determine any proprietary or customary rights, or interests in freshwater or geothermal resources.

Allocation methods retained from the RMA

NEB clauses 99, 136, 182–184, 223, 327

(DR3 recs 242–247, pp 297–302)

Clauses in the NEB would retain existing allocation methods from the RMA. They could be used from enactment and include:

- allocation through rules (such as permitted activities) that can be to activity types (such as public drinking water)
- “first-in, first-served” for deciding permits
- priority for existing permit holders when permits are replaced.

Proposed amendment

NEB clause 223

(DR3 rec 245, p 300)

NEB clause 223 sets out the natural resource uses that regional council have responsibility for allocating. We recommend including the damming of water.

New allocation methods and processes

NEB clauses 87, 100, 204–214, 316

(DR3 recs 240–241, pp 294–295)

The NEB would introduce two new methods for the allocation of natural resources:

- market mechanisms (auctions and tenders)
- a process enabling comparative assessment of competing permit applications.

These methods could only be used if permitted by a national instrument. This would allow operational policy detail to be developed, enable consideration of impacts on existing users, and provide an opportunity to consider Crown assurances on Māori rights and interests in freshwater and geothermal resources.

Submitters expressed mixed views on the proposed new allocation methods. They were most concerned about market-based allocations, and told us the process would likely be unfair, inequitable, and inefficient. Although many acknowledged issues with the “first-in, first-served” method under the RMA, they were particularly concerned about the lack of detail for the new methods and how they would be transitioned to. We also heard that reforming allocation methods before resolving Māori freshwater rights and interests could reinforce current inequalities, would be inconsistent with te Tiriti o Waitangi, and could prejudice the ability to resolve rights in the future.

We have considered these issues in detail. On balance, the majority of us recommend that the clauses that would enable market-mechanisms and comparative assessment of permit applications should be removed from the bills.

Regulation-making powers

NEB clause 309

(DR3 rec 246, p 301)

Clause 309 would enable the making of regulations to prescribe a process by which a permit authority may carry out a review of the conditions of a permit that relates to the allocation of a natural resource. We recommend amending clause 309(1) so that the regulations made can only be used by permit authorities if required by a national instrument or plan.

Central and local government functions

PB clauses 182–213; NEB clauses 215–235, 240, 317

(DR2 recommendations 1–24)

The bills set out the various functions of different actors. The Minister responsible for each bill has certain functions, some of which may be delegated to central government agencies. Local government also has specific functions.

In this section, we discuss our proposed changes to ministerial functions, ministerial powers, system performance, and the role of local government.

Ministerial functions

PB clause 182; NEB clause 215

(DR2 rec 1, p 20)

PB clause 182 and NEB clause 215 list various functions of the Minister under each bill. These are set out separately from the functions the Minister has under specific provisions of each bill. We have no major policy changes to recommend, but instead some improvements to the workability of the clauses. We recommend:

- amending NEB clause 215(b) to expressly refer to the making, revocation, or amendment of water conservation orders
- amending NEB clause 215(f) to refer to "any significant natural environment or natural resource matter"
- inserting PB clause 182(fa) to include the monitoring and investigating of any significant land use or planning matter

- inserting NEB new clause 215B to set out the function of the Minister responsible for aquaculture.

Ministerial powers

PB clauses 184–200, 208–209; NEB clauses 22, 227, 229–239

(DR2 recs 2–12, pp 22–30)

Together, these clauses establish the functions of the responsible Minister. They also enable the Minister to delegate some functions, powers, or duties to the chief executive, and powers to intervene if a local authority has failed to perform their relevant functions, powers, or duties under the Acts. Intervention powers are largely similar to those of the RMA, with a few additions.

Minister may direct local authority to achieve outcome

PB clause 204

(DR2 rec 6, p 26)

PB clause 204 would enable “the Minister to direct a local authority to take any action that the Minister considers necessary to achieve an outcome specified by the Minister in the direction.” We understand that the clause was intended to apply broadly to functions of local authorities under the PB, but outside the plan-making processes. We agree with submitters that the meaning of “an outcome” is ambiguous. We recommend amending clause 204(1) by replacing “achieve an outcome” with “address any issue with the local authority’s exercise or performance of its relevant functions, powers, or duties.”

Minister may make grants and loans

NEB clause 317

(DR2 rec 12, p 30)

NEB clause 317 would allow the Minister to make grants and loans to any person to assist in achieving the purpose of the Act. We recommend deleting this power. It was carried over from the RMA, but we do not consider it useful in the NEB because:

- the bill has a broader purpose than the RMA, and the circumstances in which the power would be used are unclear
- there are no criteria for safeguarding the use of this power
- we are not aware of recent uses of this power under the RMA.

Other proposed amendments

As introduced	Description of proposed amendment
PB cl 203(4) NEB cl 217(4) (DR2 rec 5, p 25)	These clauses would allow a Minister to direct preparation of a plan, document change, or variation. We recommend amending the definition of “reasonable evidence” needed before exercising this power to include:

	• information collected from the ongoing monitoring of a local authority's performance or exercise of their functions, powers, and duties under the Act or a national instrument • failing to comply with time frames prescribed in a national instrument.
PB cl 206 (DR2 rec 8, p 27)	This clause would set the requirements for the Minister to follow when issuing direction under the bill. We recommend amending the clause to provide the Minister discretion to extend the 20-working day time frame for a local authority to respond to any direction issued under PB clause 204.
PB cl 208 NEB new clause (DR2 rec 10, p 29)	PB clause 208 would prevent the Minister from using section 103 of the Crown Entities Act 2004 to give direction relating to the functions of the Environmental Protection Authority (EPA). We recommend inserting NEB new clause 218A to place the same restriction on the Minister responsible for that bill.

System performance

PB clauses 210–214; NEB clause 240

(DR2 recs 13–18, pp 32–37)

The system performance function provided for in PB clauses 210 to 214 would establish a series of measures to track implementation and operation of the system, to support achievement of the bills' goals. The function is intended to streamline oversight and make reporting more regular than existing monitoring provisions in the RMA. The bills would:

- require the chief executive to prepare and maintain a system performance framework
- enable the chief executive to collect information in support of system performance
- enable regular reporting about the planning system through 3-year system performance reports, strategic reviews, and independent reviews.

We propose several changes to these clauses. Most are aimed at improving clarity or workability. We discuss the most significant changes below.

System performance framework

PB clause 210

(DR2 rec 13, p 32)

In the PB as introduced, clause 210 would come into effect on the specified transition date. However, we suggest bringing this forward to enable monitoring during the transition period. We recommend amending clause 210(1) to require the chief executive to prepare a system performance framework within 12 months of Royal assent.

We also recommend amendments in new clause 209B and clause 210 to:

- explicitly state that system performance *must* be monitored

- make it clear that the chief executive's function is to monitor and report on how the bills' goals are achieved, and to monitor the efficiency and effectiveness of the system
- remove specific consultation requirements from this clause, and instead require the system performance framework to identify who and how the chief executive will consult with relevant parties on system performance reports, strategic reviews, and amendments to the system performance framework.

Collection of data in support of system performance framework

PB clause 211

(DR2 rec 14, p 33)

PB clause 211 would empower the chief executive to gather information from people undertaking functions, duties, or powers under the bills. Subclause (2) specifies that information should be gathered to support the efficiency and effectiveness of system performance. We consider appropriate access to information vital for the success of the system, but we wish to see additional checks and balances on data collection powers.

We recommend amending clause 211 to enable the chief executive to require a local authority to provide data that it holds on record or, where data is not held on record, in accordance with regulations. When we discussed this recommendation, our advisers suggested placing a requirement on the local authority instead of the chief executive "asking" them. We consider it appropriate to strengthen the power in this way.

Chief executive may undertake strategic review

PB clause 213

(DR2 rec 16, p 36)

PB clause 213 would enable the chief executive to undertake a strategic review of a matter identified in a system performance report, requested by an entity, requested by the Minister, or on their own initiative.

We recommend one amendment, which was not detailed in the advice we received. Our view is that, by default, the results of any strategic review should be publicly available. We note that this information would be subject to the general provisions of the Official Information Act 1982. However, we recommend amending subclause (5)(b) to make clear Parliament's expectation that strategic reviews are published, while providing discretion for the chief executive to withhold material for specified reasons.

We also recommend:

- deleting the superfluous reference to giving effect to the purpose of the system performance framework in subclause (1)
- clarifying that a strategic review may be undertaken in relation to any matter that may:

    - affect whether the goals of the PB and the NEB are achieved
    - have a significant impact on the operational efficiency or effectiveness of the system
- removing clause 213(3) due to the proposal that consultation requirements must be set out in the system performance framework.

Other proposed amendments

As introduced	Description of proposed amendment
PB cl 212 (DR2 rec 15, p 34)	This clause would require the chief executive to produce system performance reports every 3 years. We recommend: • amending this clause to require producing and publishing the report at least every 3 years • deleting clause 212(2)(c) which would require reports to provide advice on environmental limits, since the intent is not to prescribe a specific monitoring area in the primary legislation • deleting clause 212(3), consistent with our proposal to set out consultation requirements in the system performance framework instead.
PB cl 214 (DR2 rec 17, p 37)	This clause would enable the Minister to initiate an independent review of the performance of the system. We recommend amending it to explicitly exclude the courts from the scope of independent reviews.

Role of local government

PB clauses 184–187, 191–196; NEB clauses 221–224, 227–235

(DR2 recs 19–24, pp 41–49)

These provisions specify local authorities' core functions and responsibilities in the new system.

Under the PB, territorial authorities have functions and responsibilities to enable and regulate the use and development of land within their districts. This includes subdivision, and activities on the surface of bodies of water.

Under the NEB, regional councils have functions and responsibilities to enable and regulate the use, protection, and enhancement of the natural environment within their regions.

Information-gathering, monitoring, and keeping records

PB clauses 186–187; NEB clause 227

(DR2 rec 21, p 45)

These clauses require local authorities to monitor their districts and regions, gather relevant information, and keep records.

Detailed monitoring requirements could be set through regulations and national instruments. Therefore, the majority of us consider it appropriate to simplify the requirements in the bills. They should create consistent duties for territorial authorities and regional councils, but leave detailed requirements for secondary legislation. We recommend deleting PB clauses 186 and 187, and NEB clause 227 and replacing them with new provisions that:

- require every local authority to undertake monitoring, and report on the results in a manner and frequency required by regulations and national instruments
- specify that regional councils must:
  - monitor the state of the environment in relation to the whole or any part of the region
  - identify contaminated land and land associated with a hazardous activity or industry within their region and keep public records
  - monitor the implementation of water conservation orders
- require a local authority to take action where monitoring shows that action is needed, having regard to the functions, powers, and duties under the respective bill
- require a local authority to gather and keep information and data relevant to the exercise of its functions, powers, and duties.

Other proposed amendments

As introduced	Description of proposed amendment
PB cl 184 NEB cl 221 (DR2 rec 19, p 41)	These set out general and specific responsibilities of territorial authorities (PB cl 184) and regional councils (NEB cl 221). We recommend changing “responsibilities” to “duties” throughout both bills to align with standard drafting language. For territorial authorities’ duties: clause 184(2)(d) refers to the “effects of natural hazards as they relate to land use”. We recommend amending this to refer to “natural hazard risks associated with the use and development of land”. For regional councils’ duties: clause 221(2)(f) would require them to regulate and manage matters in relation to soil conservation. We recommend updating the definition of soil conservation in clause 221(3).
PB cl 185, NEB cl 222, 224 (DR2 rec 20, p 43)	These clauses set out functions of territorial authorities (PB cl 185), and regional councils (NEB cl 222). NEB cl 224 also sets out how a regional council would monitor compliance. In both bills, we recommend amendments that: • change “making and maintaining” plans to “making and reviewing” plans to accurately reflect councils’ roles • better reflect that regional spatial plans are made jointly with other local authorities • clarify that monitoring, enforcement, and compliance functions in subclause (1)(b) are not limited to administering and implementing the relevant plans • emphasise that local authorities have separate functions to monitor implementation of the regulatory plan or state of the environment, outside the specific function of monitoring, compliance, and enforcement.

	• delete subclause (2) which is duplicative and unnecessary.
PB cl 191–192 NEB cl 229–230 (DR2 rec 22, p 46)	These establish a cost recovery framework for local authorities to charge for undertaking their functions prescribed in each bill. The intent of the bills is, broadly, to carry over the existing charging regime from the RMA. We recommend technical amendments to better reflect this intent.
PB cl 194–196 NEB cl 233–235 (DR2 rec 24, p 49)	These clauses enable local authorities to delegate some functions, powers, and duties, and restrict the extent of any delegations. We do not consider these clauses consistent enough across the two bills. We recommend amendments to enable: • territorial authorities to delegate functions, powers, or duties to community boards • unitary authorities to delegate to local boards • all local authorities to delegate to council committees. We note that NEB clause 235(2) was incorrectly carried into the bill from the RMA. We recommend deleting this subclause.

Designations

PB clause 106, Schedule 5

(DR1 recommendations 136–186)

A designation is a statutory mechanism used to secure land for public infrastructure or utility projects. A designation identifies and protects land needed for nationally, regionally, or locally significant infrastructure. Once a designation is in place, a project could proceed on that specified basis without the need for planning consents or compliance with rules in a land use plan.

Designations are generally valid for up to 10 years, unless an extension is given effect to, or agreed formally. Only Ministers, local authorities, and approved designating authorities can seek or hold designations. They do not need to own the land they are seeking a designation for.

The designation provisions in PB clause 106 and Schedule 5, would work largely the same way as under the RMA. However, compared to the RMA, the bill would:

- expand who can be a designating authority
- introduce new designation pathways linked to spatial planning
- modify the statutory tests and conditions that apply to designations
- require an assessment of "strategic need" for a project in a proposed location.

Designations could be proposed through a standalone notice, or by notification as part of a proposed land use plan or regional spatial plan. Regional spatial plans would also be able to identify the indicative location of future designations, to avoid having to reassess the project's "strategic need" at a later date.

Submitters were generally supportive of the designation provisions. Comments mostly focused on ways to improve drafting, including definitions of terms or processes. We have no major recommendations to make.

Proposed amendments

As introduced	Description of proposed amendment
PB Sch 5, cl 1 (DR1 rec 137, p 170)	This clause sets out definitions used in Schedule 5. We recommend reframing the definition of "infrastructure" in this clause as "other infrastructure" to not conflict with the definition of "infrastructure" that would apply to other parts of the bill. We also recommend amending paragraph (m) to cover registered schools and institutions as defined in the Education and Training Act 2020, and early childhood centres located on land or in buildings owned or leased to the Crown. Finally, we consider that this definition sits better in Schedule 5, clause 11(9) and have moved this provision accordingly.
PB Sch 5, cl 6 (DR1 rec 142, p 174)	Where two designating authorities hold designations over the same land, this clause would prevent the holder of the later designation from doing anything (even if authorised by their designation) without approval from the earlier designation holder. We recommend amending this clause so it is explicit that the holder of a later designation must not do anything that would prevent or hinder implementation of an earlier designation.
PB Sch 5, cl 8 (DR1 rec 144, p 175)	This clause identifies who would be designating authorities (Ministers of the Crown, local authorities, and those approved under clauses 10 and 11). We recommend amending clause 8 to include "a water service provider as defined in section 4 of the Local Government (Water Services) Act 2025" as a designating authority.
PB Sch 5, cl 9 (DR1 rec 145, p 177)	This clause defines "core infrastructure operator". We recommend amending this definition to cover other forms of land transport.
PB Sch 5, cl 10 (DR1 rec 146, p 178)	This clause would allow core infrastructure operators to apply to the Minister for approval as a designating authority for a particular project. We recommend amending the definition of core infrastructure to include water storage facilities associated with water distribution networks.
PB Sch 5, cl 19 (DR1 rec 152, p 186)	Clauses 16 to 20 relate to notification of proposed designations. Clause 19 sets out how the territorial authority must consider a project that is likely to have adverse effects on the built environment that are more than minor. We recommend amending this clause to require the territorial authority to disregard an adverse effect if a national rule, a rule in a plan, or a rule in a proposed plan that has legal effect, permits an activity with an adverse effect.
PB Sch 5, cl 20 (DR1 rec 152, p 186)	Clause 20 sets out a process to follow if a territorial authority decides not to notify a proposed designation for public submissions. The authority would be required to consider whether there are any affected persons in relation to that designation, and undertake targeted notification. We propose several amendments to improve the drafting of this provision. We also set out detail for how a territorial authority would: • decide whether a person is an affected person (new clause 20A) and, when making this decision, clarify that the authority must disregard an adverse effect if an activity is permitted by a national rule, a rule in a plan, or a rule in a proposed plan that has legal effect • account for protected customary rights groups and customary marine title groups (new clause 20B).

PB Sch 5, cl 24 (DR1 rec 156, p 192)	This clause sets out what the recommending authority must consider when assessing a proposed designation. We recommend amending this clause to: • clarify that the "strategic need" assessment is focused on providing for the objectives of the designating authority to meet their future needs, and can assess this based on the "general location" proposed • remove the requirement for the recommending authority to consider the bill's goals • require the recommending authority to consider whether confirming the designation is consistent with the RSP • require the recommending authority to disregard any effect that is outside the scope of the PB, any effect on a person who has given their written approval for the project, and any adverse effect of the activity on the built environment if the land use plan or a national rule permits an activity with that effect • remove the requirement on a recommending authority who is the territorial authority to publish its recommendations and the reasons for them.
PB Sch 5, cl 35 (DR1 rec 167, p 197)	This clause would require designations to be incorporated into regional spatial plans and land use plans. We recommend amending clause 35 so that designations are "identified" in regional spatial plans, not "incorporated". They should still be "incorporated" in land use plans.
PB Sch 5, cl 37 (DR1 rec 169, p 199)	This clause states that the purpose of a construction project plan is to confirm the final design of the project. We recommend amending this clause to allow a construction project plan to relate to a particular stage of a project or to the project in its entirety, and for a construction project plan to be amended or reissued.
PB Sch 5, cl 38 (DR1 rec 170, p 201)	This clause would require a designating authority to submit a construction project plan to the relevant territorial authority. We recommend amending Schedule 5, clause 38 so that: • a territorial authority could not request a change to a construction project plan that is inconsistent with any infrastructure design solution • the Environment Court would be required to consider whether the changes requested by the territorial authority will give effect to any infrastructure design solution that the project relies on • a territorial authority that is a designating authority would be required to submit a construction project plan.
PB Sch 5, cl 42–43 (DR1 rec 174–175, p 203)	Clause 42 would allow a person to apply to a designating authority for approval to do something that would prevent or hinder a designation or proposed designation. Clause 43 sets out processes for where more than one designation applies to the same land. We recommend amendments to allow regulations to set out various process matters such as how an application should be made and how designating authorities must respond or may request further information.

Subdivision

PB clause 181, Schedule 7

(DR1 recommendations 113–135)

The PB would regulate the subdivision of land. Subdivision is the legal process of splitting land or buildings between separate owners. Under the bill, subdivision would require planning consent from territorial authorities where a subdivision does not meet permitted activity standards as set out in a national rule or a rule in a land use plan.

Provisions for subdivision were largely carried over from the RMA. We did not receive many submissions about this topic, and we have no major amendments or concerns to highlight.

Proposed amendments

As introduced	Description of proposed amendment
PB Sch 7, cl 35 (DR1 rec 127, p 158)	This clause would establish a formal mechanism for changing or removing obligations required by a consent notice and registered against a land title. We recommend amending PB Schedule 7, clause 35 to direct that an application to vary or cancel ongoing requirements in a consent notice should take the status of a discretionary activity (similar to RMA section 127).
PB Sch 7, Part 3 (DR1 rec 128, p 158)	Submitters recommended that provisions related to esplanades be consolidated. We agree this would be useful. We recommend merging clauses 20 and 21 and relocating these provisions to Schedule 7, new clause 42A.

Environment Court and Planning Tribunal

PB Schedules 9 and 10

(DR2 recommendations 36–103)

If passed, the bills would establish a new Planning Tribunal (PB Schedule 10). The Tribunal would be a division of the Environment Court, with its own chairperson and pool of adjudicators. It is intended to provide a faster and more cost-effective way to resolve lower-level disputes.

The Environment Court (PB Schedule 9) would continue to hear appeals on proposed plans and plan changes, and appeals on consents, permits, and designations. Appeals of Planning Tribunal decisions on points of law and the issue of abatement notices would also go to the Environment Court. The Environment Court's ability to consider direct referrals and nationally significant proposals would be removed.

Both the Environment Court and the Planning Tribunal would be empowered to consider disputes relating to consent or permit conditions, including conditions that are claimed to be out of the scope of the system.

We propose numerous amendments to these schedules. Most of our recommendations are technical in nature, to promote overall workability, rather than significant changes to the proposed system. We therefore do not discuss them in detail. We encourage interested parties to read the related advice we received for a comprehensive rationale underlying these amendments. These matters are set out in Departmental Report 2, pages 60–91 (Environment Court) and 92–135 (Planning Tribunal).

Practices and procedures to be set by Court Rules

(DR2 recs 67, 103, pp 91, 135)

There is one overarching matter that we would particularly like to draw attention to in relation to Schedules 9 and 10. As introduced, the bills would enable regulations to be made to "prescribe the practices and procedures of the Environment Court".

Our view is that practices and procedures of the Environment Court, and the proposed Planning Tribunal, should be set by Court Rules. Court Rules are made by the Governor-General through an Order in Council, in consultation with members of the Judiciary and the Rules Committee, rather than regulations developed by the Minister(s) responsible for these pieces of legislation.

We recommend various amendments to ensure that such matters are provided for by Court Rules, and require agreement from the Chief Environment Court Judge. These would be in PB Schedule 9, new clause 100 and PB Schedule 10, new clause 37. This approach better supports the separation of powers inherent in New Zealand's constitutional make-up.

We note that regulations would still set various administrative matters, such as fees and waivers, to reflect the shared role that the Executive and Judiciary play in supporting a well-resourced and efficient court system.

Proposed amendments to Schedule 9—Environment Court

We recommend the following amendments:

- Clause 6: enable an Environment Judge sitting alone to hear proceedings under PB Part 6, subpart 1 and under NEB Part 6, subpart 1.
- Clause 6: enable an Environment Commissioner sitting alone to exercise any power conferred under clauses 29 to 33 of Schedule 9.
- Clause 8: require the Attorney-General to publish information explaining the process for seeking expressions of interest for appointment, or nominating a person for appointment, as an Environment Judge or alternate Environment Judge (similar to section 250(5) of the RMA).
- Clause 70: enable alternate Environment Judges to take affidavits or statutory declarations for use in the Environment Court.
- Clause 72: clarify that Environment Court decisions are not final if appealed to the Court of Appeal.
- Clause 74: specify that restrictions in subclause (2) only apply to full merits proceedings, and not to proceedings that relate solely to a point of law.
- Clause 76: delete clause 76 and insert this into clause 4, which relates to the Seal of the Environment Court.
- Clause 77: specify that if the bills provide an appeal right to the Court of Appeal, the general right to appeal to the High Court would not apply.

- Clause 77: make clear that Schedule 10, clause 34(4) restricts certain appeals from the Environment Court.
- Clause 89: remove the presumptions and considerations that apply to awarding of costs, as these relate to direct referrals and nationally significant proposals under the RMA.

Proposed amendments to Schedule 10—Planning Tribunal

We recommend the following amendments:

- Clause 3: align drafting to make it clear that the Tribunal must use the Seal of the Environment Court.
- Clause 4: clarify that the Chairperson would be appointed by the Governor-General on the recommendation of the Attorney-General (who must consult the Minister), rather than on the recommendation of the Minister(s) responsible for these Acts. We note that, due to a minor error, this differs from the wording of recommendation 71(a) in the Ministry's advice but matches the substance of their analysis (with which we agree).
- Clause 4: permit the appointment of a temporary acting chairperson (for example, to account for a chairperson's illness).
- Clause 4: broaden the skill set that a person must have to be appointed chairperson.
- Clause 4: clarify that an incumbent chairperson must reapply to be reappointed, as part of a competitive process, at the end of their 5-year term.
- Clause 5: clarify that, before delegating functions, duties, or powers to an adjudicator, the chairperson must be satisfied that the adjudicator has the necessary capability, skills, and experience to perform or exercise them.
- Clause 5: require the Chief Environment Court Judge to handle any complaints about the chairperson.
- Clause 5: amend subclause (3)(e) to clarify that the chairperson's role is to assess complaints made about members of the tribunal (with additional minor amendments to other paragraphs of subclause (3)).
- Clause 7: allow Tribunal adjudicators to engage in other employment that does not interfere with their Tribunal functions.
- Clause 11: permit the Registrar, on behalf of the Tribunal, to waive fees and time frames, schedule sittings, and roster adjudicators at the direction of the chairperson.
- Clause 11: authorise the Registrar of the Environment Court to exercise their same powers if acting as the Registrar of the Tribunal.
- Clause 16: several amendments including shortening and simplifying drafting of subclause (1), removing time limits from the bill and providing that processes for filing and accepting applications be made in accordance with regulations, clarifying that decisions on notifications must align with specifications in

the national standard or plan, deleting unnecessary subclauses, and allowing local authorities to apply for an order correcting an error in a targeted notification decision.

- Clause 17: enable the Tribunal to hear and resolve disputes over the calculation of statutory time frames.
- Clause 27: provide a default time frame for filing an application with the Tribunal of 15 working days unless regulations specify a different time frame and enable the Tribunal to accept late applications or extend time frames.
- Clause 28: make drafting improvements relating to Tribunal hearings and rehearings of Tribunal proceedings.
- Clause 29: permit legal representation at the Tribunal when a hearing is ordered by an adjudicator.
- Clause 32: enable an individual to be convicted and fined for contempt of the Tribunal, insert a general ability for the Tribunal to award costs as it sees fit (including addressing frivolous and vexatious proceedings), and ensure costs can be enforced by the District Court.
- Clause 33: enable the Environment Court to exercise the same power, duty, and discretion as the Tribunal on matters transferred to it from the Tribunal.

Compliance and enforcement

PB clauses 210–214, 217–272, Schedule 8, clause 32; NEB clauses 243–298

(DR1 recommendations 187–210)

The bills' compliance and enforcement provisions would give regulators powers to promote and enforce the legislation. These are broadly equivalent to the RMA, and include powers from the (repealed) Natural and Built Environment Act 2023. PB Schedule 8 provides for enforcement matters for both bills.

Submitters tended to see value in retaining the basic compliance regime from the RMA. This includes the role of the Environment Court, so it could maintain the relevant case law and existing jurisprudence.

Proposed amendments

Ability to enter a property for surveying purposes

PB clause 251; NEB clause 275

(Responses 20/05/2026 rec 1, p 1; DR1 rec 196(d), p 230)

These provisions would enable an enforcement officer to enter a property to conduct surveys, investigations, tests, or measurements. As introduced, these actions could be taken "for the purposes of this Act".

We do not consider this language clear enough. It does not explicitly define when entry onto a property would be allowed and instead requires interpretation of each bill's purpose statement. We recommend inserting clearer language that links to the activities listed in subclause (1) of each provision. We also recommend specifying that the power of entry for surveying would allow enforcement officers to collect environmental information to support preparation, change, or reviews of plans (including specified topics that may trigger regulatory relief).

Other proposed amendments

As introduced	Description of proposed amendment
PB cl 217 NEB cl 243 (DR1 rec 188, p 214)	These clauses would enable warranted enforcement officers to require a person to provide personal details if they are suspected of a breach. We recommend amendments to enable an enforcement officer to require a person to provide verification of their identity.
PB cl 218 NEB cl 244 (DR1 rec 189, p 215)	These clauses relate to who may be authorised as enforcement officers, and what their responsibilities would be. We recommend amending them to incorporate the competency thresholds for enforcement officers appointed by the EPA (set out in PB clause 223(2)(a), and NEB 249(2)(a)).
PB cl 237 NEB cl 263 (DR1 rec 193, p 222)	These clauses would prevent the Environment Court from making enforcement orders to manage the effects of an activity if the activity is lawfully authorised, and the effects were anticipated when the lawful authority was made. We recommend adding complying with a national rule or a regulation to the list of instruments that give lawful authority.
PB cl 240–246 NEB cl 266–273 (DR1 rec 194, p 226)	These clauses relate to abatement notices. We recommend: • removing the 7-day minimum requirement for abatement notices, to better emphasise that abatement notices should include a “reasonable period” within which the action must be taken or must cease • extending the scope of an abatement notice under PB clause 240 to include requiring a person to take, or refrain from taking, any specified action to comply with a consent notice or covenant issued or entered into under a condition of a planning consent.
PB cl 250–253 NEB cl 274–277 (DR1 rec 196, p 230)	These clauses relate to powers of entry and search. We recommend amendments to: • insert a definition of “dwellinghouse” • replace “a constable generally” with “a constable” for simplification • clarify that power of entry applies to any enforcement officer appointed under each bill.
PB cl 247–249 (DR1 rec 197, p 232)	These clauses relate to excessive noise directions. We recommend inserting PB new clause 249A as the equivalent to RMA section 336—addressing the circumstances and requirements for the return of property seized following non-compliance with excessive noise directions.
PB cl 254 NEB cl 278 (DR1 rec 198, p 236)	These clauses set out the contraventions that would constitute offences under each bill. We recommend removing subclause (1)(c) of PB clause 254 and NEB clause 278 so that it would not be an offence to contravene a condition of a planning consent (PB) or natural resource permit (NEB).
PB cl 257–259 NEB cl 281–285	These clauses relate to liability and defences.

(DR1 rec 201, p 241)	We recommend amending PB clause 257 and NEB clause 281 so that principals are liable for the acts of agents or employees, unless they establish a statutory defence, consistent with the RMA's current approach to vicarious liability. We also recommend replacing the 7-day time frame under PB clause 258(3) and NEB clause 282(3) with a requirement to notify the prosecutor at any time before pleas are entered.
PB cl 272–274 NEB cl 298–300 (DR1 rec 204, p 245)	These clauses relate to enforcement strategies, publishing information, and guidance. We recommend amendments to: • remove the requirement for local authorities to consult iwi authorities and groups that represent hapū for this strategy document • clarify that the requirement to publicly report compliance information is subject to the requirements of any Court suppression orders.
NEB cl 330 (DR1 rec 205, p 245)	This clause prescribes that land in the coastal marine areas that has been unlawfully reclaimed must be treated as if it is still part of the coastal marine area for enforcement purposes. We recommend that this clause extend to reclamations of rivers and lake beds too.
PB Sch 8, cl 20 (DR1 rec 207, p 247)	This clause relates to adverse publicity orders made by the Environment Court or the District Court. We recommend amending it to: • specify that adverse publicity orders may only be imposed after a person has been convicted of an offence or has been ordered to pay a pecuniary penalty provision • delete clauses 20(3)–(6) as these appeal procedures are set out in Schedules 9 and 10 • amend clause 20(7) so that an appeal against a conviction or the imposition of a pecuniary penalty acts as a stay against any associated adverse publicity order.
PB Sch 8, cl 21–28 (DR1 rec 208, p 249)	These clauses relate to enforceable undertakings. Clause 22 sets out that an enforceable undertaking may include requirements for compensation or penalties. We recommend clarifying that an enforceable undertaking may extend beyond compensation (such as projects or activities related to the circumstances of the alleged contravention). Clause 26 would allow a local authority, or the EPA, to apply to the District Court to confirm or discharge the undertaking, or to order costs. We recommend amending this clause so that applications are instead made to the Environment Court. We also recommend amending clause 26(2) so that the Court can make either of the orders listed in paragraphs (a) and (b), but not both.
PB Sch 8, cl 29 (DR1 rec 209, p 251)	This clause relates to monetary benefit orders that would enable the recovery of monetary benefits arising from offending under the bills. We recommend amending clause 29 to specify that: • the Court should view a monetary benefit order as relinquishing benefits that were improperly obtained, and the making of a monetary benefit order must not be considered when deciding the value of a fine or a pecuniary penalty order • 90 percent of a monetary benefit order must be paid to the agency that commenced the prosecution, and the remaining 10 percent must be paid into a Crown bank account.

PB Sch 8, cl 30–34 (DR1 rec 210, p 253)	These clauses relate to pecuniary penalty orders. We recommend several minor amendments: • Clause 30—specify that 90 percent of a pecuniary penalty must be paid to the agency that commenced the prosecution, and the remaining 10 percent must be paid into a Crown bank account. • Clause 31—align the liability for principals and employers with the liability of principals for acts of agents in PB clause 257 and NEB clause 281. • Clause 32—remove “commercial gain” from the consideration of maximum pecuniary penalties, so that a pecuniary penalty must not exceed $1 million for a natural person and $10 million for a non-natural person.

Financial assurances

PB Schedule 8, clauses 2–19

(DR1 recommendations 211–222)

PB schedule 8, clauses 2 to 19 detail the “financial assurances” process. Broadly speaking, these provisions would allow local authorities, consent authorities, or the Environmental Protection Authority to require people undertaking certain activities to provide security for the cost of remediating or cleaning-up that activity. This could include a bond, a form of insurance, or any other form specified.

Financial assurances are not strictly an enforcement tool. However, they have been included in this schedule alongside other enforcement mechanisms because they apply to various matters across both the PB and the NEB.

Proposed amendments

Of the few comments we received about these provisions, most were from councils seeking technical clarification about how the provisions would function. We have no major changes to propose, but recommend amendments to improve workability.

These include changes that:

- better reflect the policy intent that the purpose of a financial assurance is to secure the performance of obligations connected with a particular activity, including remediation and clean-up, closure, and long-term management (clause 2(3))
- detail how, and by whom, financial assurances and conditions can be reviewed and amended (clauses 10 and 11).

We also make several consequential amendments throughout the NEB to ensure that it consistently refers to “financial assurances” not just “bonds”.

Levies

PB clauses 283, 291; NEB clauses 313–314, 333–334)

(DR4 recommendations 1–7

The bills would enable levies to be created by regulation. Planning consent levies under the PB would be set by the Minister in regulations and could cover the cost of central government developing and reviewing national standards and system performance functions. Natural resource levies under the NEB could be set by the Minister in regulations, or by regional councils within parameters set out in regulations.

We recommend minor improvements to the planning consent levy, but our main changes below relate to natural resource levies. We also suggest some smaller changes to improve language, interactions between levy provisions, and overall drafting quality.

Natural resource levies

NEB clauses 313–314, 333–334

(DR4 recs 1–5, pp 12–20)

Natural resource levies are a new concept introduced by the NEB. They would be used for a wide range of natural resources to cover the costs of certain activities related to the use of that resource. The two types of natural resource levies would:

- address overallocation of natural resources, and provide for the efficient use of resources in a management unit
- cover the costs of specific activities involved in managing natural resources.

Proposed amendments

We have a series of improvements set out in detail in the table below. We propose:

- reducing the types of costs that could be covered
- enabling regulations that set out reporting obligations to apply to central government as well as regional councils
- requiring consideration of public benefit compared to levy-payer benefit when setting certain levies
- restricting revenue expenditure to management of the natural environment domain of the resource that the levy is charged on (for the levy to cover the costs of specific activities only).

NEB clauses 49 and 50 set out five domains: freshwater, coastal water, land and soil, air, and indigenous biodiversity. These domains would also be used when setting environmental limits. Under our proposed amendment, a levy collected for the management of freshwater must be spent on freshwater too.

The PCE told us that the domain structure may prove too restrictive to achieve the NEB's overall environmental outcomes. We propose the domain structure is refined to allow councils to determine the domain that the levy applies to, which still allows them some flexibility.

Further, the PCE suggested allowing levies to cover the costs of catchment group activities and raised concerns about narrowing what the levy could be spent on. For example, the PCE was concerned that levy funds may not be able to go towards certain activities, like education and catchment groups' administrative costs. We note that the costs of many actions likely to be suggested by catchment groups could be covered, including restoring ecosystems, enabling trade, and using direct measures to address overallocation. Councils could choose to spend ratepayer money on education. It is a difficult, but important, balance to ensure that the public are only paying for matters that are in the public interest.

Other proposed amendments

As introduced	Description of proposed amendment
NEB cl 313 (DR4 rec 2, p 15	This clause would enable regulations to establish the two types of natural resource levies. It states what the regulations may include. We recommend that clause 313 and new clause 314A: • ensure that these levies are limited to cover the costs of specified activities and do not provide general funding for central and local government to undertake their functions under the bill • clarify that future regulations prescribing a levy amount (or a method for calculating the amount) must set the levy amount (or the calculation method) based on covering the cost of the activities to be covered by the levy • allow regulations to set reporting obligations for central government (in addition to regional councils) • allow regulations to not only direct but also enable regional councils to carry out functions if they choose to (namely identifying the resource use activity the levy applies to, setting different levy rates for different natural resources and different locations, prescribing the amount of the levy or a method for calculating the amount, and specifying who is liable to pay the levy) • enable regulations to prescribe or provide for matters relating to the non-payment of levies, including interest charges, enforcement responsibilities, and refunds • ensure that unpaid levies and any interest are payable as a debt due to the entity owed the levy and enforceable in the District Court.
NEB cl 314 (DR4 rec 3, p 17)	This clause sets out that the Minister would need to follow the processes set out in NEB clause 70 (a national instrument proposal) before making regulations under clause 313. We recommend adding that regional councils can be explicitly required to ensure the rates are set so that the levy does not exceed the anticipated costs of eligible activities (the same requirement as the Minister). We recommend aligning the list of matters in clause 314(3) with the revised list of matters in clause 334(3) (which we discuss below).
NEB cl 333 (DR4 rec 4, p 17)	This clause states that any money collected to address overallocation, or provide for efficient use, can only be spent on eligible activities for this purpose within the same management unit. This clause would be moved to new clause 314A to be grouped with other levy provisions. We recommend specifying that expenditure of revenue from this levy should be limited to being for the benefit of the management unit in which the levy is collected. We also recommend that the levy would be able to cover the cost of activities that would increase the availability of the resource.

NEB clause 334 (DR4 rec 5, p 20)	This clause provides that money collected to cover the costs of specified activities related to resource use can only be spent for this purpose. It would be moved to new clauses 314A. We recommend restricting expenditure of revenue to the management of the natural environment domain of the resource that the levy is charged on. We also recommend removing the ability to use the levy to meet the costs of: • investigations whose costs are not covered by litigation costs • public information, education, and advice • any unspecified activity related to administering the Act to the extent that the costs of the activity are not recovered elsewhere • enabling new allocation methods. Conversely, we recommend enabling the levy to cover the costs of: • enabling the trade and transfer of natural resource permits to be operationalised • spatial and regulatory planning in the coastal marine area. Finally, we recommend requiring that, when determining the amount of the levy or a method for calculating the amount, the Minister or regional council must have regard to the extent that the benefit of the activities is obtained by those paying the levy compared to the wider community. This would be reflected in NEB clause 314.

Planning consent levy

PB clauses 283, 291

(DR4 rec 6, p 21)

The Regulations Review Committee wrote to us about the planning consent levy. It suggested that the bill does not have enough safeguards or public oversight over the Minister's ability to set levies. We agree, and recommend aligning safeguards in the PB with those used in NEB clauses 313 and 314. Aside from this, we have no major changes to propose.

Proposed amendments

As introduced	Description of proposed amendment
PB cl 283, 291 (DR4 rec 6, p 21)	We recommend: • revising the wording of funding the "system performance framework" to match the intent that the levy can fund system monitoring and reporting • removing clauses 283(4)(e) and (f), so there is no provision for a portion of the levy to be retained or transferred to other persons, while still allowing consent authorities to set charges to recover their costs of collecting the levy (through clause 191) • including additional safeguards and exemptions similar to NEB clauses 313(4) and 314(3), with necessary modifications, to ensure the levy rate does not exceed the costs of the functions it funds • including a provision enabling regulations to set out reporting obligations for central government, to align with the provision to be included in NEB clause 313 • improving alignment between NEB clause 283(2) and clause 314(3) setting out what the levy can be spent on

	• including empowering provisions to set out in regulations matters relating to the non-payment of levies, including the interest on unpaid levies, the ability to specify who is responsible for enforcement, and matters relating to refunds • including a requirement that unpaid levies and any interest are payable as a debt due to the Crown and enforceable in the District Court • replacing the references to national direction with appropriate references to national instruments • replacing references to the Ministry for the Environment as appropriate.

Emergency works

PB clauses 275–280; NEB clauses 301–306

(DR1 recommendations 223–228)

The bills include provisions that would enable urgent responses in emergency situations. This includes enabling early recovery actions to proceed immediately if time-critical measures are needed to prevent or remedy serious harm. The provisions are largely the same in both bills, but with differences to reflect each bill's scope and terminology. We have no major changes to propose on emergency works provisions.

Proposed amendments

As introduced	Description of proposed amendment
PB cl 275 NEB cl 301 (DR1 rec 223, p 264)	These clauses would enable persons with financial responsibility over any public work, local authorities, core infrastructure operators, and lifeline utilities to undertake immediate preventative or remedial measure in an emergency situation. We recommend amending PB clause 275 to specify that PB new clause 17A does not apply to any activity undertaken due to an emergency under this provision.
PB cl 276–277 NEB cl 302–303 (DR1 rec 224, p 265)	These clauses set time frames for notifying relevant consent or permit authorities that emergency works have been undertaken, including during a declared state of emergency or transition period under the Civil Defence Emergency Management Act 2002. We recommend clarifying that notification must be provided within 7 *working* days, rather than 7 days. This is consistent with how time frames are expressed elsewhere in the bills.
PB cl 279 NEB cl 305 (DR1 rec 227, p 269)	These clauses would allow regulations to be made by Order in Council for emergency responses. We recommend amending these clauses so that a mandatory obligation is not imposed on "the committee of the House of Representatives that is responsible for the review of secondary legislation" (currently the Regulations Review Committee). Instead, a copy should be provided to that committee to comment on (PB new clause 279A(2)(h) and NEB new clause 305A(2)(h)). The provision sets out that if the committee is providing comments, it needs to provide them within 5 working days, or longer if agreed by the Minister.

Regulations

PB clauses 281–282; NEB clauses 307–308

(DR2 recommendation 126)

Both bills contain a series of regulation-making powers. Some are carrying over existing regulation-making powers from the RMA. PB clause 281 and NEB clause 307 list the purposes for which secondary legislation could be made. These are generally intended to be matters relating to the mechanics of implementing the bills, such as setting procedural requirements, and prescribing fees and charges.

Infringement offences

The Regulations Review Committee wrote to us about powers to set infringement fees. PB clause 281(1)(j) and NEB clause 307(1)(g) set out that infringement fees must not exceed $2,000 for natural persons and $4,000 for non-natural persons. The committee noted that these are higher than the $1,000 guideline from the Legislation Design and Advisory Committee. However, we note that the amounts are the same as currently provided for in the RMA, which were amended in response to concerns that fees were not high enough to deter offending or potential commercial gain from non-compliance. There are other instances in New Zealand law that impose infringement fees over $1,000. We recommend no change to these fees.

Definitions of "harmful substance" and "long-lived infrastructure"

The Regulations Review Committee also drew our attention to two terms used in the NEB which could be defined or prescribed by regulations. NEB clause 307(1)(p) would enable regulations to be made prescribing any substance to be a "harmful substance" for the purpose of clause 3 (the interpretation clause). Similarly, clause 307(1)(z) would enable regulations to prescribe infrastructure as "long-lived infrastructure" for the purpose of clause 3. This provision would be moved to subclause (9).

The Regulations Review Committee views this as a type of Henry VIII power because regulations could change the effect of provisions in primary legislation that deal with harmful substances and long-lived infrastructure. It accepted that the risk of inappropriate use would be low. We consider that the powers should be retained with amendments to provide clear and appropriate safeguards.

The Regulations Review Committee also noted that PB clause 3 would allow the term "harmful substance" to be prescribed by regulations. However, this term is not used anywhere else in the PB. We recommend removing "harmful substance" as a defined term in clause 3 of the PB.

Proposed amendments

As well as changes to regulation-making powers that we have discussed under the relevant themes elsewhere in this commentary, we propose the following four amendments.

PB clause 281(1)(l) would enable regulations to deem rules to be included in land use plans. NEB clause 307(1)(n) would do the same for natural environment plans. Some submitters commented that this power to set rules by regulation would undermine the processes for making national instruments, which includes consultation. Submitters recommended limiting the ability to set rules in plans by regulation to emergency situations or transitional arrangements. We agree in part, and recommend amending PB clause 281(1)(l) and NEB clause 307(1)(n) to limit the scope to implementing New Zealand's international obligations.

PB clause 281(1)(o) would enable regulations to prescribe criteria for a hearing. To support consistent and efficient hearings processes, we recommend expanding this provision in new clause 282A to include any matter related to a hearing.

Some submitters proposed including powers to make regulations that specified a process for hearing commissioners to become accredited and maintain accreditation. We consider this sensible and recommend including it in new clause 282A; it would be consistent with the RMA, and accreditation would support robust and consistent decision making.

The RMA contains regulation-making powers relating to the coastal marine area. We consider it appropriate to carry two of these powers over into the NEB. They are RMA sections 360(1)(c) and (hh), which provide the ability to:

- prescribe the amount, methods for calculating the amount, and circumstances and manner in which holders of permits are liable to pay for certain activities, such as occupation of coastal marine area or the bed of any river or lake on Crown land, and extraction of sand, shingle, shell, and other natural materials from those areas
- prescribe any operations of a ship, aircraft, or offshore installation as a normal operation, that are excluded from marine dumping requirements.

We recommend including equivalent regulation-making powers as in NEB clauses 307(1)(da) and (sa).

The bills contain several references to doing things in a “prescribed manner”. This includes regulation-making provisions that would be able to prescribe the manner of doing something. We recommend inserting a clause to define that the “manner” of doing something could include:

- by whom, when, where, and how the thing must be done
- by when the thing must be done
- the form that must be used for doing the thing
- the information, or other evidence that must be provided, and requirements with which information must comply
- any requirements for service in relation to the thing.

Data and digital

PB clause 281; NEB clause 307

(DR2 rec 126(e), p 162)

The bills stipulate various data and digital requirements for the making of electronic plans, records, and processes. Regulations or national standards could prescribe the form, content, and management of information. Submissions generally supported greater digital enablement.

We see benefits in councils collecting and managing information and data consistently. System reform provides an opportunity to develop national data and digital infrastructure. We recommend inserting a further regulating-making power in both bills to prescribe digital and data standards, methods, and requirements.

Other proposed amendments

As introduced	Description of proposed amendment
PB cl 282 NEB cl 308 (DR2 rec 127, p 164)	These clauses would allow regulations to set consent and permit processing time frames and procedures. They act in the same way in both bills. We recommend amending these clauses so they also apply to certificates of compliance and existing-use certificates. This would ensure that all types of applications are covered. We also recommend amending the clauses to only enable processing time frames that do not exceed the maximum time frames set out for consent processing for each application type (PB clause 117 and NEB clause 138).

Wildlife approvals

NEB clause 128

(DR4 recommendations 8–22)

Activities that interact with protected wildlife often require two separate authorisations: a resource management authorisation (currently through RMA resource consents), and a wildlife authorisation under the Wildlife Act 1953 issued by the Department of Conservation (DOC).

Under the NEB, a wildlife approval would grant the holder lawful authority to conduct an activity that would otherwise be an offence under the Wildlife Act. NEB clause 128 would allow a permitting authority to issue a wildlife approval alongside a natural resource permit.

We received many submissions about this topic. Most submitters recommend removing this clause, while others noted that it would promote efficiency by only requiring one process. Submitters in both camps raised concerns about how the process would operate in practice. Key criticisms were that some offences listed are not relevant to resource management, and that activities that may be needed to manage potential effects on wildlife are not clearly enabled, such as capture, handling, and relocation.

Proposed new statutory framework

We propose creating a new framework for wildlife approvals. We recommend inserting NEB Schedule 2A. Our intent with this framework is to:

- provide a clear and self-contained decision framework
- clarify the role of permitting authorities and DOC
- appropriately recognise Treaty obligations and settlement redress
- refine the scope of offences and activities that may be authorised.

This framework would run alongside the Wildlife Act approvals process administered by DOC, and applicants would be able to decide which pathway they want to apply under. Wildlife approvals under the NEB would be administered by permitting authorities and assessed and issued alongside natural resource permits.

The NEB pathway would be available where an activity requires a natural resource permit under the NEB and the activity involves consideration of effects on protected wildlife. This pathway aims to be more efficient for applicants who also require natural resource permits. However, permitting authorities would have to take into account any applicable guidance, protocols, and standards issued by DOC. Permitting authorities would be able to seek advice on specific applications directly from DOC, though DOC would not be obligated to provide advice.

The NEB pathway would not be available on public conservation land or marine reserves. Enabling permitting authorities to issue wildlife approvals in these areas would not deliver quicker or more cost-efficient outcomes because other approvals, such as under the Reserves Act 1977 or the National Parks Act 1980, would likely still be required.

Other elements of the proposed framework

Reference	Description of proposed amendment
NEB cl 128 (DR4 rec 9, p 28)	We recommend removing offences that are not relevant in a resource management context, including offences relating to trade in wildlife, homing pigeons, and wildlife sanctuaries. We recommend inserting clause 128(3) listing offences relating to the disturbance, capture, handling, movement, release, and incidental killing (but not deliberate killing) of protected wildlife.
NEB cl 128, Sch 2A, cl 2–7 (DR4 rec 11, p 30)	To integrate the pathway into the NEB's procedural framework we recommend: • applying the procedural principles of the NEB to wildlife approvals • requiring applicants to identify, as part of a natural resource permit application, whether they are seeking a wildlife approval under the NEB • enabling permitting authorities to place applications on hold, with the applicant's agreement, pending confirmation that a wildlife approval is sought • requiring applicants to provide information on effects on protected wildlife • enabling NEB permit authorities to request advice from DOC for wildlife approvals that have significant implications for threatened species • applying standard NEB mechanisms for other procedural matters, including but not limited to objections and the review and variation of conditions of wildlife approvals.
NEB Sch 2A, cl 6 (DR4 rec 12, p 31)	Regarding notification, we recommend providing that wildlife approvals: • are not subject to public notification • are not subject to targeted notification except where necessary to give effect to Treaty settlement obligations.
NEB Sch 2A, cl 6 (DR4 rec 13, p 32)	On hearings and appeals, we recommend: • applying requirements for hearings and merit appeals to wildlife approvals in the same manner as natural resource permits, including rights for submitters to be heard and to appeal, in a way that acknowledges that they are legally distinct

	• enabling the Minister of Conservation to join appeals relating to, or affecting, wildlife approvals.
NEB Sch 2A, cl 9 (DR4 rec 14, p 33)	On consideration of applications, we recommend: • requiring decision makers to assess the effects of activities on protected wildlife, including adverse, positive, and cumulative effects • requiring decision makers to take into account relevant guidance, protocols, or standards issued by DOC.
NEB Sch 2A, cl 10 (DR4 rec 15, p 33)	On protections for wildlife, we recommend: • retaining the Wildlife Act approach for individual protected wildlife, requiring avoidance, minimisation, and mitigation of adverse effects (in that order) • providing that an NEB permit authority must not approve a wildlife approval if this would reduce the viability of the species affected by the activities • providing that an NEB permit authority must not approve a wildlife approval if this would reduce the viability of a local population of threatened or at-risk wildlife affected by the activities.
NEB Sch 2A, cl 11 (DR4 rec 16, p 34)	On conditions for approvals, we recommend: • enabling permitting authorities to impose conditions on wildlife approvals to manage effects on protected wildlife • aligning the power to impose conditions with NEB clauses 168 to 170, excluding the ability to compensate for effects on protected wildlife but allowing for offsetting at the population or species level through conditions, and enabling conditions that address wildlife protection thresholds and any of the matters addressed in the wildlife information requirements.
NEB Sch 2A, cl 8 (DR4 rec 17, p 35	On the recognition of Māori interests, we recommend: • providing for targeted notification to iwi authorities or PSGEs where required to give effect to Treaty settlement obligations • requiring decision makers to have regard to the relationship of Māori with protected wildlife affected by the proposed activity, where necessary to give effect to those obligations • relying on NEB clause 9, once amended, to include redress relating to the Wildlife Act 1953. This would enable further, case-specific arrangements to be agreed with PSGEs where necessary to fully uphold Treaty settlement redress (and clause 10 would ensure that settlement arrangements will be given equivalent effect until then).
NEB Sch 2A, cl 13 (DR4 rec 18, p 35)	We recommend excluding the application of section 71 of the Wildlife Act where a wildlife approval is issued under the NEB.
NEB Sch 2A, cl 15 (DR4 rec 19, p 36)	We recommend including a regulation-making power to support the implementation and administration of wildlife approvals, with a requirement that the Minister responsible for the NEB consult the Minister of Conservation in relation to the development of any such regulations.
NEB Sch 2A, cl 14 (DR4 rec 20, p 37)	On compliance and enforcement, we recommend: • enabling regional councils to monitor compliance with wildlife approvals • enabling regional councils to issue abatement notices and seek enforcement orders for breaches of wildlife approval conditions

	• clarifying that breaching a condition of a wildlife approval issued under the NEB does not constitute a loss of lawful authority under the Wildlife Act • retaining the ability for DOC to enforce Wildlife Act offences where lawful authority does not exist • requiring permitting authorities to provide copies of wildlife approvals to DOC • requiring regional councils to notify DOC if they issue abatement notices or apply for enforcement orders to address non-compliance with a wildlife approval, or if they detect conduct that has caused harm to protected wildlife without lawful authority.
NEB Sch 2A, cl 25 (DR4 rec 21, p 35)	We recommend enabling reasonable cost recovery for wildlife approvals by permitting authorities and where specialist advice is provided by DOC.
NEB cl 2 (DR4 rec 22, p 35)	This clause contains the NEB's commencement provisions. We recommend providing for wildlife authorisation provisions to come into force on the specified transition date for the NEB natural resource permitting system.

Amendments to other legislation

PB clause 294, Schedule 11; NEB clause 336, Schedule 7

(DR2 recommendations 149–150)

PB clause 294 sets out that legislation listed in PB Schedule 11 would be amended. As introduced, NEB clause 336 would provide the same for legislation listed in NEB Schedule 7. Amendments to other legislation are also referred to as “consequential amendments”.

When the bills were introduced, they only included consequential amendments to the RMA and a handful of other legislation. We have been advised that around 126 Acts and regulations would need amending to implement these bills (for example, changing references to the RMA to refer instead to the PB or the NEB).

For simplification, we recommend combining all amendments to other legislation into PB Schedule 11 and removing NEB Schedule 7. We propose splitting the Schedule into parts, where each part relates to a different commencement date. Because provisions would come into effect at different times, this structure would make it clear when each consequential amendment would apply.

We recommend the part structure is:

- Part 1—amendments to Acts that commence on the day after Royal assent
- Part 2—amendments to the RMA that commence one month after Royal assent
- Part 3—amendments to the RMA that relate to the Planning Tribunal that commence on the appointed date
- Part 4—amendments to Acts that commence on the specified transition date
- Part 5—amendments to secondary legislation that commence on the day after Royal assent.

We asked for and received detailed advice about consequential amendments to a few specific Acts, including the Climate Change Response Act 2002, Conservation Act 1987, Hauraki Gulf / Tīkapa Moana Marine Protection Act 2025, Hauraki Gulf Marine Park Act 2000, and Wildlife Act 1953. For further information, please see the relevant part of our advice documents *(DR3 pp 398–401)*.

Comment on the Waitakere Ranges Heritage Area Act 2008

We understand that there is strong public concern about the treatment of the Waitakere Ranges Heritage Area in the bills as introduced. This was likely not aided by relevant consequential amendments being omitted at introduction. Our understanding is that the area could have similar protections as currently, though we note that some forms of protections could give rise to regulatory relief considerations. Consequential amendments would require Auckland Council to give effect to the purpose and objectives of the Waitakere Ranges Act when preparing their land use and natural environment plans.

The PCE pointed out that the proposed regulatory relief regime could affect Auckland Council’s decisions on how to zone the area. Some submitters called for the Waitakere Ranges Act to prevail over the PB and the NEB. The Act does not currently prevail over the RMA, and we do not propose to change the status quo.

Other matters

In this final section of our commentary, we cover topics that do not fall neatly into other themes, including those which relate to a few stand-alone provisions or no provisions in the bills.

Water conservation orders

NEB Schedule 4, clause 15

(DR2 rec 134, p 172)

Water conservation orders (WCOs) may be applied to a body of water, such as a river or lake, to preserve its natural state and characteristics. NEB Schedule 4 provides for existing water conservation orders to remain in force. New WCOs could also be made under a process that is largely the same as the RMA, although with a narrower scope. Water conservation orders could no longer be made for the purpose of protecting the scenic, spiritual, or cultural characteristics of water bodies.

The Minister would be responsible for issuing and amending water conservation orders. Regional councils would be responsible for monitoring their implementation and effectiveness.

NEB Schedule 4, clause 15 sets out the process for revoking or amending existing WCOs. In response to submitter comments, we propose introducing a review and reporting requirement for regional councils. Where possible, this review should be aligned with regional plan review cycles. We would like to be clear that the periodic review and reporting should not trigger an amendment or revocation process, nor alter the legal effect of the WCO. Their purpose would be to improve transparency, and inform whether existing amendment or revocation pathways may be appropriate. We recommend inserting NEB Schedule 4, clauses 3(3) and (4).

Other proposed amendments

As introduced	Description of proposed amendment
NEB cl 227 (DR2 rec 132, p 170)	This clause relates to general requirements for regional councils to gather, monitor, and retain information. It would move to new clause 224. We recommend including an explicit requirement for regional councils to monitor the implementation of WCOs.
NEB Sch 4, cl 4–14 (DR2 rec 133, p 172)	The rest of the schedule relates to the process of applying for, making, and revoking WCOs. We recommend removing clauses 8(4) and (5), and amending clause 12(4) to require a notice of appeal to be served within five working days of lodgement.

Contaminated land

Contaminated land refers to land that has a hazardous substance in or on it. As part of a territorial authority’s land-use planning and consenting functions, they would be responsible for regulating and managing contaminated land. Regional councils would be responsible for regulating the discharge of contaminants and soil conservation. We received feedback from submitters that the bills do not adequately provide for contaminated land.

The Regulations Review Committee made comments about related regulation-making powers. NEB clause 21 would restrict the discharge of contaminants. However, NEB clause 307(1)(m) would allow regulations to make exemptions from any of NEB clause 21. That committee suggested we add a framework around when an exemption would be appropriate, we discuss this below.

Definitions

PB clause 3, NEB clause 3

(DR2 rec 136, p 177)

We heard submitters concerns about inconsistencies between the bills' definitions of contaminated land. For example, the NEB does not include a definition of "contaminated land", while the PB does. To address such gaps, we recommend:

- amending the PB definition of "contaminated land" to reference the built environment and include effects on human health
- adding a definition of "contaminated land" to the NEB that is consistent with the PB but refers to natural resources and includes effects on human health
- inserting the definition of "hazardous substance" from the RMA into the PB and NEB
- adding a definition of "polluter" into the NEB, based on section 411 of the Natural and Built Environment Act 2023 but with an exception where a discharge of a contaminant was lawfully authorised.

Contaminated land framework

NEB new clauses

(DR2 rec 137, p 181)

We propose a clear framework for contaminated land that works across the two bills. It would be inserted at NEB new clauses 323A to 323C. The effect of our recommended changes would be to establish a framework that includes:

- a polluter-pays approach
- cost-recovery powers for local authorities or the Environmental Protection Authority to recover actual and reasonable costs
- landowner obligations to notify and provide support to regional council's public records
- regulation-making powers for financial assurances for high-risk activities and sites, including contaminated land.

We note that this approach has been informed by the contaminated-land provisions in the Natural and Built Environment Act 2023. It is intended to address gaps in how contaminated land is identified and managed, without creating a prescriptive regime. We would expect national instruments to set technical and procedural detail.

Topics on which we are not recommending amendments

Submitters commented on various other topics. Although we are ultimately not recommending amendments to the bills on these topics, we list them here along with our rationale for not making changes, to show that we considered these matters in detail.

- **Urban trees**: The bills intend to move away from individually listing urban trees for protection, in favour of only demarking trees with significant historic heritage value. The majority of us consider that there are sufficient protections for urban trees in the bills. (DR2 rec 139, p 187)
- **Dark skies**: We discussed protections for dark skies during our consideration of effects management. We have been advised that the provisions of the PB and our recommended changes to NEB clause 14(b) would not prevent national instruments, when particularising the goals, to include standards relating to light. We do not consider that any additional protections for dark skies are required in the primary legislation. (DR2 rec 141, p 192)
- **Reverse sensitivity**: Reverse sensitivity is when existing activities have an adverse effect on new activities nearby, such as a new residential development being affected by noise from an existing airport. This would generally be managed through zoning and effects management. Clause 20 of each bill protects existing land uses, and councils' coordinated planning systems would identify potential risks of reverse sensitivity and manage them accordingly. In our view, there is no need to add specific provisions about reverse sensitivity. (DR3 rec 320, p 391)
- **Green spaces**: Although we agree that green spaces are a vital part of the urban landscape and need to be protected, we consider that they are sufficiently provided for in the goals. PB clause 11(c) has the goal "to create well-functioning urban and rural areas". When particularising the goals, we expect national instruments to account for green spaces. We also consider that specifically referencing green spaces in the primary legislation could set a precedent for referencing many other matters. (DR3 rec 321, p 392)
- **Financial contributions**: Under the PB and the NEB, financial contributions could be imposed through a condition on a consent or permit. This is not explicitly spelt out but is provided for in PB Schedule 6, clause 2(d) and NEB Schedule 2, clause 5(2)(d). Councils can also charge development contributions under the Local Government Act 2002. The bills also do not prevent private agreements about a person's land and its effects. (DR3 rec 322, p. 394)

Further information about these topics can be found in the relevant advice document.

New Zealand Labour Party differing view

Introduction

The Resource Management Act 1991 (RMA) was a significant legislative step to improve environmental protections and reform town planning. It was developed under a Labour Government and passed by a National Government. Unfortunately, implementation of the RMA was slow and it took a long time to develop jurisprudence on how to interpret and implement its purpose. As a result, the environment has continued to degrade and the RMA is hugely inefficient. This is why the previous Labour Government repealed the RMA and replaced it with the Natural and Built Environment Act 2023 and the Spatial Planning Act 2023.

The current Government repealed Labour's laws and embarked on writing its own. Many of the drivers for change are the same – the system is inefficient and there is a need for clear environmental bottom lines. Some of the drivers are very different – this Government has a focus on private property rights and reducing the input of mana whenua. Despite these differences, Labour voted for the bills to progress to select committee in the hope that some improvements would be made. Unfortunately, almost all policy decisions made during the select committee process have made the bills even more unpalatable and unworkable. This is a great shame. Despite our disappointment, Labour members have worked hard throughout the select committee process to at least make some changes to improve the bills' workability.

Two bills

There has been no cogent explanation for the need for two separate bills. We heard that this was a Cabinet decision but the reasoning was absent. We suspect the reason is an attempt to end the "integrated management" approach of the RMA. This is both dangerous and foolish. Our environment exists everywhere; including urban environments.

We note that Labour had two bills. This separation was to enable the new spatial plans and was in no way going to diminish integrated management. Conversely, these two replacement bills will result in a lot of duplication and cause unnecessary uncertainty and inefficiency.

Funnel, purpose, and goals

One of the differences between these bills and the RMA is the "funnel" approach (whereby the Minister's decisions on a wide range of issues then flow down the funnel to lower order plans and decisions). We note that the rationale behind the funnel is similar to:

- The Supreme Court's *King Salmon* decision under the RMA which held that decision-makers need not go up the hierarchy of documents if the lower order plan implements the RMA's purpose; and

- Labour's reforms which focused more decision-making in the plans and national instruments rather than the status quo where time, money, and effort is focused on individual consent applications.

However, the funnel in these bills is different because it is the Minister making the decisions. Any deficiency in national direction, or even a change in Minister, could result in adverse flow-on effects throughout the entire system.

Users of the RMA are familiar with the hierarchy set up under Part 2 of that Act, which emphasises "sustainable management" at the top. By contrast, these bills specifically have no hierarchy in their purpose or goals. This means that when goals conflict with each other, the Minister will determine how the conflict is resolved – this is in effect the Minister establishing a hierarchy. This is a lot of power and leaves no wiggle room should a poor decision be made at the top of the funnel.

We note that the Minister does not have complete free rein and is somewhat constrained by the goals and purpose of each bill. However, although each bill has a purpose clause, they deliberately provide no substantive guidance and do little more than "establish the framework". The Planning Bill's purpose has also been amended to include "the enjoyment of land", which appears to privilege landowners.

The goals in the Planning Bill (clause 11) are development focused. A change is made to include the word "abundant" in relation to land availability for residential and business use. It is a shame that this focus on abundance does not roll over into productive soils and biodiversity. There is an absence of ambition to improve our environment. Cumulative effects will continue unchecked.

The goal to "create well-functioning urban and rural environments" is open to interpretation. Labour supports a focus on green infrastructure and green spaces for community use. With the new system's focus on property rights, we are concerned that new residential developments will engulf the entirety of a site and reduce any private green space. This means the country will need to provide more public green space, but the mechanisms for requiring and acquiring those spaces are limited.

Climate change is already increasing the frequency and severity of extreme weather. More resilient drainage will be needed to manage heavier storms, while trees and green spaces can help reduce heat, provide shade, and slow rainfall before it reaches the ground. This use of nature also helps with well-being and provides community recreational spaces. It requires planning but, under these bills, appears to rely on a Minister's interpretation and appetite for green spaces.

The Natural Environment Bill's goals also include a development focus "to enable the use and development of natural resources". The bill as introduced included a caveat to this goal of "within environmental limits" but that has now been deleted. This deletion is one of many examples that make a mockery of the Government's contention that this new system will provide for environmental bottom lines (limits). The Natural Environment Bill's goal of "no net loss" of indigenous biodiversity is unworkable and lacks ambition. There is no definition of or baseline for measuring "no net loss". Labour members agree with the Parliamentary Commissioner for the Environment that this clause is unlikely to provide any practical protection for indigenous biodiversity at all.

Clause 13 introduces "procedural principles" that are not requirements. The bill now requires a person exercising functions to "act in a pragmatic way that supports practical solutions". This is highly subjective and is unnecessary, particularly given the existing duty to use "timely, efficient, consistent, and cost-effective processes". Finally, "pragmatic" is not a familiar legislative term and as such, may invite legal challenge which reduces efficiency and increases cost.

The funnel approach, along with the vague purpose statements and subjective goals, needs considerably more thought and work if these bills are to be effective.

Environmental limits

Environmental limits are either to protect human health or the natural environment. Human health limits are to be set nationally. Natural environmental limits are to be set in the region's plan and at first blush it appears that the Minister's involvement is minimal. However national standards set the methodology and a minimum acceptable standard (clause 50A) and minimum acceptable levels (clause 55(1)(e)) but "must not determine an ecosystem health limit itself" (clause 58A(3)). This does not make much sense and presumably comes from a desire to appease lobbyists who do not want nationally applied limits – yet they will likely get them through all the methodologies and minimum acceptable levels. It is one of many examples where this legislation is more complicated than it needs to be.

As well as this, the entire concept of "limits" is undermined by the bills. Economic considerations are part of the development of an ecosystem health limit (clauses 50B(1)(c) and 56(da)), and national standards can authorise activities that will breach a limit (clauses 79 and 164A).

Environmental limits need to be bottom lines that are not further degraded.

Te Tiriti o Waitangi and mana whenua

Section 8 of the RMA is a general Treaty clause to "take into account the principles". This is in addition to clause 6(e) that says, as a matter of national importance "the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga" is to be recognised and provided for. The RMA also requires decision-makers to have particular regard to kaitiakitanga, and includes other provisions such as Mana Whakahono ā Rohe.

Unfortunately, the bills degrade these participatory rights. The general Treaty clause has been removed (there is a specific actions clause at 8) and the section 6(e) equivalent is downgraded. There is an "equivalence" clause (Clause 10), but it is impossible to be equivalent when the language in the bills is so different from the RMA. Although existing Mana Whakahono ā Rohe agreements will continue in force there is no ability for new agreements (unless iwi have initiated the process and progress them before the "specified transition date", under clause 21). Feedback on Mana

Whakahono ā Rohe agreements is that they assist with the timeliness and efficiency of the resource management system, so it is not in anyone's interests to remove them.

It is beyond disappointing that these bills are regressive on mana whenua issues as compared with the RMA. Article 2 of the Treaty specifically relates to our environment, so this "downgrade" in our resource management laws is wrong.

There will be Treaty Settlement litigation around these changes that downgrade mana whenua participation because these settlements were reliant on the general settings of the RMA. That is not to say that the RMA can never change (it has been many times) but the change should be in the opposite direction – that is more involvement, not less, for mana whenua.

Regulatory Relief

An issue that garnered many submissions is the new regulatory relief industry. Labour has been opposed to the concept of these from the outset. Protections, including ones already in place (for biodiversity, heritage, landscape, and sites of significance for Māori) will be subject to new provisions that could result in a council being required to provide monetary compensation for that protection. That is, ratepayers would have to pay landowners for protecting something that is not their land–that is, biodiversity. Of course, submitters rightly pointed out these provisions will have a chilling effect on protections.

These regulatory relief provisions should be removed because they will undoubtedly result in biodiversity loss and the creation of a new very inefficient industry. The Government's own report estimates it could cost up to $1.99 billion dollars. Councils told us that the regulatory relief requirement will be expensive and they are unlikely to be able to afford the cost of compensation, particularly in light of other Government work that will further restrict councils' ability to raise funds. This context makes the provisions even worse for our environment.

Section 85 of the RMA is an existing mechanism for landowners who are unreasonably affected by a rule. This mechanism is carried over in the bills and could be further extended if the National members were serious about a bi-partisan approach.

Other issues

Climate change—while climate adaptation and hazards are part of these bills there has been a policy position to not address climate pollution. Although the Emissions Trading Scheme incentivises polluters to reduce or offset their emissions, New Zealand needs many other tools to decarbonise. This includes planning for public and active transport, better urban design, and enabling renewable electricity generation. It is good that a new clause 15A has been added to the NEB and the PB that enables positive effects associated with "avoiding, reducing, removing, or displacing greenhouse gas emissions" to be considered. It is unfortunate that consideration of climate pollution is otherwise banned from planning.

Definition of infrastructure—this is a critical definition because infrastructure is given precedence in various provisions. The definition now is either to perform a public function or to support “the functioning of the economy”. This means that any physical structure used for a private business can be considered as infrastructure. A shop should not be treated as infrastructure. Whereas a nature-based stormwater management system should be treated as infrastructure, and it is good that the definition of “infrastructure” has been amended to incorporate this.

Hazards—the provisions relating to hazards could be stronger, especially for stopping new activities in areas subject to hazards such as flooding and land slides.

Controlled activities—there is often a fixation from RMA users to have activities classified as a permitted activity. While there are benefits of not having to go through a process sometimes it can end up being more complicated when a due diligence report requires proof that the permitted status applies. This is why there is a certificate of compliance process that can take time and resource. Sometimes it is more efficient to require a consent that is constrained (restricted discretionary) or must be granted (controlled). It is sensible that the NEB now includes the controlled activity status.

Implementation—the time to implement these reforms is similar to when Labour’s reform would have been fully implemented. The Government intends to “turn on” its reforms at the same time nationwide. This is despite widespread opinion that New Zealand has a limited number of resource management professionals and they struggled when both Auckland and Christchurch were undertaking large scale plan developments at the same time.

We note that there is budget allocation for implementation and a new digital system. Treasury has an amber alert on the digital system and this work will need to be carefully managed with tight governance.

Separating the system into two bills will also add to the difficulty of implementation. In addition to these two bills there is also the Fast-track Approvals Act that is causing planning chaos in places like Queenstown with multiple developments approved without the necessary infrastructure.

Wildlife approvals—The bills should retain DOC as decision maker for Wildlife Act approvals and specify appropriate time frames. If regional councils are allowed to issue wildlife approvals they should be required to consult DOC on the applications.

Labour agrees with changes made by the select committee to ensure that applications for a wildlife approval include information stating whether the applicant or anyone else involved with the application has been convicted of any offence under the Wildlife Act 1953 and whether the applicant or anyone involved with the application has any current criminal charges under the Wildlife Act 1953 pending before a court. However, we disagree with the decision not to require this information when the approval is transferred to a third party. Under the new legislation, someone could apply for a wildlife approval as long as they did not have any current criminal charges or conviction under the Wildlife Act and then transfer the approval to someone who does.

Planning—we are concerned that there is an overriding policy position that planning is somehow not needed. Difficult trade-offs will be made by the Minister and choices on zones will merely be a choice of a standard zone by a council. This is an oversimplification and no system would work without planners doing some planning. This need for planning should be better recognised.

Labour is concerned that most of the community input is into the regional spatial plan and that input is then limited into the land use plans. Community input is needed in both.

We note that the contents of spatial plans will depend on what is required by national instruments and regulations. Labour supports conservation corridors being included. More detail on what a spatial plan must include should be specified in the bills.

Waitakere Ranges and Hauraki Gulf—there should be provisions to continue the protections and exclude regulatory relief from applying to protections that currently exist.

Soils—highly productive land is of strategic importance to New Zealand's food security and resilience. Fertile soils do not magically appear. They are the result of geological processes over long time frames, and a huge asset to the country. It is easy to ignore long term food production value in favour of shorter-term housing options when deciding whether to build outwards rather than intensify existing developed areas. We are disappointed that clause 36 of schedule 1 effectively cancels the RMA requirements of mapping highly productive land.

Areas of agreement—Labour agrees in the importance of long-term spatial planning, the reduction of plans, a plan based at the regional level with councils working together, and a more standardised and efficient approach. Improving data and the ability for decision makers to rely on standardised data sets is also supported.

Conclusion

It is immensely frustrating to go back and read National's differing views on Labour's reforms and see complaints about time frames and a rushed process. These Coalition Government bills did not have an exposure draft process with public submissions, and the time for submissions was shorter. There have been many changes through the departmental report and this view is being written before the committee has considered Parliamentary Counsel Office's final drafting changes (which is no reflection on officials who have done a brilliant job in very difficult time pressured circumstances). Many of our committee meeting times were significantly reduced because of the House sitting under urgency or extended hours. It is this process that has resulted in a huge departmental report and this process where "members had inadequate time to engage properly with the content".

What is even more frustrating is the final result. The Government has pushed on with bills that will create a new regulatory relief industry, will not work with the weak purposes and conflicting goals, be inefficient and much worse for our precious environment. In addition, the system moves costs from those benefiting from resource use to the public purse; this is the wrong way round.

The bills are an embarrassment–National could have worked with us to amend Labour's legislation but instead they chose to start again with something full of campaign slogans that will end up costing all New Zealanders and the environment.

Green Party of Aotearoa New Zealand differing view

A fit for purpose, functional resource management system that sets clear direction and provides certainty is critical for New Zealanders' wellbeing and Te Taiao/the environment. The system will have serious and lasting implications for our collective culture, economy, society, and our obligations under Te Tiriti o Waitangi. It influences not only the state of the environment and therefore our ability to sustain lives and livelihoods today, but also for all who come after us.

The significance of this is at the forefront of the Green Party's strong opposition to these bills.

We wish to acknowledge and thank the 3,204 submitters who expressed their views and shared their expertise. 74 percent of those submitters opposed the bills, 22 percent expressed mixed or unclear views, and less than 4 percent supported the bills.

To achieve enduring, functional legislation that would deliver on the intention of more, rather than less, certainty, the process required genuine cross-party collaboration and importantly having genuine regard for the expertise—the mātauranga of tangata whenua, experts, local government and planning practitioners, academics and community voices—that came through in submissions. The resulting recommendations of the Select Committee process demonstrate that this did not occur.

Many of the bills' flaws were pre-determined by Cabinet and ministerial decisions, which resulted in officials being severely limited in their ability to work effectively with the committee. This therefore required at the very least, the ability for the committee to be open and engaged with the advice that came from our independent advisors and the application of that advice in making recommendations that could amount to a functional system. Unfortunately, that opportunity was not taken up by the committee, and the resulting bills are now a reflection of that failure.

There are some aspects of the overall urban planning system architecture proposed in these bills that we support in principle. For instance, the move to more of a focus on public participation and clear decision making at the plan level, rather than litigation about specific proposals at the point of consenting is welcome. We support clear national direction and regional spatial plans, which then inform land use plans. We support greater simplification and standardisation of zoning rules, and better monitoring and enforcement of rules, particularly where environmental degradation takes place. We would like to see these changes contribute to better urban environments, such as improved mobility, accessibility, and community engagement and belonging. However, there is too much riding on the specifics of national direction that has not yet been published, and far too much left to ministerial discretion, for us to support the bills.

Our concerns with the bills are extensive and not limited to what is included here. Our primary concerns include:

The two bill approach is flawed, leading to a lack of integration

The formation of these two bills attempts an illogical split between "planning" and the natural environment in which planning and all activities exist. We agree with submitters that the two bill structure is a fundamental flaw that creates structural and coherence issues.

As the Parliamentary Commissioner for the Environment (PCE) pointed out, he could not find any stated rationale underpinning the two bills being split and explained "while the Bills pretend that [the domains] can be treated as distinct and separate matters, they cannot in the real world be managed without reference to one another". The Green Party cannot support the embedding of a new system that will cause even greater levels of uncertainty and unnecessary division than the current system.

This division results in unnecessary siloing and lack of integration between the two bills, with serious implications for the workability of permit processes further down the system. We heard strongly and clearly from Local Government that the integration and efficiencies councils are currently able to achieve, will take a backward step, and officials advised us that in some instances existing consents may need to be split across permits under the separate bills. This is the opposite of the efficiency and streamlining that the Government purports to be aiming for.

Weak purposes and goals unworkable and unambitious

As emphasised by both of our advisors, the purpose clauses are purposes that "have no purpose" and now further entrench the subjective and ideological concept of "enjoyment of land" where private property rights take precedence over environmental protection or impact on neighbours and community. The PCE's advice on how the committee might consider drafting changes to improve the purposes was ignored and attempts to amend the purpose clauses to include benefits to "current and future generations" were denied.

We agree with many submitters who expressed that at a minimum, the bills should provide that, where activities or priorities conflict, the protection and enhancement of environmental health and the natural environment—including safeguarding life-supporting capacity and maintaining ecological integrity—take precedence. Development and resource use should be permitted only where they occur within, and are subject to, environmental limits.

Similarly, we join with submitters who were extremely concerned that the goal for indigenous biodiversity is to achieve "no net loss" of indigenous biodiversity. This represents a significant change from the recommendation of the Expert Advisory Group which noted the need "to signal a step change in relation to indigenous biodiversity" and proposed that the goal should be indigenous biodiversity net gain. "No net loss" is as unworkable as it is unambitious, and is out of step with our international commitments under the Kunming-Montreal Global Biodiversity Framework (GBF) as well as the United Nations Convention on Biological Diversity (CBD).

Environmental protections dismantled

A functional resource management system must have actual environmental limits that are based on evidence, science and mātauranga Māori. As Choose Clean Water summed it up, “Although the Bills are being described as the largest ‘economic’ reforms in a generation, they are, at their heart, not about the economy. They are—or should be—about protecting the environment.”

The fact that the ecosystem health limits are not in fact, environmental limits, but rather only arrived at once economic and social factors are taken into account make a mockery of this framework and expose its complete lack of credibility. As the PCE advised: “This advice gives weight to the conclusion that the Natural Environment Bill is actually an economic development Bill that provides for the possibility of environmental limits.”

The Minister has discretion to decide if use and development need not occur within environmental limits and to make matters worse, the explicit clause that would embed the “precautionary principle” which would require a permitting authority to favour caution and environmental protection when deciding whether to approve a permit application, has been removed. To give further weight to how low the bar can be set for these so-called “environmental limits”, the ecosystem health limits do not even have to be set at a level that would “prevent significant or irreversible harm”, in the way that human health limits must be.

We are deeply concerned about the approach where an increased reliance on permitted activities risks the ongoing pollution and degradation of the environment and cumulative effects may or may not be managed. The time frame for aiming to achieve even “interim” environmental limits has been pushed back half a decade from five to ten years, meaning the goal posts become even more distant, with action on any environmental improvement increasingly delayed. Similarly, we do not support Freshwater Farm plans now being self-certified and audited by industry and are disappointed that market allocation mechanisms that could address overallocation of freshwater were scrapped after push back from industry.

Te Tiriti o Waitangi obligations and Māori rights and interests have been weakened and narrowed

Almost all Māori groups opposed the bills. We agree with the many voices of iwi and hapū who expressed their disappointment at the weakening and narrowing of mana whenua and Māori voice throughout the system that was succinctly captured by the Waikato River Authority who described the Government’s actions in the bills as “eviscerating” Crown–Māori relationships. We agree that over-arching Te Tiriti o Waitangi obligations that provide for genuine engagement should be upheld through every stage of the planning and permitting processes from national direction to permits (for settled and non-settled iwi and hapū).

The proposed two year time frame for the Crown to enact the bills, and then undertake a process to seek agreement with post-settlement governance entities as to how their Treaty settlement redress could be given ‘the same or equivalent effect to the greatest extent possible' in the new system is a retrograde insult to iwi and hapū that the Green Party could never support.

The inappropriateness of the proposed system was well captured by Tina Porou submitting on behalf of Poipoia Ltd when she said, "Māori influence is forced to occur at the earliest, most technical and resource-intensive stages (national instruments and plan development), while the system then narrows opportunities to raise Treaty-consistent matters later, even when the on-the-ground effects on taonga, wāhi tapu, wai, and customary practice are clearer."

Ministerial direction is too broad

We agree with the PCE that the vast ministerial powers at the top of the system have, "potential for endless churn following every change of government and resulting in uncertainty for system users". An enduring system needs to have processes that allow for information from both experts and the people most affected by decisions.

We agree with the submission of Te Rūnanga o Toa Rangatira, which describes how the bills, "shift significant decision making power from local authorities to Ministers, creating a top heavy system in which national direction overrides local decision making and Māori participation is significantly curtailed. This centralisation departs from the partnership based relationships that underpin effective planning… Taken together with the Fast-track Approvals Act 2024, Ministerial decision making in the Bills opens the door to instances of political manipulation, progressing pet projects, lobbying and lack of transparency. The international environmental reputation of Aotearoa-New Zealand is at risk."

Ironically, independent hearings panels are required by the bills for determining spatial plans and other responsibilities of local authorities, but there is nothing similar proposed for setting national direction—which are arguably the most influential and powerful instruments in the proposed system. We believe there can and should be a more participatory process for determining national directions, noting the significance of these instruments for the overall planning and resource management frameworks.

Climate change mitigation and adaptation are major oversights

The omission of climate mitigation and adaptation in the goals in the Natural Environment Bill and the Planning Bill weaken the effectiveness of the entire system. As Hawke's Bay Regional Council outlined in their submission: "The current goals focus on safeguarding communities from natural hazards through proportionate, risk-based planning. But they do not make climate change mitigation and adaptation a core driver of decisions. Without a clear, proactive goal, there is a risk the system may stay focused on responding after events, rather than driving the major shift needed to build long-term regional resilience."

Greater Wellington Regional Council pointed out the resulting gaps which risk constraining councils' ability to manage environmental and development pressures: "Despite climate change being one of the most significant drivers of land use change, natural hazard escalation, infrastructure vulnerability, and regional planning complexity, neither adaptation nor mitigation is articulated as a system goal. Without explicit recognition, councils may face reduced statutory authority to plan proactively for sea-level rise, managed retreat, flood risk, and emissions-reducing land use patterns. This omission signals a misalignment between the Bills and New Zealand's national climate commitments and adaptation frameworks."

Land use planning fundamentally impacts both the level of dangerous greenhouse gas emissions, and how communities are affected by increased frequency and severity of weather events. Numerous submitters made practical suggestions about how climate mitigation should be explicitly referenced in the bills. The committee settled on a nonsensical solution where only "positive" effects of emissions reduction can be taken into account. Our urban planning and environmental law frameworks should put climate mitigation and adaptation at the heart of their purpose to have any clear direction for New Zealand to significantly reduce emissions and cope with the results of climate disruption that are already affecting us. Greenhouse gas emissions must be a major consideration in determining spatial plans, land use consents and natural environment permits, as that will be far more effective and less costly for communities than locking in development patterns and activities then trying to affect behaviour via a carbon price.

Regulatory relief is immensely costly, unworkable, and inappropriate

We are strongly opposed to the regulatory relief regime in its entirety, which these bills would establish and implement via the land use plan and natural environment plan. We agree with the PCE that the regime "will confer a right to remove indigenous biodiversity on properties". As local councils made clear, these provisions create significant uncertainty with no clear justification for the regime. It is equally unclear how councils are to develop, implement and fund a relief framework. We were deeply concerned that despite the only report the committee received on the matter outlining the novelty, uncertainty and potential for crippling costs to local councils and ratepayers of up to two billion dollars, that the committee proceeded to retain regulatory relief.

It is of further insult to both the rich cultural history of Māori whakapapa and the natural heritage of this country that both "sites of significance for Māori" and "terrestrial biodiversity" are subjected to regulatory relief, despite both being established long before any concept of private property rights.

We also note the specific failure to protect the status of the Waitākere Ranges Heritage Area Act 2008 which risks a death by a thousand cuts to the regenerating native ecosystems of Waitākere through the unrelenting encroachment of inappropriate intensification.

Other matters

We would like to see regional spatial plans specifically enable nature-based solutions and green spaces. The failure to implement general tree protection or even maintain the existing status of scheduled trees denies the multiple community, ecological, and resilience benefits of a healthy urban forest. Our cities will become less liveable and more unsustainable without protection of mature trees on public and private land.

We do not agree with a separate process for Wildlife Act approvals. We strongly support the retention of water conservation orders in the new system, however, land use plans should be consistent with water conservation orders and we disagree with the scope of newly proposed water conservation orders being narrowed.

We agree with the PCE that the sequencing of plan development where the setting of environmental limits in natural environment plans come after spatial plans have been developed “makes no sense at all”. If any further evidence was required that the system is unworkable, one only needs to understand that Fast-track consent processes are still able to be granted, that can bulldoze their way through any of the new system planning.

We are increasingly concerned about the cumulative effect of current local government reforms and other legislative reform such as these bills. The Government continues to proceed with legislation with little to no understanding or regard for the impact on local government and the communities they serve. The rates cap is expected to severely reduce local government revenue, whilst expected to implement resource management reform, and engage in large-scale governance restructuring—all without clarity on funding, sequencing, or transition support. This pattern shifts cost, risk, and accountability to local communities by default and is completely unsustainable.

We are disappointed that all this new system amounts to is more delay, degradation, uncertainty, and upheaval for our environment and communities at a time when our environment is under severe and increasing pressure. New Zealanders are innovative, smart, and want a stable healthy environment to live and grow in and pass on to future generations. These bills are a disservice to those fundamental values.

Te Pāti Māori differing view

Introduction

Te Pāti Māori opposes these bills. Our position is premised on Mana Motuhake, Mana Ōrite and Mana Mokopuna. Taken together, these principles and metrics form the scope of our specific iwi/Māori rights and interests, and critique of legislation pertaining to our taiao.

Our starting position is that any new resource management (and planning) systems must:

- be grounded in Te Tiriti o Waitangi and the unique, historical relationship of hapū and iwi/Māori in Aotearoa with their taiao.
- ensure that the strategic inheritance of our mokopuna must be safeguarded and enhanced for all time.

Environmental protections

Te Pāti Māori stands with the significant number of submitters, and the Parliamentary Commissioner for the Environment (PCE), who expressed criticism and concern that the bills would weaken environmental protections compared to the existing RMA. Despite the committee's majority view and recommendations, we consider that the bills in their current form will lead to poorer environmental outcomes given fewer clear, enforceable and durable safeguards by watering-down environmental limits.

Te Pāti Māori also agrees with the PCE that any new resource management system must be premised on a coordinated, holistic and integrated approach. The holistic approach embedded in the RMA is foundational for protecting indigenous biodiversity and our broader taiao in Aotearoa.

This principle was, and still is fundamental for redressing and addressing historical degradation issues experienced and described by hapū and iwi in relation to their taiao. In some cases, Māori responses to environmental degradation set in motion what we understand to be Treaty claims and Treaty Settlement redress today. Returning to a pre-RMA situation, as described by the PCE, would mean returning to a situation where hapū and iwi rights to their taiao are severely undermined or non-existent.

We disagree with the committee's view that *"measures to protect the natural environment remain the same or similar to the RMA"*. Instead, the way the proposed system is configured, as two distinct bills, will affect levels of protection.

Te Pāti Māori rejects the idea that a new system will provide greater flexibility to the Minister and which relies on the Minister to set the appropriate amount of protection through national instruments.

Incorporating "green infrastructure"

We agree with the committee's recommendation to insert a definition of "infrastructure" that applies throughout both bills, including whether that definition also includes "green infrastructure".

We consider that the matter to be critical in implementing treaty settlement arrangements and other bespoke, place-based arrangements nationwide. Te Pāti Māori considers it will have far-reaching implications for hapū and iwi whose local places, rohe/takiwā and tāonga are affected by major infrastructure projects.

In addition, the recommended change is important to hapū and iwi who view their tūpuna and tāonga as metaphysical beings who are indivisible and who exist across whole-of-life cycles. Under the existing RMA, there continues to be complex challenges and debates about what is considered "infrastructure". For example, we note the ongoing challenges with accounting for the role and function of rivers, streams, tributaries, reserves, parks and other natural features used (compared to "hard infrastructure"), as part of stormwater and wastewater networks, to help protect against discharges to the environment.

Purpose

Te Pāti Māori agrees with concerns raised by submitters that the purposes of both the Planning Bill (PB) and the Natural Environment Bill (NEB) are *"conceptually different and it is difficult to understand how they would integrate with each other."*

We also agree with concerns raised the PEC regarding the "enjoyment of land" in the PB. Our concern is that the wording promotes aggressive development premised in ideological concepts of private property and extraction.

Te Pāti Māori supports the proposed amendment to the NEB's purpose to include a reference to "benefitting current and future generations" and any other serious measures that provide for intergenerational planning (whakapapa) and certainty of tāonga. We agree with those Committee members who have taken a long-term view to environmental management and we call on the Minister to include this reference in national instruments.

Goals

Te Pāti Māori supports the committee's recommendation that an additional goal be added to the NEB *"to support and enable enhancement of the natural environment"*, in line with submitters who consider that the bill *"does not sufficiently provide for restoration or enhancement of the natural environment"* and, in its current form, remains disjointed from the purpose of the NEB.

We wish to raise concerns over the fact that the goals are not ordered by hierarchy and where there is conflict in decision-making instruments, the Minister would be empowered to decide how to resolve these in secondary instruments.

Māori Rights & Interests (Treaty Provisions)

Te Pāti Māori remains emphatic in its overall position that the bills must not proceed given that they were opposed by a majority of Māori groups. The committee heard and acknowledged the core critique by Māori groups that the proposed decision-making framework is narrower than the existing RMA.

We agree with Māori submitters that the newly proposed resource management system does not *"adequately allow for recognition and protection of Māori relationships with ancestral land, water, and other taonga"*. This includes insufficient support and recognition for existing redress arrangements and planning arrangements established through existing Treaty settlements.

Interaction with Treaty settlements

The committee acknowledged that Treaty settlement arrangements are complex and bespoke; acknowledging that these arrangements interact with and were born out of the existing resource management system. The committee recognised that the Crown must work with Post-Settlement Governance Entities (PSGEs) to agree changes as part of transitioning to a new system.

Our position is that renegotiating Treaty Settlements, including the role and status of these in legislation is a serious matter that calls into the question the good-faith keeping and undertakings by the Crown. It is a serious matter that requires care so as to avoid destroying the principle of Crown partnership with Māori. Interfering with complex arrangements before they have had the time and opportunity to embed will have detrimental impacts for future generations of Māori and non-Māori alike in relation to the taiao they will come to inherit.

We acknowledge that the bills set out provisions requiring the Crown to work alongside PSGEs within the first two years of enactment. However, Te Pāti Māori considers that achieving the purposes of the bills would have been best served by including hapū and iwi (including PSGEs) in co-designing the new system in the first place.

Consultation with Māori

The committee noted general support for consultation with Māori. Te Pāti Māori is clear about the fundamental difference between "consultation" and "engagement". Hapū and iwi Māori, as Te Tiriti partners, are not to be "consulted with" (informed, but distant from decision-making). Hapū and iwi Māori, as Te Tiriti partners, are to be engaged fully across design and decision-making from inception.

Representation & Spatial Plan Committees

Te Pāti Māori remains concerned about the prospect that councils would need to agree how to consult with iwi as a part of preparing draft regional plans or plan changes. The committee acknowledged that the plans require identification and provision for statutory acknowledgements and sites of significance to Māori.

Although the bills require consultation with iwi and Customary Marine Title (CMT) groups when preparing draft plans or changing plans, including "having regard to" iwi management plans, the success and efficacy of similar "have regard to" provisions under the existing RMA remains dubious and questionable. Perhaps even ineffective.

Te Pāti Māori considers that the recommendation by the committee to amend or create a new clause about the appointment of spatial plan committees is woefully inadequate.

The committee recommended a requirement that spatial plan committees *"have at least one member with expertise "knowledge, skill, and experience in Te Ao Māori and Māori development", to address Māori interests in an appropriate way."* The committees reasoning for this is that this approach *"would align with requirements for expert panels under the Fast-track Approvals Act 2024."*

Numerous hapū and iwi submitters opposed this provision within the Fast-Track Approvals Act 2024. Te Pāti Māori rejects the committee's justification of "just lifting and shifting" provisions from existing legislation, when that legislation was also opposed by tangata whenua previously.

Transitional Arrangements

Te Pāti Māori wishes to raise serious concerns over how bespoke arrangements will be honoured, protected and future-proofed within a new system. Both bills would be able to transfer powers or enter into joint-management agreements (JMAs) with public authorities. This has occurred already between iwi & councils under the existing RMA.

The committee heard that hapū/iwi or any other representative Māori group would not be able to acquire a bespoke arrangement such as what has been achieved under the existing RMA, on the premise that hapū/iwi are not considered a “public authority”.

The committee noted that; *“Once the RMA ceases to apply at the end of the transition period, there would be no ability for iwi authorities and local authorities to enter into new transfers of power or joint management agreements. There are no provisions for new Mana Whakahono ā Rohe agreements to be entered into either.”*

The committee did not recommend amendments in this area and thought that existing mechanisms for iwi to work with councils are sufficient. Te Pāti Māori is of the view that the committee has not accounted for existing and future inequities that the changes within the two bills will deliver.

Failure to recommend changes to this proposal simply undermines the role of hapū and iwi in decision-making over their local areas. Te Pāti Māori rejects the committee’s characterisation of the issue.

Allocation

Te Pāti Māori vehemently opposes the committees view that existing methods and approaches to allocation under the existing RMA be retained. We also note that the two new recommended methods proposed were removed by the committee. These were;

- market mechanisms (auctions and tenders)
- a process enabling comparative assessment of competing permit applications.

Our core critique of water allocation in Aotearoa relates to outstanding and unresolved iwi/Māori rights in freshwater (and geothermal) management, including ownership and allocation (and as canvassed in detail in the Waitangi Tribunal’s Wai 2358 Stage 2 Report).

Allocation methods retained from the RMA

While the committee heard that the NEB includes a preservation clause *“confirming that it would not create, transfer, extinguish, or determine any proprietary or customary rights or interests in freshwater or geothermal resources”*; the committee then went on to concentrate and solidify existing pressures and challenges to resource management (of water) and the proposed new system will be setup to avoid the matter altogether (and without remedy).

The committee opted for arrangements that cement grand-parenting of rights by existing resource consent-holders, including through the broken “first-in, first-served” model that rewards provenance, scale and the historical context of raupatu. These are:

- Allocation through rules (such as permitted activities) that can be to activity types (such as public drinking water)
- “First-in, first-served” for deciding permits

- Priority for existing permit holders when permits are replaced.

In short, the committee (by way of its recommendations, or lack thereof) has failed to resolve the historic matters and questions of water ownership, choosing avoidance over leadership.

Future role of regional councils

The committee heard that regional councils would continue to retain responsibility for freshwater allocation. However, with the presumed disestablishment of regional councils this leaves hapū and iwi/Māori rights and interests to freshwater uncertain. This includes the primary of their existing relationships with their current regional councils on allocation matters.

The committee has also recommended that the damming of water be included in allocation under the NEB. This change has far-reaching implications for those hapū and iwi who have major dams across their rohe/takiwā. Again, the committee would have done well to understand the nature of iwi/Māori rights and interests in freshwater allocation and ownership as best described in the Waitangi Tribunal's *Wai 2358 Report*.

Conclusion

Te Pāti Māori opposes both bills. While some improvements have been recommended, our fundamental concerns remain unresolved.

The bills weaken environmental protections, diminish Māori rights and interests, create uncertainty for Treaty settlement arrangements, and entrench inequitable resource allocation frameworks.

Rather than advancing a resource management system grounded in Te Tiriti o Waitangi, kaitiakitanga, and intergenerational stewardship, these bills risk taking Aotearoa backwards.

For these reasons, Te Pāti Māori cannot support the bills in their current form.

Appendix A: Committee process

The Planning Bill and the Natural Environment Bill were referred to this committee on 16 December 2025. The House instructed us to report the bill back no later than 20 July 2026. We invited the Minister Responsible for RMA Reform to provide an oral submission on the bills. He did so on 9 February 2026.

We called for submissions on the bills jointly with a closing date of 13 February 2026. We considered any submissions received to be counted against both bills for the Parliamentary record. We received and considered submissions from 3,204 interested groups and individuals. We heard oral evidence from 178 submitters. We wish to acknowledge the efforts of all submitters and thank them for their engagement.

Advice on the bills was provided by:

- the Ministry for the Environment (now the Ministry for Cities, Environment, Regions and Transport)
- the Parliamentary Commissioner for the Environment
- Bronwyn Carruthers KC.

We list all the advice we received in Appendix C. All advice can be found on the Parliament website.

The Parliamentary Counsel Office assisted with legal drafting. The Regulations Review Committee wrote to us on a number of powers in the bills, we address these in relevant areas of our commentary.

Committee membership

Catherine Wedd (Chairperson)

Hon Rachel Brooking

Hon Julie Anne Genter

Ryan Hamilton

Cameron Luxton

David MacLeod

Grant McCallum

Lan Pham

Hon Priyanca Radhakrishnan

Appendix B: Glossary

Abbreviation	Definition
CMA	Coastal Marine Area
CMT	Customary Marine Title
DOC	Department of Conservation
EPA	Environmental Protection Authority
IHP	Independent Hearings Panel
LUP	Land Use Plan
MfE	Ministry for the Environment
NBEA	Natural and Built Environment Act 2023
NEB	Natural Environment Bill
NEP	Natural Environment Plan
NPD	National Policy Direction
PB	Planning Bill
PCR	Protected Customary Rights
PSGE	Post-Settlement Governance Entity
PCE	Parliamentary Commissioner for the Environment
RMA	Resource Management Act 1991
RSP	Regional spatial plan

Appendix C: Related resources

We received the following advice, which is available on the Parliament website.

Committee meeting date	Advice provided by	Advice document	Topics
18/12/2025	Office of the Clerk	Initial procedures	Submissions process
29/01/2026	Ministry for the Environment (MfE)	Initial briefing and cover note	Overview of bills
29/01/2026	MfE	Overview of new planning system	
29/01/2026	Parliamentary Commissioner for the Environment (PCE)	Preliminary questions	System, decision-making, environmental limits, regulatory relief, implementation, rural context, public participation
19/02/2026	Office of the Clerk	Hearings process	
19/02/2026	MfE	Upholding Treaty settlements and other arrangements	
19/02/2026	PCE	Comments on initial briefing	Regulatory relief, Planning Tribunal, notification, system certainty, implementation, cumulative effects, permitted activities, ministerial intervention
02/03/2026	MfE	Responses to committee questions (February)	Responding to PCE comments from 19/02/2026
09/03/2026	MfE	Māori rights and interests and Treaty settlement provisions	
16/03/2026	MfE	Emerging themes in submissions	
16/03/2026	MfE	Property rights	
16/03/2026	MfE	Urban trees	
18/03/2026	MfE	Approach to departmental reporting	
23/03/2026	MfE	Highly productive land	
02/04/2026	PCE	Biodiversity challenges	
02/04/2026	PCE	Legislative design and core components	
02/04/2026	PCE	Ministerial powers and constraints on participation	
16/04/2026	MfE	Departmental report 1 (DR1)	Duties and restrictions, plans and plan making, consenting and permitting, compliance and enforcement, emergency works,

Committee meeting date	Advice provided by	Advice document	Topics
			Marine and Coastal Area (Takutai Moana) Act, statutory acknowledgements, designations, subdivision, financial assurances
16/04/2026	MfE	Summary of DR1 recommendations	
16/04/2026	MfE	DR1 figures	Plan-making process, consenting and permitting process, designation pathways
16/04/2026	PCE	Suggested matters for independent advice	
23/04/2026	MfE	Departmental report 2 (DR2)	Central and local government, system performance, Planning Tribunal, Environment Court, regulations, transitions and savings, consequential amendments, Independent Hearings Panel, existing use protections and natural hazards, other matters and miscellaneous
23/04/2026	MfE	Summary of DR2 recommendations	
23/04/2026	PCE	Initial comments on DR1	
23/04/2026	PCE	Ministerial discretion and limits framework	
30/04/2026	PCE	Initial comments on DR2	
06/05/2026	MfE	Departmental report 3 (DR3)	Foundations, Māori interests and Treaty provisions, national instruments, regulatory relief, regional spatial plans, allocation, notification, coastal matters, freshwater farm plans, transition and implementation timing, other matters
06/05/2026	PCE	Summary of DR3 recommendations	
06/05/2026	PCE	Initial comments on DR3	
21/05/2026	MfE	Responses to additional information requests (Responses 20/05/2026)	Prohibited activities, notification, water conservation orders, Māori interests, environmental limits, consenting and permitting
21/05/2026	MfE	Transition and implementation timeline	
21/05/2026	PCE	Comments on DRs 1-3	

Committee meeting date	Advice provided by	Advice document	Topics
28/05/2026	MfE	Departmental report 4 (DR4)	Levies, wildlife approvals
28/05/2026	MfE	Summary of DR4 recommendations	
28/05/2026	MfE	Regulatory relief liability estimation	Work commissioned from Martin Jenkins
28/05/2026	MfE	Additional information request – regulatory relief	
28/05/2026	PCE	Advisers report	System design, environmental management, aspects of the planning system, transitional matters
28/05/2026	PCE	Initial comments on DR4	
04/06/2026	Bronwyn Carruthers KC	Advice on initial questions	Purpose statements, goals, regulatory relief transition
16/06/2026	PCE	Further comments on DR4	
25/06/2026	Bronwyn Carruthers KC	Review of RT excerpts from Sch 3, Part 4	Regulatory relief
25/06/2026	Bronwyn Carruthers KC	Treaty settlement redress and arrangements	
25/06/2026	MfE	Interim limits diagram	Environmental limits
25/06/2026	MfE	Limits diagram	Environmental limits
25/06/2026	MfE	Responses to wildlife approvals questions	
25/06/2026	Parliamentary Counsel Office (PCO)	PB record of selected changes	PB Parts 1–4 (Preliminary provisions, foundations, combined plan, planning consents)
25/06/2026	PCO	NEB record of selected changes	NEB Parts 1–4 (Preliminary provisions, foundations, combined plan and other matters, natural resource permits)
02/07/2026	PCO	PB record of selected changes (version 2)	PB Parts 1–6 (Preliminary provisions, foundations, combined plan, planning consents, key roles, enforcement and other matters), PB Schedules 2–6
02/07/2026	PCO	NEB record of selected changes (version 2)	NEB Parts 1–6 (Preliminary provisions, foundations, combined plan and other matters, natural resource permits, key roles, enforcement and other matters), NEB Schedules 1–6

Committee meeting date	Advice provided by	Advice document	Topics
09/07/2026	Ministry for Cities, Environment, Regions and Transport (MCERT)	Catchment groups memo	Freshwater farm plans
09/07/2026	MCERT	Regulatory relief recommendation	

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Chris Bishop

Natural Environment Bill

Government Bill

Contents

Subpart 2—Duties and restrictions

Decision-making criteria and considerations

Process

Part 5
Key roles

Subpart 1—Functions and powers of central and local government

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Natural Environment Act **2025**.

2 Commencement

~~(1) This Act comes into force on Royal assent except as provided under **subsection (2)**.~~

~~(2) The following provisions come into force on the specified transition date:~~

~~(a) **subpart 2 of Part 2** (duties and restrictions):~~

~~(b) **section 60** (tools for managing resources to which environmental limits apply):~~

~~(c) **section 120** (regional councils to comply with and enforce natural environment plans):~~

~~(d) **subpart 2 of Part 3** (coastal matters, waiter conservation orders, freshwater farm plans):~~

~~(e) **Part 4** (natural resource permits):~~

~~(f) the following provisions of **Part 5**: relating to key roles:~~

~~(i) section 215(c) (functions of Minister); and~~

~~(ii) sections 221, 222 (but not subsection (1)(a) and (b)(i)), 223, 224, and 226 (regional councils); and~~

~~(iii) **sections 241 and 242** (Planning Tribunal and Environment Court):~~

~~(g) **subpart 1 of Part 6** (enforcement):~~

~~(h) **sections 301 to 304** (emergency works):~~

~~(i) **sections 316, 322, 323, 328 to 330, and 332 to 335** (miscellaneous matters):~~

~~(j) **Schedules 2, 4, 5, and 7** (information for permit applications, water conservation orders, freshwater farm plans, amendments to other legislation):~~

~~(k) **Schedule 3 except for clauses 4 to 6** (coastal matters).~~

~~(3) In this section, **specified transition date**, has the meaning given in **clause 4(5) of Schedule 1 of the Planning Act 2025**.~~

(1) This Act comes into force on the day after Royal assent, with some exceptions.

(2) The following provisions come into force on a date or dates set by Order in Council:

(a) **subpart 2 of Part 2** (provisions relating to duties and restrictions):

(b) **section 33** (consequences of certain activity classifications):

(c) **sections 119, 120, and 121(2)** (provisions relating to natural environment plans):

(d) **section 128** (provisions relating to wildlife approvals, including **Schedule 2A**):

(e) **sections 129 to 203** (provisions relating to natural resource permits, including **Schedule 2**):

(f) **sections 243 to 252 and 258 to 300B** (provisions relating to enforcement):

(g) **sections 301 to 304** (provisions relating to emergency works):

(h) **section 323B** (obligations relating to contaminated land or land used for hazardous activity or industry):

(i) **section 123** (provisions relating to coastal matters set out in **Schedule 3**):

(j) **section 124** (provisions relating to water conservation orders set out in **Schedule 4**):

(k) **section 125** (provisions relating to freshwater farm plans set out in **Schedule 5**).

(3) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 1
Preliminary provisions

3 Interpretation

In this Act, unless the context otherwise requires,—

abatement notice means a notice served under **section 266**

agent or **agent of the ship**, in relation to a ship, means—

(a) any agent in New Zealand of the owner of the ship; or

(b) any agent of the ship

air means the composition of the shallow layer of gases, vapours, and particulates surrounding the earth, that is, the lower atmosphere (troposphere) in which people live

aircraft means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by reactions of the air against the surface of the earth

aquaculture ~~**activities**~~ **activity**—

(a) means any activity described in **section 18** ~~done~~ carried out for the purpose of the breeding, hatching, cultivating, rearing, or ongrowing of fish, aquatic life, or seaweed for harvest if the breeding, hatching, cultivating, rearing, or ongrowing involves the occupation of a coastal marine area; and

(b) includes the taking of harvestable spat if the taking involves the occupation of a coastal marine area; but

(c) does not include an activity specified in **paragraph (a)** if the fish, aquatic life, or seaweed—

(i) are not in the exclusive and continuous possession or control of the person undertaking the activity; or

(ii) cannot be distinguished or kept separate from naturally occurring fish, aquatic life, or seaweed; and

(d) does not include an activity specified in **paragraph (a) or (b)** if the activity is carried out solely for the purpose of monitoring the environment

aquaculture area means an area within the coastal marine area that is prescribed as an aquaculture area by a rule in a natural environment plan under **section 115**~~—~~

~~(a) described and defined in a *Gazette* notice under section 44(3) or (6) of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004;~~

~~including any amendments made to the area under section 44N of that Act; or~~

~~(b) that is deemed to be a *Gazetted* aquaculture area under section 44M of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, including any amendments made to that area under section 44N of that Act~~

aquaculture decision has the meaning given in section 186C of the Fisheries Act 1996

aquaculture settlement area has the meaning given in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004

aquatic life has the meaning given in section 2(1) of the Fisheries Act 1996

bed,—

~~(a) in relation to a river, means the space of land that the waters of the river cover at its fullest flow without overtopping its banks; and~~

(a) in relation to a river,—

(i) means the space of land that the waters of the river cover at its fullest flow without overtopping its banks; and

(ii) in the case of a braided or wandering river, means a bed identified in accordance with methodologies set out in national standards, but, if no standards are set, has the meaning given in **subparagraph (i)**:

(b) in relation to a lake (other than a lake controlled by artificial means), means the space of land that the waters of the lake cover at its highest level without exceeding its margin~~; and~~:

(c) in relation to a lake controlled by artificial means, means the space of land that the waters of the lake cover at its maximum permitted operating level:

(d) in relation to the sea, means the submarine areas covered by the internal waters and the territorial sea

bespoke plan provision—

(a) means a plan provision that is not a standardised plan provision; and

(b) includes a plan provision authorised by ~~a national instrument in accordance with **section 72(1)(b)**~~ national standards under **section 81(2)(b)**

best practicable option, in relation to discharge of a contaminant, means the best method for preventing or minimising ~~the~~ adverse effects on natural resources, having regard, among other things, to—

(a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and

(b) the financial implications, and the effects on natural resources, of that option when compared with other options; and

(c) the current state of technical knowledge and the likelihood that the option can be successfully applied

biophysical means relating to biotic or abiotic physical features

certificate of compliance means a certificate granted by a permit authority under **section 200**

change request means a request under **clause 49 of Schedule 3 of the Planning Act 2025** by a person (other than the regional council) for a change to a natural environment plan

chief executive means the chief executive of the department

coastal marine area means the foreshore, seabed, and coastal water, and the air space above the water,—

(a) the seaward boundary of which is the outer limits of the territorial sea; and

(b) the landward boundary of which is the line of mean high-water springs, except that where the line crosses a river, the landward boundary at that point is whichever ~~in~~ is the lesser of—

(i) 1 kilometre upstream from the mouth of the river; or

(ii) the point upstream that is calculated by multiplying the width of the mouth by 5

coastal water means seawater within the outer limits of the territorial sea, including—

(a) seawater with a substantial component of freshwater; and

(b) seawater within estuaries~~.~~, fiords, inlets, harbours, or embayments

commercial fishing has the meaning given in section 2(1) of the Fisheries Act 1996

common marine and coastal area has the meaning given in section 9(1) of the Marine ~~ad~~ and Coastal Area (Takutai Moana) Act 2011

~~**comparative permitting process** means the permitting process that includes a comparison of the merits of competing applications described in **sections 208 to 214**~~

conditions, in relation to a ~~national~~ natural environment plan or a natural resource permit, includes terms, standards, restrictions, and prohibitions

contaminant includes any substance (including gases, odorous compounds, liquids, solids, and micro-organisms), energy (excluding noise), ~~and~~ or heat that by itself or in combination with the same, similar, or other substances, energy, or heat,—

(a) when discharged into water or air, changes or is likely to change the physical, chemical, or biological condition of the water or air; or

(b) when discharged onto or into land, ~~or into air,~~ changes or is likely to change the physical, chemical, or biological condition of the land ~~or air onto or into which it is discharged~~

contaminated land means land that has a hazardous substance in or on it that—

(a) has significant adverse effects on natural resources or people, including human health; or

(b) is reasonably likely to have significant adverse effects on natural resources or people, including human health

Crown organisation has the meaning given in section 4 of the Crown Organisations (Criminal Liability) Act 2002

customary marine title area has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

customary marine title group has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

customary marine title order has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

customary marine title permitted activity rule means—

(a) a permitted activity rule that is—

  (i) included in a natural environment plan or a proposed natural environment plan; and

  (ii) identified in that plan or a proposed plan as a customary marine title permitted activity rule in accordance with **section 103A**; or

(b) a permitted activity rule that is—

  (i) a national rule; and

  (ii) identified in a natural environment plan or a proposed natural environment plan as a customary marine title permitted activity rule in accordance with **section 103B**

determination, in relation to aquaculture activities, has the meaning given in section 2(1) of the Fisheries Act 1996

directive means a directive in national policy direction (*see* **section 72**)

~~**discretionary activity** means an activity to which **section 10(4)** applies~~

discharge includes emit, deposit, and allow to escape

discretionary activity means an activity classified as a discretionary activity (*see* **section 33(4)**)

district, in relation to a territorial authority, means the district of the territorial authority as defined in accordance with the Local Government Act 2002, but does not include any area in the coastal marine area

dumping means,—

(a) in relation to waste or other matter, its deliberate disposal; and

(b) in relation to a ship, an aircraft, or an offshore installation, its deliberate disposal or abandonment, but does not include the disposal of waste or other matter incidental to, or derived from, the normal operations of a ship, aircraft, or offshore installation if—

  (i) those operations are prescribed as the normal operations of a ship, aircraft, or offshore installation; or

  (ii) the purpose of those operations does not include the disposal, or the treatment or transportation for disposal, of that waste or other matter

dwellinghouse—

(a) means a building, whether permanent or temporary, that is occupied in whole or in part as a residence; and

(b) includes any structure or outdoor living area that is accessory to, and used wholly or principally for the purposes of, the residence; but

(c) does not include the land upon which the residence is sited

~~**ecosystem health limit** means an environmental limit to protect the life supporting capacity of the natural environment~~

ecosystem health limit means an environmental limit—

(a) set to protect the life-supporting capacity of the natural environment; and

(b) that is included in a natural environment plan

effect—

(a) includes, irrespective of the scale, intensity, duration, or frequency,—

  (i) any positive or adverse effect; and

  (ii) any temporary or permanent effect; and

  (iii) any past, present, or future effect; and

  (iv) any cumulative effect that arises over time or in combination with other effects; and

(b) also includes—

  (i) any potential effect of high probability; and

  (ii) any potential effect of low probability but that has a high potential impact

enforceable undertaking means an undertaking accepted by a local authority or the EPA under **clause 23 of Schedule 8 of the Planning Act 2025** as applied by **section 297** of this Act

enforcement officer, in relation to any provision of this Act, means a person appointed by a local authority, permit authority, or the EPA to exercise the functions, powers, or duties of an enforcement officer under that provision

enforcement order means an order made under **section 258**

Environment Court means the Environment Court referred to in **clause 3 of Schedule 9 of the Planning Act 2025**

~~**environmental limit** means—~~

~~(a) a limit set for protecting human health (**human health limit**); or~~

~~(b) a limit set to protect the life-supporting capacity of the natural environment (**ecosystem health limit**); or~~

~~(c) unless the context otherwise requires, includes any interim limit that is included in a natural environment plan under **section 65**~~

environmental limit means—

(a) an ecosystem health limit and any related interim limit; or

(b) a human health limit and any related interim limit

Environmental Protection Authority or **EPA** means the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011

esplanade reserve has the meaning given in **clause 1 of Schedule 7 of the Planning Act 2025**

esplanade strip has the meaning given in **clause 1 of Schedule 7 of the Planning Act 2025**

existing joint management agreement means a joint management agreement made under any provision of the Resource Management Act 1991 and in force on the day after ~~the **Natural Environment Act 2025**~~ this Act receives Royal assent

~~**existing or initiated Mana Whakahono ā Rohe** means an arrangement in force or initiated under subpart 2 of Part 5 of the Resource Management Act 1991 on the day after the **Natural Environment Act 2025** receives Royal assent~~

existing use certificate means a certificate issued under **section ~~137~~ 201**

fish has the meaning given in section 2(1) of the Fisheries Act 1996

fisheries resources has the meaning given in section 2(1) of the Fisheries Act 1996

fishing has the meaning given in section 2(1) of the Fisheries Act 1996

foreshore means any land covered and uncovered by the flow and ebb of the tide at mean spring tides and, in relation to any such land that forms part of the bed of a river, does not include any area that is not part of the coastal marine area

geothermal energy means energy derived or derivable from, and produced within, the earth by natural heat phenomena, and includes geothermal water

geothermal water means water heated within the earth by natural phenomena to a temperature of 30 degrees Celsius or more~~;~~, and includes all steam, water, and water vapour, and every mixture of all or any of them that has been heated by natural phenomena

goals means the goals set out in **section 11**

harmful substance means any substance prescribed by regulations as a harmful substance for the purposes of this definition

hazardous substance includes, but is not limited to, any substance that is a hazardous substance within the meaning given in section 2(1) of the Hazardous Substances and New Organisms Act 1996

~~**human health limit** means an environmental limit for the purpose of protecting human health~~

human health limit means an environmental limit—

(a) set for protecting human health; and

(b) that is included in national standards

~~**incineration**, in relation to waste or other matter, means its deliberate combustion for the purpose of its thermal destruction~~

~~**infrastructure design solution** means an infrastructure design solution made under section 139C of the Water Services Act 2021~~

~~**interim enforcement order** means an order made under **section 264**~~

~~**internal waters** has the meaning given in section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977~~

identified Māori land means any of the following:

(a) Maori customary land or Maori freehold land (as those terms are defined in section 4 of Te Ture Whenua Maori Act 1993):

(b) land set apart as a Maori reservation under Part 17 of Te Ture Whenua Maori Act 1993:

(c) land that forms part of a natural feature that has been declared under an Act to be a legal entity or person (including Te Urewera land within the meaning of section 7 of the Te Urewera Act 2014):

(d) the maunga listed in section 10 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:

(e) General land owned by Maori (as defined in section 4 of Te Ture Whenua Maori Act 1993) that—

(i) was previously Maori freehold land (as defined in section 4 of that Act), but ceased to have that status in accordance with—

(A) an order of the Māori Land Court made on or after 1 July 1993; or

(B) Part 1 of the Maori Affairs Amendment Act 1967; and

(ii) is owned by—

(A) the persons who beneficially owned that land immediately before it ceased to be Maori freehold land; or

(B) any successor of 1 or more of those persons if the successor is within the preferred class of alienees (as defined in section 4 of Te Ture Whenua Maori Act 1993):

(f) land vested in the Māori Trustee (as defined in section 4 of Te Ture Whenua Maori Act 1993) that—

(i) is constituted as a Maori reserve ~~by or~~ under the Maori Reserved Land Act 1955; and

(ii) remains subject to that Act:

(g) land owned by a Treaty settlement entity (as defined in section 4 of the Fast-track Approvals Act 2024), if the land was acquired—

(i) as redress for the settlement of a claim within the meaning of section 6 of the Treaty of Waitangi Act 1975 (whether or not that claim was submitted to the Waitangi Tribunal); or

(ii) by the exercise of rights under a Treaty settlement:

(ga) land vested or registered in the name of an ancestor of a Treaty settlement group, if that land was acquired as redress for the settlement of a claim within the meaning of section 6 of the Treaty of Waitangi Act 1975 (whether or not that claim was submitted to the Waitangi Tribunal):

(h) other land held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body (as defined in section 11(2) of the Infrastructure Funding and Financing Act 2020), or a local authority with the intention of returning the land to the holders of mana whenua over that land

incineration, in relation to waste or other matter, means its deliberate combustion for the purpose of its thermal destruction

independent hearings panel or **panel**, in relation to a proposed natural environment plan or private plan change, means the ~~independent hearings~~ panel ~~assigned to~~ appointed for that proposed plan or plan change under **clause ~~24~~ 23 of Schedule 3 of the Planning Act 2025** as applied by **section 94** of this Act

industrial or trade premises—

(a) means—

(i) any premises used for any industrial or trade purposes; or

(ii) any premises used for the storage, transfer, treatment, or disposal of waste materials or for other waste-management purposes, or used for composting organic materials; or

(iii) any other premises from which a contaminant is discharged in connection with any industrial or trade process; but

(b) does not include any production land

industrial or trade process includes every part of a process from the receipt of raw material to the dispatch or use in another process or disposal of any product or waste material, and any intervening storage of the raw material, partly processed matter, or product

infrastructure—

(a) means a physical structure, facility, or network that—

(i) performs a public function; or

(ii) is necessary to support any 1 or more of the following:

(A) the functioning of the economy:

(B) the functioning of communities:

(C) the health and safety of people:

(D) the protection of the environment; and

(b) includes a natural feature that is modified in order to—

(i) perform a public function; or

(ii) support a matter described in any of **paragraph (a)(ii)(A) to (D)**; and

(c) includes a physical facility that is necessary to support the provision of a physical structure, facility, or network described in **paragraph (a)** or a natural feature described in **paragraph (b)**

infrastructure design solution—

(a) means an infrastructure design solution made under section 139C of the Water Services Act 2021; and

(b) in relation to any reference in this Act, unless the context otherwise requires, refers only to an infrastructure design solution that the relevant person has decided to rely on

interim enforcement order means an order made under **section 264**

interim limit means a temporary environmental limit that—

(a) is set at 10-year intervals in national standards or a natural environment plan; and

(b) relates to an ecosystem health limit or a human health limit (*see* **section 51A or 51B**); and

(c) applies during any 10-year interval set in the standards or plan

internal waters has the meaning given in section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

iwi authority means the authority that represents an iwi and that is recognised by that iwi as having authority to do so

iwi participation legislation—

(a) means legislation that provides a role for iwi or hapū in processes under this Act, the Resource Management Act 1991, or the **Planning Act 2025**, including—

(i) a Treaty settlement Act; and

(ii) Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019; but

(b) does not include this Act, the **Planning Act 2025**, or secondary legislation made under either Act

kaitiakitanga means the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources

key instrument means—

(a) the national policy direction:

(b) a national standard:

(c) a regional spatial plan:

(d) a natural environment plan

lake means a body of fresh water that is entirely, or nearly, surrounded by land

land—

(a) includes land covered by water and the airspace above the land; but

(b) in a national rule, rule in a natural environment plan, or rule in a proposed plan, does not include the bed of a lake or river

legal effect, in relation to a rule in a proposed natural environment plan, means legal effect in accordance with **clause 58 of Schedule 3 of the ~~Planing~~ Planning Act 2025**

local authority—

(a) means a regional council or territorial authority; and

(b) includes a unitary authority

long-lived infrastructure means—

(a) pipelines that distribute or transmit natural or manufactured gas:

(b) a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001:

(c) facilities for the generation of electricity:

(d) any part of the electricity network:

(e) structures, facilities, or infrastructure for transport by any means (for example, cycleways, walkways, roads, rail, bridges, or ports):

(f) facilities for the loading or unloading of cargo or passengers transported by any means:

(g) any infrastructure~~ that regulations made under **section 307** prescribe~~ prescribed by regulations as long-lived infrastructure

mahinga mātaitai means the areas from which food resources are gathered

Mana Whakahono ā Rohe means—

(a) an arrangement in force under subpart 2 of Part 5 of the Resource Management Act 1991 on the day after this Act receives Royal assent; or

(b) an arrangement—

(i) initiated under subpart 2 of Part 5 of that Act before the date that this Act receives Royal assent; and

(ii) in force on the day after the specified transition date within the meaning given in **clause 1 of Schedule 1 of the Planning Act 2025**

mana whenua means customary authority exercised by an iwi or hapū in an identified area

management unit means a defined geographic area within which an environmental limit applies

Maritime New Zealand means the authority continued by section 429 of the Maritime Transport Act 1994

~~**market-based allocation process** means a process that—~~

~~(a) involves competing offers, such as an auction, tender, or other process for determining how to allocate a right to apply for a natural resource permit; and~~

~~(b) manages demand for a natural resource through a competitive pricing process; and~~

~~(c) provides a successful participant with an exclusive right to apply for a permit, or an authorisation for the purpose of any preferential rights held by iwi, to undertake a natural resource use activity~~

master in relation to any ship, has the meaning given in section 2(1) of the Maritime Transport Act 1994

method, in relation to a key instrument, has the meaning given in **section ~~29(4)~~ 29(3)**

mineral has the meaning given in section 2(1) of the Crown Minerals Act 1991

mining has the meaning given in section 2(1) of the Crown Minerals Act 1991

mouth, for the purpose of defining the landward boundary of the coastal marine area, means the mouth of the river~~,—~~ determined in accordance with **section 332**

~~(a) either—~~

~~(i) as agreed and set by the Minister of Conservation, the regional council, and the appropriate territorial authority in the period between consultation on, and notification of, the proposed plan or plan change; or~~

~~(ii) as declared by the Environment Court under **section 254** upon application by the Minister of Conservation, the regional council, or the territorial authority before the plan or plan change becomes operative; and~~

~~(b) once agreed and set or declared, must not be changed, varied, or altered unless the Minister of Conservation, the regional council, and the appropriate territorial authority agree~~

national instrument means a national policy direction or a national standard

national policy direction means an instrument made under **section 88** for the purposes of **section 71**

national rule means a rule in a national standard that does not require inclusion in a natural environment plan to take effect

national standard means an instrument made under **section 88** for the purposes of **section 74**

natural and physical resources includes land, water, air, soil, minerals,~~ and~~ energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures

natural environment includes,—

(a) land, water, air, soil, minerals, and energy~~, plants~~:

(b) plants (excluding pest species), animals (excluding humans, domesticated animals, or pest species), and their habitats:

(c) ecosystems and their constituent parts

natural environment plan or **plan**—

(a) means a natural environment plan prepared by a regional council in accordance with **Schedule 3 of the Planning Act 2025** that is operative; and

(b) includes any provision of a natural environment plan that is operative, even if other provisions of a relevant proposed plan or private plan change are not yet operative

natural hazard—

(a) means any atmospheric, ~~or~~ earth, or ~~water related~~ water-related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) ~~the action of which~~ that adversely affects, or may adversely affect, human life, property, or other aspects of the environment; and

(b) includes the effects of climate change on any of those occurrences

~~**natural resources** includes—~~

~~(a) all of the following:~~

~~(i) air; and~~

~~(ii) water, including freshwater, coastal water, and geothermal water; and~~

~~(iii) land (to the extent that it is not provided for or managed under the **Planning Act 2025**); and~~

~~(iv) soil; and~~

~~(v) minerals; and~~

~~(vi) plants and animals; and~~

~~(vii) indigenous biodiversity; and~~

~~(b) ecosystems and their constituent parts~~

natural resources means all or any of the following:

(a) air:

(b) water, including freshwater, coastal water, and geothermal water:

(c) land:

(d) soil:

(e) minerals:

(f) plants:

(g) animals (excluding humans):

(h) indigenous biodiversity:

(i) ecosystems and their constituent parts

natural resource permit has the meaning given in **section 127**

natural resource use activity means ~~an activity that involves the allocation of natural resources described in **section 223**~~ 1 of the following activities:

(a) the taking, diverting, or use of freshwater, geothermal water, or coastal water:

(b) the taking or use of heat or energy from water:

(c) the taking or use of heat or energy from the material surrounding geothermal water:

(d) the discharge of a contaminant into air or water:

(e) the damming of water:

(f) the occupation of space in the common marine and coastal area:

(g) the extraction of natural materials such as sand, shell, and shingle from—

  (i) the beds of lakes or rivers that are land of the Crown; and

  (ii) the common marine and coastal area

noise includes vibration

objective, in relation to a key instrument, has the meaning given in **section 29(1)**

occupier means the inhabitant occupier of any property

occupy, in relation to the coastal marine area, means the activity of occupying any part of the coastal marine area—

(a) where the occupation is reasonably necessary for another activity; and

(b) where the occupation is to the exclusion of any persons or class of persons not expressly allowed to occupy that part of the coastal marine area under a rule in a natural environment plan or by a natural resource permit; and

(c) where a lease or licence to occupy that part of the coastal marine area would be necessary to give effect to the exclusion of other persons, whether in a physical or legal sense, but for a rule in the plan or the holding of a natural resource permit under this Act

offshore installation has the ~~same meaning as~~ meaning given in section 222(1) of the Maritime Transport Act 1994

oil transfer site has the ~~same meaning as~~ meaning given in section 281 of the Maritime Transport Act 1994

~~**objective**, in relation to a key instrument, has the meaning given in **section 29(1)**~~

open coastal water means coastal water that is remote from estuaries, fiords, inlets, harbours, and embayments

operative, in relation to a natural environment plan or a provision in a natural environment plan, means the plan or provision—

(a) has become operative in ~~terms of~~ accordance with **clause 45 of Schedule 3 of the Planning Act 2025** or is treated as operative in accordance with **clause 61** of that schedule; and

(b) has not ceased to be operative

owner,—

(a) in relation to any land, means the person who is~~ for the time being~~ entitled to the~~ rack~~ rent of the land or who would be~~ so~~ entitled if the land were let to a tenant~~ at a rack rent;~~, and includes—

(i) the owner of the fee simple of the land; and

(ii) any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, while the agreement remains in force; and

(b) in relation to any ship or offshore installation or oil transfer site, has the ~~same meaning as~~ meaning given in section 222(2) of the Maritime Transport Act 1994

permit authority means the regional council or territorial authority whose permission is required to carry out an activity for which a permit is required under this Act

permitted activity means an activity~~ to which~~ classified as a permitted activity (*see* **section 33(2)**)~~ applies~~

permitted activity rule means a~~ national rule or~~ rule~~ in a natural environment plan~~ that~~ sets~~ specifies conditions for carrying out a permitted activity (*see* **section 31(1)(b)**)

person includes the Crown, a corporation sole, and~~ also~~ a body of persons, whether corporate or unincorporate

plan change means either of the following instruments, if the instrument has been notified for submissions but has not become operative:

(a) a change to a natural environment plan proposed by a regional council:

(b) a change request adopted by a regional council under **clause~~ 50(1)(a)~~ 51(1)(a) of Schedule 3 of the Planning Act 2025**

planning consent means a planning consent under the **Planning Act 2025**

Planning Tribunal means the tribunal established by **clause 2 of Schedule 10 of the Planning Act 2025**

~~**plan provision** means a provision of a natural environment plan or proposed natural environment plan~~

policy, in relation to a key instrument, has the meaning given in **section 29(2)**

post-settlement governance entity—

(a) means a body corporate or the trustees of a trust established by a claimant group for the purposes of receiving redress or participating in arrangements established under a Treaty settlement Act; and

(b) includes an entity established to represent a collective or combination of claimant groups

prescribed form means a form prescribed by regulations made under this Act and containing and having attached such information and documents as those regulations may require

private plan change means a change request that a regional council has decided (under **clause 51(1)(b) of Schedule 3 of the Planning Act 2025**) to process as a private plan change, if it has been notified for submissions but has not become operative

prohibited activity means an activity ~~to which~~ classified as a prohibited activity (*see* **section 34**) ~~applies~~

proposed natural environment plan or **proposed plan**—

(a) means any of the following instruments, if the instrument has been notified for submissions but ~~have~~ has not become operative:

(i) a natural environment plan proposed by a regional council:

(ii) a change to an operative natural environment plan proposed by a regional council:

(iii) a change request adopted by a regional council under **clause 51(1)(a) of Schedule 3 of the Planning Act 2025**; and

(b) includes a variation to an instrument described in **paragraph (a)**, if that variation has been notified for submissions until the point that it is incorporated into the instrument under **clause 42(3) of Schedule 3 of the Planning Act 2025**; but

(c) excludes a private plan change

prospecting has the meaning given in section 2(1) of the Crown Minerals Act 1991

protected customary right has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected customary rights area has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected customary rights group has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected customary rights order has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

qualifying resident, in relation to a region, means any of the following:

(a) a person that is a ratepayer (within the meaning of section 10 of the Local Government (Rating) Act 2002) of the region:

(b) a person that provides infrastructure within the region:

(c) a natural person whose main place of residence is within the region:

(d) a person, other than a natural person, that has an office, or operates, in the ~~district~~ region

region, in relation to a regional council, means the region of the regional council as determined in accordance with the Local Government Act 2002

regional council—

(a) has the meaning given in section 5(1) of the Local Government Act 2002; and

(b) includes a unitary authority within the meaning of that Act

regional spatial plan ~~means a spatial plan made for a region under the **Planning Act 2025**~~ has the meaning given in **section 3 of the Planning Act 2025**

regulations means regulations made under this Act

remove any sand, shingle, shell, or other natural material means to take any of that material in such quantities or in such circumstances that, but for a national rule or ~~the~~ a rule in a natural environment plan or the holding of a natural ~~resources~~ resource permit, it would be necessary to hold a licence or ~~profit à prendre~~ *profit à prendre*

renewable energy activity—

(a) means the establishment, operation, maintenance or upgrade of an activity that produces energy from solar, wind, hydro, geothermal, biomass, tidal, wave, and ocean current sources; and

(b) includes a supporting and subsidiary activity in relation to an activity described in **paragraph (a)**

~~**residential unit**—~~

~~(a) means a building or part of a building that is used for a residential activity exclusively by 1 household; and~~

~~(b) includes sleeping, cooking, bathing, and toilet facilities~~

restricted discretionary activity means an activity ~~to which~~ classified as a restricted discretionary activity (*see* **section 33(3)**) ~~applies~~

river—

(a) means a body of freshwater that is continuously or intermittently flowing; and

(b) includes a stream and modified watercourse; but

(c) does not include an artificial watercourse, including an irrigation canal, a water supply race, a canal for the supply of water for electric power generation, a farm drainage canal, or any other artificial watercourse

rule has the meaning given in **section 31**

rule that controls fishing, in relation to a national rule, a rule in a plan, or a rule in a proposed plan,—

(a) means a rule in that instrument that directly controls fishing other than aquaculture, for example, a rule that controls—

(i) the use of fishing gear or particular fishing methods; or

(ii) the taking of fish, aquatic life, or seaweed; or

(iii) areas where fishing may occur; but

(b) does not include a rule that affects fishing indirectly, for example,—

(i) a rule that restricts the release of noise, odours, or harmful substances; or

(ii) a rule that relates to anchoring, navigation, or vessels

seaweed has the meaning given in section 2(1) of the Fisheries Act 1996

ship has the meaning given in section 2(1) of the Maritime Transport Act 1994

significant non-compliance, in relation to non-compliance with an abatement ~~order~~ notice, an enforcement order, an infringement notice, or a conviction under this Act, means that the non-compliance is substantial, not minor or technical, and has caused, or has the potential to cause, harm to human health or natural resources or people that is serious enough to warrant attention and further action from regulatory bodies and relevant authorities

space, in relation to the coastal marine area, means any part of the foreshore, seabed, and coastal water, and the airspace above the water

special tribunal means a special tribunal appointed under **clause 5 of Schedule 4** to hear an application for a water conservation order

specified energy activity means—

(a) the establishment, operation, maintenance, or upgrade of—

(i) an activity that produces energy from solar, wind, hydro, geothermal, or biomass sources:

(ii) any part of the electricity network:

(iii) the storage or discharge of electricity:

(iv) thermal electricity generation facilities; and

(b) a supporting and subsidiary activity in relation to an activity described in **paragraph (a)**

specified topic means any of the following topics:

~~(a) a significant natural area:~~

(b) a site of significance to Māori:

(c) terrestrial indigenous biodiversity to the extent it relates to an identified area

~~(c) terrestrial indigenous biodiversity~~

standardised plan provision means a plan provision described in **section 95** that is contained in a national instrument

statutory acknowledgement means an acknowledgement made by the Crown in respect of a statutory area~~,~~ on the terms set out in the legislation listed in **Schedule 6**

statutory area means the area subject to a statutory acknowledgement, as defined in the relevant legislation listed in the **Schedule 6**

stormwater environmental performance standard means a standard made under section 139A of the Water Services Act 2021

structure means any building, equipment, device, or other facility made by people and~~ which is~~ fixed to land~~;~~, and includes any raft

tangata whenua, in relation to a particular area, means the iwi~~,~~ or hapū~~,~~ that holds mana whenua over the area

targeted notification, in relation to an application for a natural resource permit, means notification given in accordance with **section 146(3) or (5)**

territorial authority has the meaning given in section 5(1) of the Local Government Act 2002

territorial sea means the territorial sea of New Zealand as defined by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

the Treaty of Waitangi/te Tiriti o Waitangi has the same meaning as the word Treaty as defined in section 2 of the Treaty of Waitangi Act 1975

tikanga Māori means Māori customary values and practices

Treaty settlement means—

(a) a Treaty settlement Act; or

(b) a Treaty settlement deed

Treaty settlement Act means—

(a) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; or

(b) any other Act that provides redress for Treaty of Waitangi/te Tiriti o Waitangi claims, including Acts that provide collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act, including—

  (i) the Maori Commercial Aquaculture Claims Settlement Act 2004:

  (ii) the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:

  (iii) the Nga Wai o Maniapoto (Waipa River) Act 2012:

  (iv) the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010:

(v) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and secondary legislation that gives effect to section 10 of that Act and is made under Part 9 of the Fisheries Act 1996

Treaty settlement deed—

(a) means a deed or other agreement that—

(i) has been signed by or on behalf of a Minister of the Crown and representatives of a group of Māori; and

(ii) is in settlement of the claims of that group or in express anticipation, or on account, of that settlement; and

(b) to avoid doubt, includes a deed or other agreement of the kind described in **paragraph (a)** that relates to the claims of a collective or combination of Māori groups; but

(c) does not include an agreement in principle or any document that is preliminary to a signed and ratified deed

unitary authority has the meaning given in section 5(1) of the Local Government Act 2002

use, in relation to a use of land, means—

(a) to alter, demolish, erect, extend, place, reconstruct, remove, or use a structure or part of a structure in, on, under, or over land:

(b) to drill, excavate, tunnel, or disturb land in a similar way:

(c) to damage, destroy, or disturb the habitats of plants or animals in, on, or under land:

(d) to deposit a substance in, on, or under land:

(e) to enter onto or pass across the surface of water in a lake or river:

(f) any other use of land

variation means an amendment to a proposed natural environment plan by a regional council under **clause 42 of Schedule 3 of the Planning Act 2025**

wāhi tapu has the meaning given in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014

waste or other matter means materials and substances of any kind, form, or description

wastewater environmental performance standard means a standard made under section 138 of the Water Services Act 2021

~~**water services standard** means any of the following:~~

~~(a) an infrastructure design solution:~~

~~(b) a stormwater environmental performance standard:~~

~~(c) a wastewater environmental performance standard~~

water—

(a) means water in all its physical forms whether flowing or not and whether over or under the ground:

(b) includes fresh water, coastal water, and geothermal water:

(c) does not include water in any form while in any pipe, tank, or cistern

water body means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area

water conservation order has the meaning given in **clause 2 of Schedule 4**

water services standard means any of the following:

(a) an infrastructure design solution:

(b) a stormwater environmental performance standard:

(c) a wastewater environmental performance standard

wildlife approval means a wildlife approval granted under **section 128 and Schedule 2A**

wood-processing activity means the establishment, operation, or maintenance of a facility that—

(a) specialises in the production of long-lived wood products, products derived from wood fibre, or wood-derived bioenergy, for example, the production of—

(i) sawn timber:

(ii) panel products (for example, veneer, plywood, laminated veneer, lumber, particle board, or fibreboard):

(iii) pulp, paper, and paperboard:

(iv) wood chips:

(v) bioproducts, chemicals, and materials; or

(b) provides for the storage of logs, processed wood products, or hazardous materials used in or produced by the operation of the facility

working day means a day of the week other than—

(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and

(b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

(c) a day in the period commencing on 20 December in any year and ending with 10 January in the following year.

4 Purpose

The purpose of this Act is to establish a framework for the use, protection, and enhancement of the natural environment.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions ~~(if any)~~ set out in **Schedule 1** have effect according to their terms.

6 Act binds the Crown

(1) This Act binds the Crown except as provided in this section.

(2) This Act does not apply to any work or activity of the Crown that—

(a) is a use of land within the meaning ~~of~~ given in **section 17**; and

(b) the Minister of Defence certifies is necessary for reasons of national security.

(3) ~~**Section 17 of the Planning Act 2025**~~ **Section 17(1)** does not apply to any work or activity of the Crown within the boundaries of any area of land held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act (other than land held for administrative purposes) that—

(a) is consistent with a conservation management strategy, conservation management plan, or management plan established under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act; and

(b) does not have a significant adverse effect beyond the boundary of the area of land.

(4) **Section 17** does not apply to the detention of prisoners in a court cell block that is declared by notice in the *Gazette* to be a part of a corrections prison.

(5) An abatement notice may be served or issued against an instrument of the Crown, in accordance with this Act, only if—

(a) ~~it~~ the instrument of the Crown is a Crown organisation; and

(b) the notice or direction is served or issued against the Crown organisation in its own name.

(6) An enforcement order may be made against an instrument of the Crown, in accordance with this Act, only if—

(a) ~~it~~ the instrument of the Crown is a Crown organisation; and

(b) a local authority or the EPA applies for the order; and

(c) the order is made against the Crown organisation in its own name.

(7) **Subsections (5) and (6)** apply despite section 17(1)(a) of the Crown Proceedings Act 1950.

(8) An instrument of the Crown may be served with an infringement notice, in accordance with this Act, only if—

(a) it is liable to be proceeded against for the alleged offence under **subsection ~~(8)~~ (9)**; and

(b) the notice is served against the Crown organisation in its own name.

(9) An instrument of the Crown may be prosecuted for an offence against this Act only if—

(a) it is a Crown organisation; and

(b) the offence is alleged to have been committed by the Crown organisation; and

(c) the proceedings are commenced—

(i) by a local authority, the EPA, or an enforcement officer; and

(ii) against the Crown organisation in its own name and the proceedings do not cite the Crown as a defendant; and

(iii) in accordance with the Crown Organisations (Criminal Liability) Act 2002.

(10) However, **subsections (8) and (9)** are subject to section 8(4) of the Crown Organisations (Criminal Liability) Act 2002 (which provides that a court may not sentence a Crown organisation to pay a fine in respect of an offence against this Act).

(11) If a Crown organisation is not a body corporate, it is to be treated as if it were a separate legal personality for the purposes of—

(a) serving or issuing an abatement notice against it; and

(b) making an enforcement order against it; and

(c) serving an infringement notice on it; and

(d) enforcing an abatement notice, enforcement order, or infringement notice in relation to it.

(12) Except to the extent and in the manner provided for in **subsections (5) to (11)**, the Crown may not—

(a) be served or issued with an abatement notice; or

(b) have an enforcement order made against it; or

(c) be served with an infringement notice; or

(d) be prosecuted for an offence against this Act.

7 Application of this Act to ships and aircraft of foreign States

(1) This Act does not apply to any of the following:

(a) warships of any State other than New Zealand:

(b) aircraft of the defence forces of any State other than New Zealand:

(c) any ship owned or operated by any State other than New Zealand, if the ship is being used by that State for wholly governmental (but not ~~including~~ commercial) purposes:

(d) the master or crew of any warship, aircraft, or ship referred to in **paragraphs (a) to (c)**.

(2) However, **subsection (1)** does not apply if regulations expressly provide otherwise.

Compare: 1991 No 69 s 4A

8 Treaty of Waitangi/Tiriti o Waitangi

To recognise the Crown's responsibilities in relation to the Treaty of Waitangi/te Tiriti o Waitangi,—

Māori interests goal

(a) **section 11** provides for Māori interests through—

(i) Māori participation in the development of national instruments, ~~spatial planning~~ regional spatial plans, and ~~land use~~ natural environment plans; and

(ii) the identification and protection of sites of significance to Māori (including~~,~~ wāhi tapu, water bodies, or sites in or on the coastal marine area); and

(iii) enabling the development and protection of identified Māori land:

Process for making national instrument

(b) **section ~~70~~ 84** requires the Minister to ~~consult with~~ seek comment from iwi authorities on a draft or summary of a proposed national instrument before deciding to publicly ~~notifying~~ notify a proposed national instrument:

Natural environment plans

(c) in relation to natural environment plans,—

(i) **~~clause~~ section 97(4)(b)** requires regional councils to have regard to any statutory acknowledgement, and relevant planning document recognised by an iwi authority, when preparing and deciding a natural environment plan; and

(ii) **clause 3 of Schedule 3 of the Planning Act 2025** requires regional councils to prepare and change their natural environment plans in accordance with any applicable iwi participation legislation, any agreement under that legislation, and any ~~existing or initiated~~ Mana Whakahono ā Rohe; and

(~~ii~~iii) **clauses 5(1) and 14 of Schedule 3 of the Planning Act 2025** require regional councils to do the following before notifying a proposed natural environment plan for submissions:

(A) consult tangata whenua (through iwi authorities) and relevant customary marine title groups:

(B) provide those groups with a draft of the proposed plan; and

(C) have regard to any advice that they provide.

9 Crown to seek to enter agreements to uphold Treaty settlement redress or arrangements

(1) To assist in the transition from the Resource Management Act 1991 to this Act and the **Planning Act 2025**, the Crown will work with any post-settlement governance entity, and the ngā hapū o Ngāti Porou governance entity, if they wish to do so, to seek agreement on how their Treaty settlement redress or arrangements will operate with the same or equivalent effect to the greatest extent possible under this Act and the **Planning Act 2025**.

(2) The Crown ~~will~~ must, when working with an entity under **subsection (1)**,—

(a) discuss, for the purpose of reaching agreement with the entity, how the Treaty settlement redress or arrangements could operate under this Act and the **Planning Act 2025** in a way that would have the same or equivalent effect to the greatest extent possible; and

(b) following those discussions, and where agreement is reached, enter into the agreement with the entity to record ~~the~~ that agreement reached (which may include entering into a deed to amend the relevant Treaty settlement deed).

(3) ~~This section is~~ **Subsections (1) and (2)** are repealed on and from the ~~2nd~~ second anniversary of ~~the commencement~~ the date of Royal assent of this Act.

(4) However, the repeal of ~~this section~~ **subsections (1) and (2)** does not, after the date referred to in **subsection (3)**, prevent the Crown from—

(a) continuing discussions or entering into an agreement started in accordance with **subsection (2)**; or

(b) entering into an agreement of the nature set out in **subsection (2)(b)** with an entity; or

(c) progressing any legislation necessary to give effect to any such agreement after the repeal of ~~this section~~ **subsections (1) and (2)**.

~~(5) For the purposes of this section and **section 10**,—~~

~~**Resource Management Act 1991** means that Act as it was immediately before this Act received Royal assent~~

~~**Treaty settlement redress or arrangements** means any of the following as they specifically relate to the Resource Management Act 1991:~~

~~(a) redress in a Treaty settlement:~~

~~(b) redress in a signed deed of settlement:~~

~~(c) arrangements under the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.~~

10 Treaty redress or arrangements to be given same or equivalent effect

(1) **Subsection (2)** applies to Treaty settlement redress or arrangements until an agreement of the nature set out in **section 9(2)(b)** is reached ~~under **section 9**~~.

(2) In relation to any particular Treaty settlement redress or arrangement, all persons exercising and performing functions, powers, and duties under this Act must, to the greatest extent possible under this Act, give an effect that is the same as, or equivalent to, ~~as~~ the effect that the redress or arrangement has in relation to the Resource Management Act 1991.

(3) This section does not apply in relation to statutory acknowledgements.

(4) For the purposes of this section and **section 9**,—

Resource Management Act 1991 means that Act as it was immediately before this Act received Royal assent

Treaty settlement redress or arrangements—

(a) means any of the following as they specifically relate to the Resource Management Act 1991:

(i) redress in a Treaty settlement Act:

(ii) redress in a signed deed of settlement:

(iii) the arrangements under the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019; and

(b) includes any of the following as they specifically relate to statutory authorisations under the Wildlife Act 1953 that are affected by the inclusion of wildlife approvals under **section 128** of this Act:

(i) redress in a Treaty settlement Act impacted by wildlife approvals:

(ii) redress in a signed deed of settlement impacted by wildlife approvals; but

(c) does not include any redress or arrangements under the—

(i) Maori Commercial Aquaculture Claims Settlement Act 2004; and

(ii) Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

Part 2
Foundations

Subpart 1—Core provisions

11 Goals

(1) All persons exercising or performing functions~~, duties,~~ or powers under this Act must seek to achieve the following goals subject to **sections 12 and ~~69~~ 85**:

(a) to enable the use and development of natural resources, including for the production of food and fibre (including aquaculture) ~~within environmental limits~~:

(b) to safeguard the life-supporting capacity of air, water, soil, and ecosystems:

(c) to protect human health from harm caused by the discharge of contaminants:

(ca) to support and enable the enhancement of the natural environment:

(d) ~~to achieve~~ no net loss in indigenous biodiversity:

~~(e) to manage the effects of natural hazard associated with the use or protection of natural resources through proportionate and risk-based planning:~~

(e) to safeguard against natural hazard risks that arise from or affect—

(i) the use of natural resources; or

(ii) the protection of natural resources:

(f) to provide for Māori interests through—

(i) Māori participation in the development of national instruments, ~~spatial planning~~ regional spatial plans, and natural environment plans; and

(ii) the identification and protection of sites of significance to Māori (including, wāhi tapu, water bodies, or sites in or on the coastal marine area); and

(iii) enabling the development and protection of identified Māori land.

(2) **Subsection (1)** does not require a person to seek to achieve all goals in all places at all times.

(3) The order in which the goals appear in **subsection (1)** does not assign their order of importance.

12 Relationship between key instruments in ~~decision making~~ decision-making

(1) The hierarchy of the key instruments of this Act is as follows, listed in order from top to bottom:

(a) national policy direction:

(b) national standards:

(c) regional spatial plans:

(d) natural environment plans.

(2) Each key instrument (other than the national policy direction)—

(a) must implement the instrument listed directly above it; and

(b) must implement an instrument higher up the list if required by that instrument.

(3) A person exercising or performing a power, function, or duty under this Act in relation to a matter—

(a) must consider the relevant provisions of the key instrument that directly affect the matter (for example, a regional spatial plan in the case of a natural environment plan or a natural environment plan in the case of a permit); and

(b) must consider any relevant provisions of a higher order instrument, if, and only to the extent that, the matter is not addressed by the instrument listed beneath it; and

(c) must not consider a goal directly unless and to the extent that they are satisfied that—

(i) the subject matter of the goal is not addressed in a higher order instrument or, if applicable, the goal is not particularised in a higher order instrument; or

(ii) there is uncertainty within a higher order instrument in relation to the goal; or

(iii) there is conflict between higher order instruments in relation to the goal.

~~(4) If a provision of this Act expressly allows or requires a person to consider the goals, the person—~~

~~(a) must, in complying with **subsection (3)(a) and (b)**, consider the goals as they have been addressed or particularised in higher order instruments; and~~

~~(b) is still required to comply with **subsection (3)(c)**.~~

(5) ~~**Subsections (3) and (4)** do~~ **Subsection (3)** does not apply to the making of national policy direction.

~~(6) This section is subject to any provision of this Act that expressly provides otherwise.~~

(7) In this section, a **higher order instrument** means any key instrument that is listed above the instrument that directly affects the matter.

13 Procedural principles

(1) A person exercising or performing functions, powers, or duties under this Act must take all practicable steps to act in accordance with the following principles:~~—~~

(a) ensure all documents are succinct and use plain language that can be readily understood by the public:

~~(b) act in a timely and cost-effective manner:~~

(b) use timely, efficient, consistent, and cost-effective processes:

(c) act proportionately to the scale and significance of the matter to which the function, duty, or power relates:

(d) ensure they have~~ enough~~ sufficient and necessary information to understand the implications of their decision (if any), after considering—

(i) the cost and feasibility of obtaining the information; and

(ii) the scale and significance of the matter to which the decision relates:

~~(e) act in an enabling manner (for example, by being solutions-focussed) that is consistent with the principles in **paragraphs (a) to (d)** and **section 12**:~~

(e) act in a pragmatic way that supports practical solutions:

(ea) ensure that any condition they specify in a relevant instrument in relation to an activity is no more onerous than necessary to address the reason for which it is specified:

(eb) use appropriate technology, including digital tools and systems:

(f) avoid unnecessary repetition in key instruments.

(2) A failure by a person exercising or performing a function, duty, or power to take all reasonable steps to act in accordance with the principles in **subsection (1)(a), (eb), or (f)** does not invalidate the exercise or performance of that function, duty, or power.

(3) **Subsection (1)(ea)** applies to individual conditions and does not apply to conditions taken collectively.

(4) **Subsection (1)** does not apply to a court or person exercising a judicial power or performing a judicial function or duty.

(5) In **subsection (1)(ea)**, a **relevant instrument** means a national rule, rule in a natural environment plan, rule in a proposed natural environment plan, or a natural resource permit.

14 Considering effects of activities

A person exercising or performing a function, duty, or power under this Act who is considering the effects of an activity~~ on a person, people, or a natural resource,—~~

(a) must give particular consideration to effects such as the following, as far as each is applicable:

(i) the positive effect of enabling activities under this Act:

(ii) the effects on natural resources~~ including air, water (freshwater, geothermal and coastal), land and soils, and indigenous biodiversity~~:

(iii) the effects of natural hazards associated with the use or protection of natural resources:

~~(b) must not consider effects regulated under the **Planning Act 2025**:~~

(c) may consider any other effect of the activity~~, subject to **paragraph (b)**~~.

15 Considering adverse effects of activities

(1) A person exercising or performing functions, powers, or duties under this Act who is considering the effects of an activity—

(a) must consider how—

(i) adverse effects are to be avoided,~~ minimised~~ mitigated, or remedied, where practicable; or

(ii) adverse effects are to be offset or compensated, where appropriate~~.~~:

(b) must not consider a less than minor adverse effect except where their cumulative effect results in a minor or more than minor adverse effect ~~unless the cumulative effect of 2 or more such effects create effects that are greater than less than minor~~.

~~(2) A national instrument may specify—~~

~~(a) how, and in what order, adverse effects are to be avoided, minimised, or remedied, offset, or compensated; and~~

~~(b) when it is practicable for adverse effects to be avoided, minimised, or remedied; and~~

~~(c) when it is appropriate for adverse effects to be offset or compensated; and~~

~~(d) where specific effects are managed under this Act and under the **Planning Act 2025**.~~

~~(3) If no national instrument is in force to guide or direct the use of offsetting and compensation, the management of adverse effects must not be undertaken except in the context of determining an application for a permit.~~

(4) The order in which an approach to managing effects appears in this section does not assign an order of importance to how effects are managed.

(5) In this section, a **less than minor adverse effect** means an adverse effect that is objectively acceptable and reasonable in the receiving environment with any change being slight or barely noticeable in the receiving environment.

Compare: 1991 No 69 s 104(1)(ab)

15A Considering climate change effects

A person exercising or performing a function, duty, or power under this Act who is considering the effects of an activity—

(a) must not, despite **section 15**, consider any adverse effect on climate change of any greenhouse gas emissions that will or may result from or be increased by the activity, whether directly or indirectly; and

(b) may consider any positive effects of the activity that are associated with avoiding, reducing, removing, or displacing greenhouse gas emissions.

Subpart 2—Duties and restrictions

16 Overview of references to rules

(1) In this subpart, a reference to—

(a) a national rule means a national rule that has commenced (*see* section 26 of the Legislation Act 2019, which provides that secondary legislation comes into force on the date stated or provided for in the legislation):

(b) a rule in a natural environment plan means a rule in a natural environment plan that is operative (*see* the definitions of natural environment plan and operative in **section 3**):

(c) a rule in a proposed natural environment plan that has legal effect means a rule in a proposed natural environment plan that has legal effect in accordance with **clause 58 of Schedule 3 of the Planning Act 2025** (*see* the definitions of proposed natural environment plan and legal effect in **section 3**).

~~(2) This section is only a guide.~~

Restrictions

17 Restrictions on land use

(1) A person must not use land in a manner that contravenes a national rule, a rule in a natural environment plan, or a rule in a proposed natural environment plan that has legal effect unless—

(a) the use is expressly allowed by a permit; or

(b) the use is expressly allowed by a water services standard; or

(c) the use is allowed by **section 25**.

(1A) This section applies to overflying by aircraft only to the extent that a national rule or a rule in a natural environment plan prescribes noise emission controls for airports.

(2) This section does not apply to the use of land in the coastal marine area (*see* **section 18**).

Compare: 1991 No 69 s 9(1), (2), (5), (6)

18 Restrictions on ~~use of~~ activities in coastal marine area

(1) A person must not do any of the following activities in the coastal marine area unless the activity is expressly allowed by an instrument specified in **subsection (2)** or a permit:

(a) reclaim or drain any part of the foreshore or seabed:

(b) erect, reconstruct, place, alter, extend, remove, or demolish any structure or any part of a structure that is fixed in, on, under, or over any foreshore or seabed:

(c) disturb any foreshore or seabed (including by excavating, drilling, or tunnelling) in a manner that has or is likely to have an adverse effect on the foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal):

(d) deposit in, on, or under any foreshore or seabed any substance in a manner that has or is likely to have an adverse effect on the foreshore or seabed:

(e) destroy, damage, or disturb any foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal) in a manner that has or is likely to have an adverse effect on plants or animals or their habitat:

(f) introduce or plant any exotic or introduced plant in, on, or under the foreshore or seabed.

(2) The instruments referred to in **subsection (1)** are—

(a) a national rule; or

(b) a rule in a natural environment plan and any rule in a proposed natural environment plan that has legal effect; or

(c) a water services standard.

(3) A person must not do any of the following activities in the coastal marine area unless the activity is expressly allowed by an instrument specified in **subsection (5)** or a permit:

(a) occupy any part of the common marine and coastal area:

(b) remove any sand, shingle, shell, or other natural material from that area.

(4) A person must not do any of the following activities in a manner that contravenes an instrument specified in **subsection (5)** unless the activity is expressly allowed by a permit or allowed by **section 25**:

(a) an activity in, on, under, or over any coastal marine area:

(b) an activity that relates to any natural resource contained within any coastal marine area.

(5) The instruments referred to in **subsections (3) and (4)** are—

(a) a national rule; or

(b) a rule in a natural environment plan; or

(c) a rule in a proposed natural environment plan that has legal effect; or

(d) a water services standard.

(6) **Subsection (4)** does not limit **subsection (1)**.

(7) This section applies to overflying by aircraft only to the extent ~~to which noise emission controls for airports within the coastal marine area are prescribed by a national rule or a rule in a plan.~~ that—

(a) a national rule or a rule in a natural environment plan prescribes noise emission controls for airports; and

(b) those controls apply in the coastal marine area.

(8) This section does not prohibit a regional council from removing structures from the common marine and coastal area in accordance with section 19(3) to (3C) of the Marine and Coastal Area (Takutai Moana) Act 2011, unless those structures are permitted by a coastal permit.

Compare: 1991 No 69 s 12~~(1)–(7)~~

19 Restrictions on use of beds of rivers and lakes

(1) A person must not do any of the following activities in relation to the bed of a river or lake unless the activity is expressly allowed by an instrument specified in **subsection (2)** or a permit:

(a) use, erect, reconstruct, place, alter, extend, remove, or demolish any structure or part of any structure in, on, under, or over the bed:

(b) excavate, drill, tunnel, or otherwise disturb the bed:

(c) introduce or plant any plant or any part of any plant (whether exotic or indigenous) in, on, or under the bed:

(d) deposit any substance in, on, or under the bed:

(e) reclaim or drain the bed.

(2) The instruments referred to in **subsection (1)** are—

(a) a national rule; or

(b) a rule in a natural environment plan and any rule in a proposed natural environment plan that has legal effect; or

(c) a water services standard.

(3) A person must not do any of the following activities in a manner that contravenes an instrument specified in **subsection (4)** unless the activity is expressly allowed by a permit or allowed by **section 25**:

(a) enter onto or pass across the bed of a river or lake:

(b) an activity that relates to any natural resource contained in, on, or under the bed of a river or lake.

~~(b) damage, destroy, disturb, or remove a plant or a part of a plant, whether exotic or indigenous, in, on, or under the bed of a lake or river:~~

~~(c) damage, destroy, disturb, or remove the habitats of exotic or indigenous plants or parts of plants in, on, or under the bed of a lake or river:~~

~~(d) damage, destroy, disturb, or remove the habitats of animals in, on, or under the bed of a lake or river.~~

(4) The instruments referred to in **subsection (3)** are—

(a) a national rule; or

(b) a rule in a natural environment plan; or

(c) a rule in a proposed natural environment plan that has legal effect; or

(d) a water services standard.

(5) This section does not apply to any use of land in the coastal marine area.

(6) Nothing in this section limits **section 17**.

Compare: 1991 No 69 s 13

20 Restrictions relating to water

(1) A person must not take, use, dam, or divert, or take or use any heat or energy from, open coastal water~~, or wastewater~~ in a manner that contravenes an instrument specified in **subsection (2)** unless the activity is expressly allowed by a permit or allowed by **section 25**.

(2) The instruments referred to in **subsection (1)** are—

(a) a national rule; or

(b) a rule in a natural environment plan; or

(c) a rule in a proposed natural environment plan that has legal effect; or

(d) a water services standard.

(3) A person must not take, use, dam, or divert any of the following unless the taking, using, damming, or diverting is allowed under **subsection (4)**:

(a) water other than open coastal water:

(b) heat or energy from water other than open coastal water:

(c) heat or energy from the material surrounding geothermal water.

(4) A person is not prohibited by **subsection (3)** from taking, using, damming, or diverting any water, heat, or energy—

(a) if the taking, using, damming, or diverting is expressly allowed by—

(i) a national rule; or

(ii) a rule in a plan and any rule in a proposed plan that has legal effect; or

(iii) a water services standard; or

(iv) a permit; or

(b) in the case of fresh water, if both of the following apply:

(i) the water, heat, or energy is required to be taken or used for an individual's reasonable domestic needs or the reasonable needs of a person's animals for drinking water:

~~(ii) the taking or use does not, or is not likely to, have an adverse effect on any natural resource; or~~

(ii) the actual or likely adverse effects on natural resources of the taking or use are no more than minor or do not exceed any prescribed level; or

(c) in the case of geothermal water, if both of the following apply:

(i) the water, heat, or energy is taken or used in accordance with tikanga ~~Maori~~ Māori for the communal benefit of the tangata whenua of the area:

~~(ii) the taking or use does not have an adverse effect on any natural resources; or~~

(ii) the adverse effects on natural resources of the taking or use are no more than minor or do not exceed any prescribed level; or

(d) in the case of coastal water (other than open coastal water), if both of the following apply:

(i) the water, heat, or energy is required for an individual's reasonable domestic or recreational needs:

~~(ii) the taking, use, or diversion does not, or is not likely to, have an adverse effect on any natural resources; or~~

(ii) the actual or likely adverse effects on natural resources of the taking or use are no more than minor or do not exceed any prescribed level; or

(e) if the water is required to be taken or used for emergency or training purposes in accordance with section 48 of the Fire and Emergency New Zealand Act 2017.

(5) In this section, **prescribed level** means a level of adverse effects that is—

(a) more than minor; and

(b) prescribed in national standards.

Compare: 1991 No 69 s 14

21 Discharges

(1) A person must not~~ do~~ discharge any of the following~~ discharge activities~~ unless the discharge is expressly allowed by an instrument specified in **subsection (2)** or a permit:

(a) ~~discharge~~ a contaminant or water into water:

(b) ~~discharge~~ a contaminant into or onto land in circumstances~~ which~~ that may result in that contaminant (or any other contaminant~~ being emitted~~ emanating as a result of natural processes from that contaminant) entering water:

(c) ~~discharge~~ a contaminant from any industrial or trade premises into air:

(d) ~~discharge~~ a contaminant from any industrial or trade premises into or onto~~ or into~~ land.

(2) The instruments referred to in **subsection (1)** are—

(a) a national rule; or

(b) regulations; or

(c) a rule in a natural environment plan and any rule in a proposed natural environment plan that has legal effect; or

(d) a water services standard.

(3) A person must not discharge a contaminant into the air, or into or onto land, from a place or any other source, whether moveable or not, in a manner that contravenes a national rule or a water services standard unless the discharge—

(a) is expressly allowed by regulations; or

(b) is expressly allowed by a permit; or

(c) is allowed by **section 25**.

(4) A person must not discharge a contaminant into the air, or into or onto land, from a place or any other source, whether moveable or not, in a manner that contravenes a rule in a natural environment plan or a rule in a proposed natural environment plan that has legal effect unless the discharge—

(a) is expressly allowed by a national rule, regulations, or a water services standard; or

(b) is expressly allowed by a permit; or

(c) is allowed by **section 25**.

(5) This section does not apply to any activity to which **section 22 or 23** applies.

Compare: 1991 No 69 s 15

22 Restrictions on dumping and incineration of waste or other matter in coastal marine area

(1) A person must not do any of the following activities in the coastal marine area unless the activity is expressly allowed by a permit:

(a) dump any waste or other matter from any ship, aircraft, or offshore installation:

(b) incinerate any waste or other matter in any marine incineration facility.

(2) A person must not dump any ship, aircraft, or offshore installation, in the coastal marine area unless expressly allowed by a permit.

(3) Nothing in this section permits the dumping of radioactive waste or radioactive matter or any discharge of a harmful substance that would contravene **section 24**.

(4) In this section, **marine incineration facility** has the meaning given in section 257 of the Maritime Transport Act 1994.

Compare: 1991 No 69 s 15A

23 Discharge of harmful substances from ships or offshore installations

(1) A person must not, in the coastal marine area, discharge a harmful substance or contaminant from a ship or offshore installation into water, onto or into land, or into air unless—

(a) the discharge is permitted or controlled by regulations, a rule in a natural environment plan, a rule in a proposed natural environment plan that has legal effect, or a permit; or

(b) after reasonable mixing, the harmful substance or contaminant discharged (either by itself or in combination with any other discharge) is not likely to give rise to all or any of the following effects in the receiving waters:

(i) the production of any conspicuous oil or grease films, scums, or foams, or floatable or suspended materials:

(ii) any conspicuous change of colour or visual clarity:

(iii) any emission of objectionable odour:

(iv) any significant adverse effects on aquatic life; or

(c) the harmful substance or contaminant, when discharged into air, is not likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have a significant adverse effect on natural resources or people.

(2) A person must not, in the coastal marine area, discharge water into water from any ship or offshore installation unless—

(a) the discharge is permitted or controlled by regulations, a rule in a natural environment plan, a rule in a proposed natural environment plan that has legal effect, or a permit; or

(b) after reasonable mixing, the water discharged is not likely to give rise to any significant adverse effects on aquatic life.

(3) If regulations permit or control a discharge to which **subsection (1) or (2)** applies, no rule can be included in a natural environment plan or proposed natural environment plan, and no ~~may be~~ permit may be granted relating to that discharge, unless the regulations provide otherwise.

(4) A person must not discharge a harmful substance or contaminant in reliance upon **subsection (1)(b) or (c) or (2)(b)** if regulations, a rule in a natural environment plan, a rule in a proposed natural environment plan that has legal effect, or a permit applies to that discharge.

(5) Regulations under **section 307** or a rule in a natural environment plan may prohibit a discharge that would otherwise be authorised in accordance with **subsection (1)(b) or (c) or (2)(b)**.

(6) A discharge authorised under **subsection (1) or (2)**, or by regulations, a rule in a natural environment plan, a rule in a proposed natural environment plan that has legal effect, or a permit may, despite section 7 of the Biosecurity Act 1993, be prohibited or controlled by that Act to exclude, eradicate, or effectively manage pests or unwanted organisms.

Compare: 1991 No 69 s 15B

24 Prohibitions relating to radioactive waste or other radioactive matter and other waste in coastal marine area

(1) A person must not, in the coastal marine area,—

(a) dump from any ship, aircraft, or offshore installation any radioactive waste or other radioactive matter; or

(b) store any radioactive waste or other radioactive matter or toxic or hazardous waste on or in any land or water.

(2) **Subsection (1)** applies despite any provision to the contrary in this Act.

(3) In this section,—

radioactive waste or other radioactive matter has the same meaning as in section 257 of the Maritime Transport Act 1994

toxic or hazardous waste means any waste or other matter prescribed as toxic or hazardous waste by regulations.

Compare: 1991 No 69 s 15C

Existing activities

25 Certain existing activities allowed

(1) A person may, without a permit, carry out an activity in a manner that contravenes a rule in a proposed natural environment plan that has legal effect until that rule becomes operative if,—

(a) before the rule had legal effect, the activity—

(i) was a permitted activity or otherwise could have been lawfully carried out without a permit; and

(ii) was lawfully established; and

(b) the effects of the activity are the same as, or similar in character, intensity, and scale to, the effects that existed before the rule had legal effect; and

(c) the activity has not been discontinued for a continuous period of more than 6 months (or a longer period specified in the rule) since the rule had legal effect.

(2) A person may, without a permit, carry out an activity in a manner that contravenes a national rule or rule in a natural environment plan if,—

(a) before the national rule commenced or the rule in ~~a~~ the natural environment plan became operative, the activity—

(i) was a permitted activity, or was allowed to continue under **subsection (1)**, or otherwise could have been lawfully carried out without a permit; and

(ii) was lawfully established; and

(b) the effects of the activity are the same or similar in character, intensity, and scale to the effects that existed before the national rule commenced or rule in ~~a~~ the natural environment plan became operative; and

(c) the person carrying out the activity has applied for a permit within 6 months after the date the national rule commenced or the rule in ~~a~~ the natural environment plan became operative and the application has not been decided or any appeals have not been determined.

Compare: 1991 No 69 s 20A, 43B(9)

General duty

26 Duty to avoid, ~~minimise~~ mitigate, or remedy adverse effects

(1) A person has a duty to avoid, ~~minimise~~ mitigate, or remedy any adverse effect on natural resources or people arising from an activity carried out by or on behalf of the person.

(2) The duty ~~described in **subsection (1)**~~—

(a) applies whether or not the activity is carried out in accordance with—

(i) a national rule, a rule in a natural environment plan, a rule in a proposed natural environment plan that has legal effect, or a permit; or

(ii) **section 25**; and

(b) is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty.

(3) Despite **subsection (2)(b)**, an enforcement order or abatement notice may be made or served under **subpart 1 of Part 6** to—

(a) require a person to cease, or prohibit a person from commencing, anything that, in the opinion of the Environment Court or an enforcement officer, is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on natural resources or people; or

(b) require a person to do something that, in the opinion of the Environment Court or an enforcement officer, is necessary in order to avoid, ~~minimise~~ mitigate, or remedy any actual or likely adverse effect on natural resources or people caused by, or on behalf of, that person.

(4) **Subsection (3)** is subject to **section 263(3)** (which specifies when the Environment Court must not make an enforcement order).

Compare: 1991 No 69 s 17

Other legal requirements not affected

27 Other legal requirements not affected

(1) Compliance with this Act does not remove the need to comply with all other legislation and rules of law.

(2) The duties and restrictions described in this subpart are only enforceable against a person through the provisions of this Act.

(3) No person is liable to another person for a breach of a duty or restriction under this Act, except in accordance with the provisions of this Act.

(4) This section does not limit or affect a right of action that a person may have independently of the provisions of this Act.

(5) ~~To avoid doubt, a~~ A reference to the provisions of this Act in this section includes any provisions of the **Planning Act 2025** that are applied by this Act for the purposes of this Act.

Compare: 1991 No 69 s 23

Subpart 3—Key instruments

~~28 Purposes of key instruments~~

~~(1) The following overview sets out the purpose of each key instrument as provided by the relevant section of this Act and the **Planning Act 2025**:~~

~~**Overview of purposes of key instruments**~~

~~The purpose of **national policy directions** (as provided by **section 78**) is to do 1 or both of the following:~~

~~(a) particularise the goals and direct how they must be achieved:~~

~~(b) help resolve conflicts between the goals in **section 11** of this Act and the goals in **section 11 of the Planning Act 2025**.~~

~~The purpose of **national standards** (as provided by **section 83**) is to do 1 or more of the following:~~

~~(a) implement national policy direction:~~

~~(b) provide procedural or administrative consistency:~~

~~(c) provide regulatory consistency:~~

~~(d) provide specific direction on how a goal is to be achieved in relation to a matter that is not covered by a national policy direction.~~

~~The purpose of **regional spatial plans** (as provided by **section 67 of the Planning Act 2025**) is to—~~

~~(a) set the strategic direction for development and public investment priorities in a region for a time span of not less than 30 years; and~~

~~(b) enable integration at the strategic level of decision-making under the **Planning Act 2025** and this Act; and~~

~~(c) implement national instruments made under the **Planning Act 2025** and this Act in a way that provides for use and development within environmental limits; and~~

~~(d) support a co-ordinated approach to infrastructure funding and investment by central government, local authorities, and other infrastructure providers; and~~

~~(e) promote integration of development planning with infrastructure planning and investment.~~

~~The purpose of the preparation, implementation, and administration of **natural environment plans** (as provided by **section 92**) is to—~~

~~(a) enable and regulate the use, protection, and enhancement of natural resources within a region; and~~

~~(b) assist regional councils in carrying out their functions and responsibilities under this Act.~~

~~The purpose of **regional combined plans** (as provided by **section 63 of the Planning Act 2025**) is to support public access to plans developed by local authorities within a region.~~

~~(2) In the event of any inconsistency between how the purpose of a key instrument is set out in the overview and how it is provided for in the relevant section, the relevant section prevails.~~

28 Key instruments of this Act

The key instruments of this Act are as follows:

(a) national policy direction:

(b) national standards:

(c) regional spatial plans:

(d) natural environment plans.

Provisions of key instruments

29 Objectives, policies, rules, and methods

(1) An **objective** of a key instrument means an outcome that the instrument seeks to achieve.

(2) A **policy** of a key instrument means a course of action to implement the instrument's objectives.

(3) A **method** of a key instrument means a provision ~~(other than a rule) that implements the instrument's objectives and policies~~ stating how policies are to be implemented.

(4) The key instruments that may contain **rules** are national standards and natural environment plans.

Compare: 1991 No 69 ss 75(1), (2), (5), 76(4)

30 Application of objectives, policies, rules, and methods

(1) An objective, policy, rule, or method of a key instrument may—

(a) ~~may~~ apply throughout all or part of—

(i) a region, in the case of a natural environment plan; or

(ii) New Zealand, in the case of a national instrument:

(b) apply all of the time or for specified periods.

(2) A rule may apply to—

(a) a specified activity; or

(b) a class of activities (for example, all activities with a particular activity classification).

Compare: 1991 No 69 s 76(4)

31 Meaning of rule

(1) A **rule** means a provision of a key instrument that does any of the following:

(a) classifies an activity as a permitted, controlled, restricted discretionary, discretionary, or prohibited activity:

(b) specifies ~~conditions~~ requirements for carrying out a permitted activity (**permitted activity rules**):

(ba) reserves matters of control for controlled activities:

(c) specifies ~~conditions~~ requirements for carrying out a controlled activity, restricted discretionary activity, or discretionary activity:

(d) reserves matters of discretion in relation to a restricted discretionary activity:

(e) specifies requirements for information to be included in an application for a natural resource permit:

(f) specifies whether an application for a natural resource permit for an activity must be notified or precluded from being notified for public or targeted submissions~~.~~:

(g) specifies conditions of a natural resource permit that may be included under **section 167 or 169**.

~~(2) A provision of a natural environment plan that does either of the following is also a rule:~~

~~(a) allocates a natural resource activity in accordance with **section 99**:~~

~~(b) sets requirements relating to a market-based allocation process or comparative permitting process in accordance with **section 100**.~~

Classification of activities

~~32 Principles for classifying activities~~

~~When exercising or performing a function, power, or duty under this Act, a person must be guided by the following principles:~~

~~(a) an activity should be classified as a **permitted activity** if—~~

~~(i) either—~~

~~(A) the activity is acceptable, anticipated, or achieves the desired level of use, development, or protection of the natural environment; or~~

~~(B) any adverse effects of the activity on the natural environment are well understood and can be managed; and~~

~~(ii) there is sufficient allocation for any anticipated cumulative effect without breaching an environmental limit:~~

~~(b) an activity should be classified as a **restricted discretionary activity** if—~~

~~(i) the activity is acceptable, anticipated, or achieves the desired level of use, development, or protection of the natural environment, but 1 or more the activity's effects require specific assessment; and~~

~~(ii) effects of the activity on the natural environment can be appropriately managed through national standards or permit conditions:~~

~~(iii) any risk of breaching an environmental limit can be appropriately managed through national standards or permit conditions:~~

~~(c) an activity should be classified as **discretionary activity** if—~~

~~(i) the nature and type of activity requires an assessment of all the effects of the activity on natural resources; or~~

~~(ii) the adverse effects of the activity are unknown or uncertain; or~~

~~(iii) the activity is inconsistent with the regional spatial plan; or~~

~~(iv) the activity is not anticipated and may be inappropriate:~~

~~(d) an activity should be classified as a **prohibited activity** if it will have an unacceptably high level of adverse effects on the natural environment that cannot be managed by permit conditions.~~

32 Guidance for classifying activities

(1) This section—

(a) is intended to guide decision makers when classifying activities in national standards or natural environment plans; but

(b) does not limit the matters that a decision maker may consider when classifying activities (for example, requirements in regulations or non-regulatory measures).

(2) A decision maker should consider classifying an activity as—

(a) a **permitted activity** if—

(i) the activity is acceptable, is anticipated, or achieves the desired level of use, development, or protection; or

(ii) the adverse effects of the activity are understood and can be managed:

(b) a **controlled activity** if—

(i) the activity—

(A) is acceptable, is anticipated, or achieves the desired level of use, development, or protection; and

(B) requires a specific assessment of 1 or more of the effects of the activity; or

(ii) the adverse effects of the activity are understood and can be managed through permit conditions:

(c) a **restricted discretionary activity** if—

(i) the activity is acceptable, is anticipated, or achieves the desired level of use, development, or protection, but 1 or more of the effects of the activity require specific assessment; and

(ii) the effects of the activity are known and can be appropriately managed through national standards or permit conditions:

(d) a **discretionary activity** if—

(i) the nature and type of the activity requires an assessment of the effects of the activity; or

(ii) the adverse effects of the activity are unknown or uncertain; or

(iii) the activity is not anticipated or may be inappropriate:

(e) a **prohibited activity** if the activity will have an unacceptably high level of adverse effects that cannot be managed by permit conditions.

(3) A failure to follow the guidance provided in this section does not invalidate a decision classifying an activity.

33 Consequences of permitted, controlled, restricted discretionary, or ~~restricted~~ discretionary activity classification

~~(1) This section applies to an activity is classified in,—~~

~~(a) a national rule:~~

~~(b) regulations:~~

~~(c) a wastewater standard:~~

~~(d) a rule in a natural environment plan:~~

~~(e) a rule in a proposed natural environment plan that has legal effect.~~

(2) If ~~the~~ an instrument classifies an activity ~~is classified~~ as a permitted activity,—

(a) the activity does not require a natural resource permit; but

(b) the activity must comply with any requirements in a permitted activity rule and any requirements in every instrument.~~—~~

~~(i) in a permitted activity rule; and~~

~~(ii) in each instrument listed in **subsection (1)**.~~

(2A) If an instrument classifies an activity as a controlled activity,—

(a) the activity requires a natural environment permit; and

(b) the instrument must specify the matters over which control is reserved; and

(b) a permit authority must grant the permit unless—

(i) **section 163** applies; or

(ii) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 applies; and

(c) a permit authority's power to impose conditions on the permit is restricted to the matters over which control is reserved; and

(d) the activity must comply with any requirements in every instrument.

(3) If ~~the~~ an instrument classifies an activity ~~is classified~~ as a restricted discretionary activity,—

(a) the activity requires a natural resource permit; and

(b) the instrument must specify the matters over which discretion is reserved; and

~~(b) the regional council's power to grant the permit and impose conditions, or to decline the permit, is restricted to the matters over which discretion is reserved and specified in a natural environment plan, proposed natural environment plan, or national rule; and~~

(b) a permit authority's power to grant the permit is—

(i) restricted to the matters over which discretion is reserved; and

(ii) subject to **section 163**; and

(iii) subject to section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(c) the activity must comply with any conditions in the permit and any requirements in every instrument.

(4) If ~~the~~ an instrument classifies an activity ~~is classified~~ as a discretionary activity,—

(a) the activity requires a natural resource permit; and

(b) a ~~regional council~~ permit authority may grant the permit with or without conditions or decline the permit; and

(c) the activity must comply with any conditions in the permit and any requirements in every instrument.

(5) In this section,—

instrument means—

(a) this Act:

(b) regulations:

(c) a national rule:

(d) a water services standard:

(e) a rule in a natural environment plan:

(f) a rule in a proposed natural environment plan that has legal effect

requirements includes conditions and permissions.

Compare: 1991 No 69 s 87A

34 Consequence of prohibited activity classification

(1) If an ~~an activity is classified in a national rule or a rule in a plan~~ instrument (other than a proposed land use plan that has legal effect) classifies an activity as a prohibited activity,—

(a) no application for a natural resource permit may be made for the activity; and

(b) a regional council must not grant a permit for the activity.

(2) In this section, **instrument** has the meaning given in **section 33(5)**.

Compare: 1991 No 69 s 87A(6)

35 Specified prohibited activities

(1) The following activities are prohibited activities:

(a) prospecting, exploring, or mining for Crown-owned minerals in the internal waters of the Coromandel Peninsula:

(b) mining of which the main purpose is to mine mercury.

(2) **Subsection (1)(a)** does not apply to prospecting, exploring, or mining activities set out in section 61(1A) of the Crown Minerals Act 1991.

Compare: 1991 No 69 s 87B(2)–(4)

36 Activities that must be treated as discretionary activities

An application for a natural resource permit for an activity must be treated as an application for a discretionary activity if—

(a) **subpart 2** requires a natural resource permit for the activity and there is no plan or proposed plan, or no relevant rule in a plan or proposed plan; or

(b) a plan requires a natural resource permit for the activity but does not classify the activity; or

(c) a rule in a proposed plan classifies the activity as a prohibited activity and the rule has not become operative.

Compare: 1991 No 69 s 87B(1)

37 ~~Rules relating to restricted discretionary activities~~

(1) ~~If a national rule or rule in a plan classifies an activity as a restricted discretionary activity, the rule must specify the matter or matters over which discretion is reserved.~~

~~(2)~~ ~~A national rule or rule in a plan that specifies a condition for a restricted discretionary activity must relate to a matter described in **section 169**.~~

Compare: 1991 No 69 ss 77A(1)(c), 77B(3), (4)

~~38~~ ~~Rules relating to discretionary activities~~

~~A national rule or rule in a plan that specifies a condition for a discretionary activity must relate to a matter described in **section 169**.~~

~~Compare: 1991 No 69 ss 77A(1)(c)~~

Permitted activity rules

39 Permitted activity rules

~~(1)~~ ~~A permitted activity rule must—~~

~~(a)~~ ~~require an activity to be registered; or~~

~~(b)~~ ~~relate to a matter described in **section 169**.~~

(1) A permitted activity rule may be a national rule or rule in a natural environment plan.

(1A) A permitted activity rule may,—

(a) in the case of a national rule, include a requirement for the activity to be registered with the permit authority before it commences; or

(b) in the case of a rule in a natural environment plan, include a requirement for the activity to be registered with the permit authority before it commences but only if the requirement is directed or permitted by national standards.

(1B) If a permitted activity rule includes a requirement for registration of the activity with a permit authority,—

(a) a person must, before commencing the activity, register the activity with the permit authority in accordance with the requirements in the permitted activity rule; and

(b) the permit authority must notify the person as to whether those requirements are complied with.

(1C) *See also* **section 33(2)(b)(ii)** which requires the activity to comply with any requirements in every instrument.

~~(2) A permitted activity rule referred to in **subsection (1)(a)** must provide that an activity is a permitted activity only if—~~

~~(a) the activity is registered with the territorial authority (*see* **section 202**); and~~

~~(b) the person carrying out the activity does 1 or more of the following:~~

~~(i) obtains the written approval of all persons who may be directly affected by the activity:~~

~~(ii) obtains a certificate from a qualified person that the activity complies, or would comply, with any specified requirement:~~

~~(iii) pays a fee fixed in accordance with **section 229**:~~

~~(iv) complies with any other requirement relating to a matter described in **section 169**.~~

(2) A permitted activity rule referred to in **subsection (1A)(b)** must provide that an activity is a permitted activity only if the person carrying out the activity does 1 or more of the following:

(a) obtains the written approval of all persons who may be directly affected by the activity:

(b) obtains a certificate from a qualified person that the activity complies, or would comply, with any specified requirement:

(c) pays a fee fixed in accordance with **section 229**:

(d) complies with any other requirement relating to a matter described in **section 169**.

(3) A permitted activity rule referred to in **subsection ~~(1)(a)~~ (1A)(b)** may specify requirements for the information that must be included in the notice required by **section 202**.

(4) An approval described in **subsection (2)(b)(i)** is valid for 3 years from the date it is given, unless withdrawn in writing by the person who gave it.

Compare: 1991 No 69 s 77A(1)(c)

Relationship between national rule and other instruments

40 How instruments are more restrictive or enabling than national rule

(1) This section applies for the purposes of **sections 41 to 44**.

(2) An instrument is more **restrictive** than a national rule if the instrument— ~~does 1 or more of the following:~~

(a) ~~classify~~ classifies an activity more restrictively than the national rule~~:~~; or

(b) ~~impose~~ imposes conditions on an activity that the national rule does not impose or authorise~~:~~; or

(c) ~~prohibit or restrict~~ prohibits or restricts an activity that the national rule permits or authorises.

~~(3) An instrument is more **enabling** than a national rule if it permits or authorises an activity that the national rule prohibits or restricts.~~

(3) An instrument is more **enabling** than a national rule if the instrument—

(a) classifies an activity less restrictively than the national rule; or

(b) does not impose conditions or relaxes conditions on an activity in respect of which conditions are imposed or authorised by the national rule; or

(c) permits or authorises an activity that the national rule prohibits or restricts.

(4) In this section, an **instrument** means a rule in a plan, a rule in a proposed plan that has legal effect, a natural resource permit, a bylaw, or a water conservation order.

Compare: 1991 No 69 s 43B(2), (4)

41 Relationship between national rule and rule in plan or proposed plan

(1) A rule in a plan or a rule in a proposed plan that has legal effect that is more restrictive than a national rule prevails over the national rule if the national rule expressly allows a rule in a plan or proposed plan to be more restrictive than it.

(2) A rule in a plan or a rule in a proposed plan that has legal effect that is more enabling than a national rule prevails over the national rule if the national rule expressly allows a rule in a plan or proposed plan to be more enabling than it.

Compare: 1991 No 69 s 43B(1), (3)

42 Relationship between national rule and natural resource permit

(1) A natural resource permit that is more restrictive than a national rule prevails over the rule ~~prevails~~ if the rule expressly allows a permit to be more restrictive than it.

(2) A natural resource permit that is more enabling than a national rule prevails over the rule if the rule expressly allows a permit to be more enabling than it.

~~(3) A natural resource permit granted under a rule in a plan or proposed plan before the date on which a national rule is published—~~

~~(a) prevails over the national rule; but~~

~~(b) does not prevail if, and to the extent that, the national rule requires a review of the conditions of the permit in accordance with **section 186(1)(c)**.~~

(3) **Subsection (4)** applies if a natural resource permit—

(a) is granted under a rule in a natural environment plan or proposed natural environment plan that has legal effect; and

(b) is granted before the date on which a national rule commences.

(4) The natural resource permit prevails over the national rule unless the rule expressly provides otherwise.

Compare: 1991 No 69 s 43B

43 Relationship between national rules and water conservation orders

(1) A water conservation order prevails over a national rule applying to water if ~~it~~ the order is more restrictive than the rule.

(2) A national rule applying to water prevails over a water conservation order if ~~it~~ the rule is more restrictive than the order.

Compare: 1991 No 69 s 43C

44 Relationship between national rules and bylaws

(1) A bylaw prevails over a national rule if ~~it~~ the bylaw is more restrictive than the rule and the rule expressly allows the bylaw to be more restrictive than it.

(2) A bylaw may be more enabling than a national rule if the rule expressly allows a bylaw to be more enabling than it.

(3) In this section, **bylaw** means a bylaw made under any ~~enactment~~ legislation.

Compare: 1991 No 69 s 43E

44A Relationship between wastewater and stormwater environmental performance standards and other instruments

(1) A wastewater environmental performance standard or stormwater environmental performance standard prevails over a national rule.

(2) **Subsection (1)** applies whether the national rule is more or less restrictive than the wastewater environmental performance standard or the stormwater environmental performance standard.

(3) If there is any conflict or duplication between a wastewater environmental performance standard or stormwater environmental performance standard and a document listed in **subsection (4)**, the environmental performance standard prevails.

(4) The documents are—

(a) a national policy direction:

(b) a national standard:

(c) a natural environment plan.

(5) However, if anything in a natural environment plan conflicts with or duplicates anything in a wastewater environmental performance standard or stormwater environmental performance standard, then, to the extent that the conflict or duplication results from the natural environment plan giving effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River,—

(a) **subsection (3)** does not apply; and

(b) the natural environment plan prevails.

(6) If a natural environment plan or proposed natural environment plan contains a rule that conflicts with or duplicates a provision in a wastewater environmental performance standard or stormwater environmental performance standard, the regional council must amend the plan or proposed plan to remove the conflict or duplication—

(a) without using the process in **Schedule 3 of the Planning Act 2025**; and

(b) as soon as practicable after the date on which the standard comes into force.

(7) A regional council must—

(a) enforce the observance of stormwater environmental performance standards and wastewater environmental performance standards—

(i) within the limits specified in **subsections (5) and (8)**; and

(ii) to the extent to which its powers enable it to do so; and

(b) observe stormwater environmental performance standards and wastewater environmental performance standards.

(8) However, **subsections (1), (2), and (6)** do not apply if—

(a) the rule gives effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River; and

(b) the rule is more restrictive than the wastewater environmental performance standard or stormwater environmental performance standard.

Compare: 1991 No 69 s 58JB

43B Relationship between infrastructure design solutions and other instruments

(1) An infrastructure design solution prevails over a national rule.

(2) **Subsection (1)** applies whether a national rule is more or less restrictive than the infrastructure design solution.

(3) However, a national rule prevails over the infrastructure design solution, and **subsections (1) and (2)** do not apply, if—

(a) the rule is included in a natural environment plan to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River; and

(b) the rule is more restrictive than the infrastructure design solution.

(4) If there is any conflict or duplication between an infrastructure design solution and a document listed in **subsection (5)**, the infrastructure design solution prevails.

(5) The documents are—

(a) a national policy direction:

(b) a national standard:

(c) a natural environment plan.

(6) However, if anything in a natural environment plan conflicts with or duplicates anything in an infrastructure design solution, then, to the extent that the conflict or duplication results from the relevant document giving effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River,—

(a) **subsection (4)** does not apply; and

(b) the natural environment plan prevails.

(7) If a natural environment plan or proposed natural environment plan contains a rule that conflicts with or duplicates a provision in an infrastructure design solution, the regional council must amend the plan or proposed plan to remove the inconsistency or duplication—

(a) without using the process in **Schedule 3 of the Planning Act 2025**; and

(b) as soon as practicable after the date on which the infrastructure design solution comes into force.

(8) However, **subsection (7)** does not apply if—

(a) the rule gives effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River; and

(b) the rule is more restrictive than the infrastructure design solution.

Compare: 1991 No 69 s 58JD

Subpart 4—Environmental limits

45 Defined terms

In this subpart, unless the context otherwise requires,—

action plan has the meaning given in **section 60** ~~means a plan containing measures to manage compliance with an environmental limit, including—~~

~~(a) regulatory measures (such as those described in **section 63(1)**); and~~

~~(b) non-regulatory measures (such as work plans and partnership arrangements with tangata whenua and community groups)~~

~~**air** means the composition of the shallow layer of gases, vapours, and particulates surrounding the earth, that is, the lower atmosphere (troposphere) in which people live~~

~~**attribute** means a measurable biophysical characteristic that can be used to assess the extent to which a particular value (for example, human health or ecosystem health) is provided for~~

attribute means a measurable biophysical characteristic that can be used to assess the extent to which—

(a) an aspect of human health must be protected; or

(b) the life-supporting capacity of the natural environment must be protected

best obtainable information has the meaning given in **section ~~59~~ 57B**

coastal water ecosystems means all coastal ecosystems within ~~and up to~~ the outer limits of the territorial sea, including—

(a) coastal ecosystems with a substantial freshwater component; and

(b) coastal ecosystems in estuaries, fjords, inlets, harbours, or embayments

decision maker means a decision maker making any decision under this subpart

domain means a domain of the natural environment

ecosystem includes—

(a) biological life—the abundance and diversity of ~~biota~~ biological life (whether indigenous or introduced species), including microbes, fungi, invertebrates, plants, fish, amphibians, reptiles, birds, and mammals; and

(b) physical and chemical habitat—the abiotic components, including the physical form, structure, and quality of habitat, in relation to its suitability to support life; and

(c) ecological processes—the interactions among and between ~~biota~~ biological life and their physical and chemical environment

~~**freshwater** means all freshwater ecosystems except coastal water and geothermal water~~

freshwater means freshwater ecosystems—

(a) including rivers, lakes, wetlands, and groundwater; and

(b) excluding geothermal water and coastal ecosystems

indigenous biodiversity—

(a) means the variety of indigenous living organisms and the ecological complexes of which they are a part; and

(b) includes diversity within species, diversity between species, and the diversity of ecosystems

~~**land and soil** means either or both of the following:~~

~~(a) the surface of earth that is not covered by water (**land**):~~

~~(b) the layered material at the earth's surface, that has resulted from chemical and biological processes and physical organisation of minerals and organic matter (**soil**)~~

land and soil—

(a) means either or both of the following:

  (i) the surface of earth that is not covered by water (**land**):

  (ii) the layered material at the earth's surface that has resulted from chemical and biological processes and the physical organisation of minerals and organic matter (**soil**); and

(b) includes contaminated land

life-supporting capacity of the natural environment means the ability of ecosystems of the natural environment—

(a) to support and sustain a diverse range of indigenous ~~life~~ species over time; and

(b) to be resilient

methodology means a method, process, or set of requirements that must be complied with

resilience means the capacity of an ecosystem to withstand or recover from pressure and disturbances while retaining its essential qualities and functions.

~~**state attribute** means an identified biophysical state of the natural environment~~

~~**stress attribute** means an identified biophysical stress on the natural environment.~~

~~What are environmental~~ Environmental limits and why they are required

46 Purpose of environmental limits

The purpose of an environmental limit is to—

(a) protect human health (**human health limits**); or

(b) protect the life-supporting capacity of the natural environment (**ecosystem health limits**).

~~**47 Who sets environmental limits**~~

~~(1) Human health limits must be set by the responsible Minister in national standards.~~

~~(2) Ecosystem health limits must be set by the regional council in its natural environment plan.~~

47 Instruments that set environmental limits

(1) Human health limits must be set in national standards.

(2) Ecosystem health limits must be set in a region's natural environment plan.

~~**48 How environmental limits are expressed**~~

~~An environmental limit must be expressed as—~~

~~(a) a biophysical state for a management unit; or~~

~~(b) the amount of harm or stress to the natural environment permitted in a management unit.~~

~~Compare: 2023 No 46 s 111~~

48 How environmental limits are expressed

(1) An environmental limit—

(a) must be associated with a management unit; and

(b) must be—

(i) a **state attribute**, being an identified biophysical state of the natural environment within the management unit (for example, concentrations of faecal indicator bacteria in water or the depth of fine silt on the bed of a water body); or

(ii) a **stress attribute**, being an identified level of biophysical harm or stress on the natural environment that is allowed within the management unit (for example, a total take from a water body, or total load of discharge to a water body or airshed); and

(c) may be expressed numerically or in narrative form subject to **subsection (2)**.

(2) An environmental limit may be expressed in narrative form only if—

(a) the state attribute or stress attribute is clearly measurable; and

(b) it is expressed—

(i) in a way that readily enables assessment of whether the limit is breached; and

(ii) in accordance with any requirements prescribed in regulations or national standards.

Compare: 2023 No 46 s 111

48A How this subpart applies to national standards and natural environmental plans

(1) If a decision under this subpart is to be implemented in national standards, the Minister must ensure that the applicable requirements of this subpart are complied with—

(a) before notifying a proposed national standard under **section 84(2)**; and

(b) before recommending a proposed national standard be made under **section 88**.

(2) If a decision under this subpart is to be implemented in a natural environment plan, the regional council must ensure that the applicable requirements of this subpart are complied with—

(a) before notifying its natural environment plan under **Schedule 3 of the Planning Act 2025**; and

(b) before making a final decision on the plan in accordance with the provisions of that schedule.

Human health limits

49 Where human health limits must be set

(1) ~~The Minister~~ National standards must set human health limits for attributes ~~within~~ in each of the following domains:

(a) freshwater:

(b) coastal water:

(c) land and soil:

(d) air.

(1A) National standards must not set human health limits for attributes in any other domain.

(2) ~~The Minister~~ National standards may set human health limits for an attribute across 2 or more domains described in **subsection (1)** if the attribute is relevant to managing human health across those domains.

49A Considerations relevant to developing human health limits

(1) When preparing a human health limit, the Minister must—

(a) be satisfied that the proposed human health limit will, as a minimum, prevent significant or irreversible harm to people and communities; and

(b) consider the relevant health guidelines before making a decision under **paragraph (a)**.

(2) If the requirements of **subsection (1)** (the **minimum requirements**) are met, the Minister may then decide the level at which the proposed human health limit is set.

(3) The Minister must be satisfied that the proposed human health limit is set at an acceptable level above the minimum requirements by having regard to—

(a) the relevant health guidelines; and

(b) the existing capacity of the natural environment to withstand or recover from pressure and disturbances in accordance with **section 57(1)**; and

(c) the impact of the proposed limit in accordance with **section 56**; and

(d) a cost benefit analysis of the proposed human health limit.

(4) The order in which each consideration is set out in **section 56 or 57** must not be taken as specifying any order of importance between environmental, social, and economic matters.

(5) In this section, **relevant health guidelines** means relevant health guidelines published or advised by the Ministry of Health or the Minister of Health.

49B How interim limits relating to human health must be set in national standards or natural environment plans

(1) If proposed national standards include a human health limit that has been breached or is anticipated to be breached,—

(a) a target date must be set by which the breach must be remedied or any anticipated breach must be managed in order to achieve compliance with the human health limit; and

(b) if a breach of the human health limit is anticipated, the Minister must be satisfied that the anticipated breach—

(i) is likely to be caused by historic activity, an activity authorised by a natural resource permit, or both; and

(ii) is highly likely to occur; and

(iii) cannot be prevented by taking reasonable steps.

(2) If **subsection (1)** applies, national standards may—

(a) set the target date for the human health limit; or

(b) allow or require a regional council to set the target date in its natural environment plan in compliance with any time period specified in the standards.

(3) If the target date set in national standards or a natural environment plan is more than 10 years after the commencement of the human health limit,—

(a) the standards or plan must contain 1 or more interim limits at 10-year intervals; and

(b) each interim limit—

(i) must be accompanied by actions and outcomes to be achieved within a specified time frame; and

(ii) must enable an orderly transition to the next interim limit or, if applicable, the target date; and

(iii) must be set at consecutive 10-year intervals and must not overlap.

(4) When preparing interim health limits for a human health limit, the Minister or regional council must—

(a) have regard to the matters in **section 49A(3)(a) to (d)**; and

(b) determine the level of protection provided by the interim limits after being satisfied that the limits are credible, achievable, and avoid unnecessary delay.

(5) To avoid doubt, **section 49A(1) and (2)** does not apply to the setting of interim limits for human health.

Ecosystem health limits

50 Where ecosystem health limits must be set

~~(1) A regional council must set ecosystem health limits for attributes in each of the following domains:~~

~~(a) freshwater:~~

~~(b) coastal water:~~

~~(c) land and soil:~~

~~(d) indigenous biodiversity.~~

~~(2) A regional council may set ecosystem health limits for attributes across 2 or more domains if the attribute is relevant to managing ecosystem health across those domains.~~

~~(3) An ecosystem health limit for the domain of air may be set by a regional council only if directed by national standards.~~

(1) A regional council—

(a) must set ecosystem health limits in its natural environment plan for 1 or more attributes in each of the following domains:

(i) freshwater:

(ii) coastal water:

(iii) land and soil:

(iv) indigenous biodiversity; and

(b) may set ecosystem health limits in its natural environment plan for attributes in the domain of air only if directed by national standards; and

(c) must not set ecosystem health limits in its natural environment plan for attributes in any other domain.

(2) A regional council may set ecosystem health limits in its natural environment plan for an attribute across 2 or more domains described in **subsection (1)(a)** and, if applicable, **subsection (1)(b)** if the attribute is relevant to managing ecosystem health across those domains.

50A How ecosystem health limits must be set in natural environment plans

(1) When setting an ecosystem health limit, a regional council—

(a) must follow the methodology specified in national standards for setting the limit; and

(b) if there is no methodology specified, may determine and follow its own methodology for setting the limit.

(2) A regional council must follow the process set out in **Schedule 3 of the Planning Act 2025** to include ecosystem health limits in a proposed natural environment plan or plan change unless and to the extent that national standards provide otherwise.

(3) If a regional council proposes or an independent hearings panel recommends an ecosystem health limit that is less stringent than the minimum acceptable level specified in national standards made under **section 58A(3)(c)** for that ecosystem health limit, the council or panel must prepare a justification report.

50B Developing ecosystem health limits

(1) Before deciding to include an ecosystem health limit in its proposed natural environment plan, a regional council must be satisfied that the proposed limit protects the life-supporting capacity of the natural environment to an acceptable level after having considered—

(a) the existing capacity of the natural environment to withstand or recover from pressure and disturbances in accordance with **section 57**; and

(b) the impact of the proposed limit in accordance with **section 56**; and

(c) a cost-benefit analysis of the proposed limit.

(2) The order in which each consideration is set out in **section 56 or 57** must not be taken as specifying any order of importance between environmental, social, and economic matters.

(3) The regional council—

(a) is not required (despite **sections 12 and 97**) to implement the regional spatial plan; but

(b) must have regard to the regional spatial plan.

50C How interim limits relating to ecosystem health must be set in natural environment plans

(1) If a proposed natural environment plan includes an ecosystem limit that has been breached or is anticipated to be breached,—

(a) the plan must set a target date by which the breach must be remedied or any anticipated breach must be managed in order to achieve compliance with the ecosystem health limit; and

(b) if a breach of the ecosystem health limit is anticipated, the regional council must be satisfied that the anticipated breach—

(i) is likely to be caused by historic activity, an activity authorised by a natural resource permit, or both; and

(ii) is highly likely to occur; and

(iii) cannot be prevented by taking reasonable steps.

(2) If the target date is more than 10 years after the commencement of the ecosystem health limit,—

(a) the plan must contain 1 or more interim limits at 10-year intervals; and

(b) each interim limit—

(i) must be accompanied by actions and outcomes to be achieved within a specified time frame; and

(ii) must enable an orderly transition to the next interim limit or, if applicable, the target date; and

(iii) must be set at consecutive 10-year intervals and must not overlap.

(3) The target date and, if applicable, each interim limit must be credible, achievable, and avoid unnecessary delay.

~~*How environmental limits must be set*~~

~~**51 How ecosystem health limits must be set in plans**~~

~~(1) A regional council must set ecosystem health limits in its natural environment plans.~~

~~(2) When setting an ecosystem health limit, a regional council—~~

~~(a) must follow the methodology specified in national standards for setting the limit; and~~

~~(b) if there is no methodology specified, may determine and follow its own methodology for setting the limit.~~

~~(3) A regional council must follow the process set out in **Schedule 3 of the Planning Act 2025** to include ecosystem health limits in a proposed natural environment plan or plan change unless and to the extent that national standards provide otherwise.~~

~~(4) If a regional council proposes or an independent hearings panel recommends an ecosystem health limit that is less stringent than the minimum acceptable level specified in national standards made under **section 54(3)(b)** for that ecosystem health limit, the council or panel must prepare a justification report.~~

~~52 Criteria for decisions relating to environmental limits~~

~~*Decisions to which this section applies*~~

~~(1) This section applies to the Minister before deciding to—~~

- ~~(a) set a human health limit:~~
- ~~(b) select an attribute for a human health limit or an ecosystem health limit:~~
- ~~(c) set a management unit for a domain or an attribute:~~
- ~~(d) specify a methodology for setting a management unit:~~
- ~~(e) specify a methodology for setting an ecosystem health limit:~~
- ~~(f) specify a methodology for selecting an attribute of an ecosystem health limit.~~

~~(2) This section applies to a regional council before deciding to—~~

- ~~(a) set an ecosystem health limit:~~
- ~~(b) select an attribute for an ecosystem health limit if that attribute is not already set in national standards:~~
- ~~(c) set a management unit for a domain or attribute if that management unit is not already set in national standards.~~

~~*Decision-making criteria*~~

~~(3) A decision maker must prioritise the most urgent and important matters and, for that purpose, must—~~

- ~~(a) consider—~~
  - ~~(i) the extent, scale, and impacts of any environmental degradation; and~~
  - ~~(ii) the trend, direction, and pace of the degradation; and~~
  - ~~(iii) the difficulty in reversing the degradation if action is delayed; and~~
- ~~(b) decide the most appropriate response in light of that consideration.~~

~~(4) A decision maker must ensure that the notification draft and the final draft are based on the best obtainable information.~~

~~(5) Despite **subsection (4)**, a lack of full scientific certainty is no reason to delay making a decision needed to prevent significant or irreversible harm to the natural environment.~~

~~(6) A decision maker must ensure that the information that informed the notification draft (including the evidence and methods used) is publicly available at the time of notification.~~

~~(7) In this section, **notification draft** means a proposed national direction as notified under **section 70** or a plan as notified under **Schedule 3 of the Planning Act 2025**.~~

~~53 Developing human health limits~~

~~(1) Before setting a human health limit in a national standard, the Minister must be satisfied that—~~

- ~~(a) the proposed limit will protect human health to an acceptable standard; and~~
- ~~(b) the proposed limit will, as a minimum, prevent significant or irreversible harm to people and communities.~~

~~(2) When specifying the standard to which human health must be protected, the Minister must consider—~~

- ~~(a) all the goals and any national policy direction in accordance with **section 12(4)**; and~~
- ~~(b) the relevant health guidelines published or advised by the Ministry of Health or the Minister of Health; and~~
- ~~(c) the existing capacity of the natural environment to withstand or recover from pressure and disturbances in accordance with **section 57(a) to (d)**; and~~
- ~~(d) the impact of the proposed limit in accordance with **section 56**.~~

~~(3) However, a lack of scientific certainty is no reason to delay making the national standard or not to make the standard.~~

~~Compare: s 111 NBEA~~

~~54 Specifying methodologies for setting ecosystem health limits~~

~~(1) The Minister must make national standards that specify a methodology that regional councils must follow when setting an ecosystem health limit.~~

~~(2) Before making the national standards, the Minister must, in addition to the requirements of **section 52**—~~

- ~~(a) consider the existing capacity of the natural environment to withstand or recover from pressure and disturbances in accordance **section 57**; and~~
- ~~(b) consider the impact of the proposed methodology in accordance with **section 56**; and~~

~~(c) be satisfied that the methodology supports the purpose of the ecosystem health limits (to protect the life-supporting capacity of the national environment).~~

~~(3) National standards—~~

~~(a) may specify whether an ecosystem health limit must be expressed only as a state attribute or a stress attribute; and~~

~~(b) may specify minimum acceptable levels for ecosystem health limits; but~~

~~(c) must not determine an ecosystem health limit itself.~~

~~(4) However, a lack of scientific certainty is no reason to delay making the national standards or not to make the standards.~~

~~**55 Developing ecosystem health limits**~~

~~(1) Before determining an ecosystem health limit, a regional council must, in addition to the requirements of **section 52**,—~~

~~(a) consider the existing capacity of the natural environment to withstand or recover from pressure and disturbances in accordance with **section 57**; and~~

~~(b) consider the impact of the proposed limit in accordance with **section 56**; and~~

~~(c) be satisfied that the proposed limit achieves the purpose of ecosystem health limits.~~

~~(2) However, a lack of scientific certainty is no reason to delay making the standard or not to make the standard.~~

Decision-making criteria and considerations

55 Criteria for decisions relating to environmental limits

Decisions to which this section applies

(1) This section applies to the Minister when preparing national standards that—

(a) set a human health limit or interim human health limit:

(b) select an attribute for a human health limit, interim human health limit, or an ecosystem health limit:

(c) set a management unit for a domain or an attribute:

(d) specify a methodology for—

(i) setting a management unit; or

(ii) setting an ecosystem health limit; or

(iii) selecting an attribute of an ecosystem health limit:

(e) specify minimum acceptable levels for an ecosystem health limit.

(2) This section applies to a regional council when preparing provisions in its natural environment plan that—

(a) set an ecosystem health limit or an interim ecosystem health limit:

(b) select an attribute for an ecosystem health limit if that attribute is not already set in national standards:

(c) set a management unit for a domain or attribute if that management unit is not already set in national standards.

Decision-making criteria

(3) A decision maker must prioritise the most urgent and important matters, and for that purpose, must—

(a) consider the following matters:

(i) the extent, scale, and impacts of any environmental degradation; and

(ii) the trend, direction, and pace of the degradation; and

(iii) the difficulty in reversing the degradation if action is delayed; and

(b) decide the most appropriate response to those matters (for example, whether by setting an environmental limit or specifying another approach).

56 ~~Assessing~~ Considering impact of proposed environmental limit or methodology

~~A consideration of~~ When considering the impact of a proposed environmental limit or methodology, a decision maker must have regard to ~~requires an assessment of~~—

(a) the positive, adverse, actual, potential, and cumulative effects of the proposed limit or methodology on ~~either of the following (as applicable)~~:

(i) ~~on~~ the life-supporting capacity of the natural environment in the case of an ecosystem limit:

(ii) human health in the case of a human health limit:

(b) the needs or aspirations of communities for the economy, society, and the natural environment:

(c) the magnitude and spatial extent of—

(i) any over-allocation of national resources; and

(ii) any natural resources likely to be available for allocation as a result of the proposed limit or methodology:

(d) the implications of the proposed limit for the current and future use of natural resources, including activities authorised under **section 20(4)(b) to (e)** ~~and the benefits associated with that use~~:

(da) the benefits associated with the current and future use of natural resources described in **paragraph (d)**:

(e) the efficacy and cost of available methods to manage effects within the proposed limit:

(f) alternative ways of providing for natural resource use that are consistent with protecting or enhancing the natural environment, including any alternative locations for natural resource use if the proposed limit allows for environmental degradation.

57 ~~Assessing~~ Considering existing capacity of natural environment

(1) ~~A consideration of~~ When considering the existing capacity of the natural environment to withstand or recover from pressure and disturbances, a decision maker must have regard to ~~requires an assessment of~~—

~~(a) the state of the relevant attribute as at the date of the commencement of this section:~~

(a) the condition of the relevant attribute as at the commencement of this section provided that the decision maker is satisfied it is a fair representation of the baseline condition of the attribute at that time:

(b) the history of any previous relevant environmental limits under this Act and the level of protection they provided:

(c) the existing state of the natural environment (including ecosystems and their constituent parts), any trends showing a change in the state of the environment over time, and the natural and human causes of those states and trends:

(d) any prediction of the likely future change in the natural environment that may reasonably occur—

(i) over the medium and long term; and

(ii) from natural and human causes:

(da) the natural variability of the natural environment, including the natural variability of any relevant attribute:

(e) the resilience of the natural environment to—

(i) pressures and disturbances (for example from the use of natural resources, climate change, severe weather, floods, or droughts~~, or other perturbations~~); and

(ii) any potential for ~~regime shifts~~ tipping points or irreversible degradation:

(f) important species, habitats, and ecosystems, especially those that are rare, threatened, or endangered.

(2) In addition to the matters they are required to have regard to under **subsection (1)(b)**, a decision maker may have regard to the history of any protections

under other legislation that they consider equivalent to the level of protection provided by environmental limits under this Act.

(3) When having regard to the existing state of the natural environment under **subsection (1)(c)**, a decision maker must also have regard to—

(a) naturally occurring processes, levels, variability in the natural environment; and

(b) existing resource use and activities (for example, existing land use).

(4) In this section, **natural variability** means the variability of the natural environment that occurs or would occur if the variability attributed to human causes were disregarded.

57A Cost-benefit analysis under this subpart

A cost-benefit analysis that a decision maker is required to consider under this subpart in relation to a proposed environmental limit or methodology must—

(a) provide an assessment of the costs and benefits of the proposed decision; and

(b) include consideration of—

(i) the matters to which the decision maker must have regard under **section 56(1)**; and

(ii) any matter to which the decision maker must have regard under **section 57(2)** to the extent that the matter is appropriate for a cost-benefit analysis; and

(c) be prepared in accordance with requirements prescribed in regulations.

57B Decisions must be based on best obtainable information

(1) A decision maker must ensure that their decision is based on the best obtainable information available to them at the time of making the decision.

(2) In this subpart, **best obtainable information** means information that the decision maker is satisfied—

(a) is as robust, transparent, and accessible as is reasonably possible; and

(b) is obtained from information that is available or can be reasonably obtained at the time; and

(c) is obtained in a manner that is proportionate to the effects of the decision.

(3) When considering whether information is the best obtainable information, the decision maker must be guided by any criteria prescribed in regulations.

(4) Despite **subsection (1)**, a lack of scientific certainty or environmental evidence is no reason to delay making a decision or not to make a decision under this subpart.

Management units and ~~related~~ methodologies

58 ~~National standards must set management units or~~ Management units and related methodologies

(1) National standards must, in relation to a domain or an attribute associated with an environmental limit,—

(a) set management units; or

(b) prescribe methodologies by which regional councils must identify and set management units.

~~(2) Every environmental limit must be associated with a management unit.~~

~~(3) National standards that set human health limits may prescribe methodologies for regional councils to identify where the human health limits apply.~~

(4) The size and location of the management unit must—

(a) be appropriate to achieve the purpose of the environmental limit; and

(b) be determined by reference to scientific knowledge and evidence.

(4A) National standards that set human health limits may prescribe methodologies for regional councils to identify where the human health limits apply.

(5) To avoid doubt, **subsection (4)(b)** is in addition to **section ~~59~~ 57B**.

58A Specifying methodologies for setting ecosystem health limits

(1) National standards must specify a methodology that regional councils must follow when setting an ecosystem health limit.

(2) The Minister must be satisfied that the methodology protects the life-supporting capacity of the natural environment to an acceptable standard after having considered—

(a) the existing capacity of the natural environment to withstand or recover from pressure and disturbances in accordance with **section 57**; and

(b) the impact of the proposed methodology in accordance with **section 56**; and

(c) a cost-benefit analysis of the proposed methodology.

(3) National standards—

(a) may specify whether an ecosystem health limit must be expressed only as a state attribute or a stress attribute; and

(b) may specify attributes for ecosystem health limits; and

(c) may specify minimum acceptable levels for ecosystem health limits; but

(d) must not determine an ecosystem health limit.

(4) When specifying a methodology or a minimum acceptable level, the Minister must consider how to accommodate future improvements to science and monitoring methods in a timely manner.

(5) In **subsection (3)**, **minimum acceptable level** means the minimum level of protection for the life-supporting capacity of the natural environment.

(6) The order in which each matter is set out in **section 56 or 57(1)** must not be taken as specifying any order of importance between environmental, social, and economic matters.

(7) If national standards set a minimum acceptable level for an attribute,—

(a) a regional council is not prevented from setting an ecosystem health limit that provides a higher level of protection for that attribute in its natural environment plan; but

(b) if a regional council sets an ecosystem health limit that provides a less stringent level of protection, it must prepare a justification report.

~~59 Best obtainable information~~

~~(1) In this subpart, the **best obtainable information** means information that the decision maker is satisfied,—~~

~~(a) is as robust, transparent, and accessible as reasonably possible; and~~

~~(b) is obtained from information that is available or can be reasonably obtained at the time; and~~

~~(c) is obtained in a manner that is proportionate to the effects of the decision.~~

~~(2) When considering whether information is the best obtainable information, the decision maker must be guided by any criteria prescribed in regulations but is subject to **section 52(5)**.~~

Action plans and caps on resource use

~~60 Tools for managing resources to which limits apply~~

~~(1) A regional council must manage every natural resource that is subject to an environmental limit.~~

~~(2) The tools for managing a natural resource that is subject to an environmental limit are as follows, and must be used by a regional council in accordance with this section and any requirements in national standards:~~

~~(a) a cap on resource use:~~

~~(b) an action plan:~~

~~(c) both **paragraphs (a) and (b)**.~~

~~(3) A regional council must give first preference to only using a cap on resource use unless,—~~

~~(a) the council considers, in accordance with any criteria prescribed in regulations, that it is not effective or feasible to do so; or~~

~~(b) national standards direct otherwise.~~

~~(4) Without limiting **subsection (3)(a)**, a regional council may consider that a cap on resource use is not feasible because the resource is affected by a range of different causes.~~

60 Action plans defined

(1) In this subpart, an **action plan** means a plan that contains measures to—

(a) manage compliance with an environmental limit; or

(b) avoid breaching an environmental limit; or

(c) remedy any breach of an environmental limit.

(2) The measures contained in an action plan may, subject to any requirements specified in national standards, include—

(a) proposed regulatory measures; and

(b) non-regulatory measures (such as work plans and partnership arrangements with tangata whenua, community groups, and catchment groups).

60A How regional councils must manage natural resources subject to environmental limit

(1) Every natural resource that is the subject of an environmental limit must be managed by a regional council for the purpose of avoiding or responding to any breach of the limit.

(2) The regional council must manage the natural resource in accordance with any direction in national standards to use a cap, an action plan, or both.

(3) In the absence of any applicable direction in national standards, a regional council—

(a) must give first preference to only using a cap to manage the natural resource; and

(b) must use an action plan to manage the natural resource only if the council considers that—

(i) using a cap is not a feasible or effective method to manage the natural resource; or

(ii) the relationship between the natural resource and a cap is weak.

(4) In this section, **manage the natural resource** means manage the natural resource for the purpose of avoiding or responding to any breach of an environmental limit.

61 National standards may require action plan, cap on resource use, or both

(1) For the purpose of ensuring compliance with an environmental limit or remedying a breach of an environmental limit, national standards—

(a) may require a regional council to manage a natural resource use by preparing and implementing an action plan, a cap on resource use, or both; and

(b) may specify—

(i) the process for setting a cap on resource use; and

(ii) how and when a cap on resource use must be set; and

(c) may specify—

(i) minimum requirements for the content of the action plan; and

(ii) the process for developing the action plan; and

(iii) how and when the action plan must be implemented and monitored.

(2) National standards may prescribe a process for preparing an action plan, including requirements relating to—

(a) notifying and carrying out public consultation on the action plan; and

(b) finalising the action plan.

61A Preparation of action plans if national standards do not prescribe process

(1) This section applies if national standards do not prescribe a process for preparing action plans.

(2) A regional council is not required to carry out any consultation on the action plan if the action plan will not have implications for the council's decision-making on a natural resource permit.

(3) If the action plan will have implications on a regional council's decision-making on natural resource permits, the council must follow the process specified in sections 76 to 82A of the Local Government Act 2002, subject to the following modifications:

(a) the scope of consideration and consultation is limited to those matters that the regional council considers will have implications on decision-making on natural resource permits; and

(b) the council is required to consult only persons who will or may be affected by or have an interest in those matters (for example, catchment groups).

62 Cap on resource use

(1) A cap on resource use is a tool for managing natural resources that are subject to environmental limits. A cap—

(a) describes the maximum amount of resource use that can occur without breaching an environmental limit; and

(b) informs the maximum quantum of resource use that a regional council may allocate through plan rules and permits; and

(c) may be expressed in terms of—

(i) a land use (such as the extent of an activity):

(ii) an input (such as an amount of fertilizer that may be applied):

(iii) an output (such as the volume or rate of contaminant discharge, for example, an annual nitrogen discharge cap); and

(d) may apply to all or part of a management unit.

(1A) A cap on resource use does not directly control a natural resource unless and until the cap becomes or is included in a rule in a natural environment plan.

(B) A cap on resource use in the freshwater domain must not be calculated to apply to an individual property except where the property covers the whole of a management unit.

(2) A regional council must publish caps set on resource use on its internet site.

63 General content of action plans

(1) An action plan may set out matters relating to—

(a) decision-making on applications for natural resource permits; and

(b) the review of conditions of permits; and

(c) the preparation of rules in a natural environment plan; and

(d) caps on resource use that the council has developed in relation to the environmental limit to which the action plan relates.

(2) An action plan must—

(a) set out any other matters required by national standards; and

(b) be consistent with national standards.

(3) A regional council may include in its action plan any other intervention it considers would assist in achieving the purpose of the action plan, including interventions by other authorities, entities, or persons under other legislation.

~~(4) When a natural environmental plan or any of its provisions becomes operative and relates to the subject matter of an action plan, the regional council must consider whether to update the action plan in order to reflect the natural environmental plan or provisions that have become operative.~~

(5) When a natural environment plan or any of its provisions become operative and directly affect the subject matter of an action plan,—

(a) the regional council must update the action plan to make it consistent with—

(i) any cap or environmental limit in the operative plan; and

(ii) any other provision in the operative plan; and

(b) for the purpose of that update only, the council is not required to follow any consultation process set in national standards or **section 61A(3)**.

64 Considerations before action plans can include controls on land use or inputs

(1) This section applies if a regional council prepares an action plan for one of the following purposes:

(a) to avoid breaching an environmental limit:

(b) to remedy a breach of an environmental limit.

(2) An action plan must not include controls on land use or inputs unless the regional council is satisfied that the following measures will not be sufficient to achieve the purpose of the action plan:

(a) national standards:

(b) existing rules in a natural environment plan:

(c) freshwater farm plans:

(d) non-regulatory measures.

(3) Controls on land use or inputs that are recommended in an action plan do not have effect unless and until they are included as rules in a natural environment plan.

~~(3) In this section, **controls on land use or inputs** means rules in a natural environment plan that restrict or determine how land is used and what it can be used for (for example the type of forestry planting, construction or use of urban or built areas, or fertiliser application rates).~~

(4) In this section, **controls on land use or inputs** means rules in an action plan that—

(a) restrict or determine how land is used and what it can be used for (for example, the type of forestry planting, construction or use of urban or built areas, or fertiliser application rates); and

(b) are recommended to be included in a natural environment plan.

65 ~~Requirements for action plans~~ Action plans may propose rules to remedy breach of environmental limits

~~If the purpose of an action plan prepared by a regional council is to remedy a breach of an environmental limit,—~~

~~(a) the council must set a date by which compliance with the limit must be achieved (the **target date**); and~~

~~(b) if the target date is more than 10 years after the commencement of the action plan,—~~

~~(i) the plan must contain a series of interim limits at intervals of no more than 5 years; and~~

~~(ii) each interim limit must state actions and outcomes to be achieved within a specified time frame; and~~

~~(c) the target date and, if applicable, each interim limit and specified time frame must be credible, achievable, and avoid unnecessary delay.~~

(1) An action plan—

(a) may include proposed rules to remedy an environmental limit that has been breached or for which a breach is anticipated; and

(b) may set a target date for remedying the breach or managing any anticipated breach in order to achieve compliance with the limit if—

(i) a breach has occurred and is caused by historic activity, an activity authorised by a natural resource permit, or both; or

(ii) the regional council is satisfied that a breach is highly likely to occur; or

(iii) a breach cannot be prevented by taking reasonable steps.

(2) If the target date is more than 10 years after the commencement of the environmental limit,—

(a) the proposed rule must contain 1 or more series of interim limits at 10-year intervals; and

(b) each interim limit—

(i) must be accompanied by actions and outcomes to be achieved within a specified time frame; and

(ii) must enable an orderly transition to the next interim limit (or target date) (for example, to avoid the next interim limit being breached at the outset); and

(iii) must be set at consecutive 10-year intervals and must not overlap.

(3) The target date and, if applicable, each interim limit and specified time frame must be credible, achievable, and avoid unnecessary delay.

(4) The proposed rules in an action plan do not have effect unless they are included as rules in a natural environment plan.

Breach of environmental ~~limits~~ limit

66 Avoiding breach of environmental limit

(1) A regional council must ~~avoid breaching~~ take all reasonable steps to avoid the breach of an environmental limit.

(2) A regional council must evaluate the likelihood of ~~a~~ an environmental limit being breached if—

(a) there is sufficient evidence that the limit is likely to be breached in the medium to long term future; or

(b) there are activities authorised under this Act or other legislation that—

(i) are carried out within a management unit; and

(ii) are likely to give rise to a breach of the limit.

(3) If a regional council is satisfied that a breach of an environmental limit is likely to occur, the council must—

(a) take action to avoid the breach by preparing an action plan or changing its natural environment plan; and

(b) take any other action the council considers necessary to avoid breaching the environmental limit, including—

(i) making or changing a cap on resource use:

(ii) preparing or changing a rule in a natural environment plan:

(iii) reviewing the conditions ~~(specified in the plan) that apply to natural resource permits~~ of a permit and making any necessary adjustments:

(iv) establishing a safety margin within environmental limits (to account for uncertainties, natural variability, errors, or unexpected events):

(v) widening that safety margin:

(vi) changing the way that natural resources are allocated.

(3A) However, if national standards to which **section 86** applies authorise an activity that breaches or is likely to breach an environmental limit identified in the national standards,—

(a) a regional council must take reasonable steps towards remedying any breach of the environmental limit, which may include an action described in **subsection (3)(a) or (b)**:

(b) a regional council must consider whether the provisions of those national standards together with the rules in its natural environmental plan will likely lead to a breach of the environmental limit:

(c) if the council concludes that a breach of the environmental limit will or is likely to occur,—

(i) **subsections (1) to (3)** do not apply to a regional council in respect of that limit; and

(ii) instead, the council must take reasonable steps to remedy the breach by preparing or making changes to action plans and carrying out a review of the environmental limits in its natural environmental plan; but

(iii) the council must carry out that review when it next reviews the provisions of its natural environmental plan:

(d) if the council concludes that a breach of the environmental limit is unlikely, **subsections (1) to (3)** continue to apply to the council in respect of that limit.

(4) In this section, **sufficient evidence** includes—

(a) evidence of trends in the state of the natural environment over time; or

(b) forecasts informed by modelling or evaluation.

67 Breach of environmental ~~limits~~ limit

~~(1) A breach of an environmental limit must be managed in accordance with the requirements of this subpart.~~

(2) A regional council must publicly notify, in accordance with any requirements in national standards made under this subpart,—

(a) any breach of an environmental limit; and

(b) the ~~cause~~ causes and extent of the breach.

(3) If an environmental limit is breached or is likely to be breached, a regional council must—

(a) prepare an action plan detailing how the council will manage natural resource use to remedy the breach; and

(b) review any relevant cap on resource use; and

(c) take any other action the council considers necessary to remedy the breach, including—

(i) setting a cap on resource use, if it has not been set; or

(ii) preparing or changing a rule in a natural environment plan; or

(iii) reviewing the conditions of a permit and making any necessary adjustments; or

(iv) changing the way that natural resources are allocated.

~~(4) To avoid doubt, a regional council must comply with **subsection (2)** regardless of whether a breach of an environmental limit or an over-allocation is a result of the use of an infrastructure pathway established by national standards made under **section 86**.~~

(4) To avoid doubt, a regional council must comply with **subsection (2)** regardless of whether the breach or likely breach of the environmental limit is the result of activities—

(a) authorised by national standards; or

(b) allowed by a water services standard or other legislation.

Subpart 5—National instruments

National instruments

~~**68 Role and application of national instruments**~~

~~(1) The role of national instruments is to provide centralised direction to the natural resource system—~~

~~(a) on matters relating to natural resource policy and regulation, including by standardising approaches to how activities are enabled and their effects regulated; and~~

~~(b) on local government processes and procedures under this Act relating to the operation and administration of the natural resource system.~~

~~(2) National instruments may apply to all of New Zealand or to any specified district, region, or part of New Zealand.~~

~~69 Matters to consider when making national instrument~~

~~(1) This section applies to the Minister when making a national instrument.~~

~~(2) The Minister must have regard to the following principles:~~

~~(a) achieving compatibility between the goals is to be preferred over achieving one goal at the expense of another:~~

~~(b) not all goals need to be achieved in all places at all times:~~

~~(c) any conflicts within the proposed national instrument should be resolved in that document as far as reasonably practicable.~~

~~(3) The Minister must consider all submissions received as a result of the process established under **section 70**.~~

~~(4) The Minister's consideration of any adverse effects—~~

~~(a) must be appropriate to the nature of the proposed national instrument; and~~

~~(b) is subject to **sections 14 and 15(1)**.~~

~~(5) If the proposed national instrument contains new content, the Minister must consider all existing national instruments for the purpose of ensuring there is a coherent set of national instruments.~~

~~(6) The Minister must also consider—~~

~~(a) how the proposed national instrument will be monitored and reviewed; and~~

~~(b) any other matter the Minister considers relevant.~~

~~70 Process for making national instrument~~

~~(1) Before the Minister publicly notifies a national instrument, the Minister must—~~

~~(a) provide iwi authorities with a draft of the proposed national instrument or a summary of it; and~~

~~(b) give iwi authorities what the Minister considers to be adequate time and opportunity to consider the document and provide advice on it; and~~

~~(c) have regard to any advice received from iwi authorities on the document.~~

~~(2) If after having complied with **subsection (1)**, the Minister proposes to issue a national instrument, the Minister must establish and follow a process that includes the following steps:~~

~~(a) the public and iwi authorities must be given notice of—~~

~~(i) the proposed national instrument (the **proposal**); and~~

~~(ii) the purpose of the national instrument in terms of **section 77 or 83**; and~~

~~(iii) how the proposal achieves the goals; and~~

~~(iv) any report prepared under **section 80**; and~~

~~(v) a summary of the reasons for the proposal; and~~

~~(b) those notified must be given what the Minister considers to be adequate time and opportunity to make submissions on the subject matter of the proposal; and~~

~~(c) a report and recommendations must be made by the chief executive to the Minister on the submissions and the subject matter of the proposal.~~

~~(3) The Minister may, at any time, consult on the proposal with any person who may have an interest in it.~~

~~(4) The Minister may—~~

~~(a) establish technical advisory groups to advise the Minister on—~~

~~(i) any matter the Minister considers is relevant to the proposal; and~~

~~(ii) in accordance with any terms of reference specified by the Minister; and~~

~~(b) consider their advice.~~

~~(5) When preparing the report and recommendations required by **subsection (2)(c)**, the chief executive must consider—~~

~~(a) any matter that the Minister must consider, have regard to, or be satisfied of before making the national instrument; and~~

~~(b) whether the proposal provides for 1 or more goals; and~~

~~(c) any advice received from a technical advisory group established under this section; and~~

~~(d) any advice received from iwi authorities.~~

~~(6) The Minister must consult the Minister of Conservation on any proposal that relates to the coastal marine area.~~

~~(7) The time given for advice under **subsection (1)(b)** or submissions under **subsection (2)(b)** must not be less than 20 working days.~~

~~Compare: 46A~~

~~71 Regional council must implement national instrument~~

~~(1) A regional council must—~~

~~(a) comply with the directions of a national instrument; and~~

~~(b) implement its provisions in the manner specified the instrument.~~

~~(2) A national instrument may direct—~~

~~(a) how natural resources are managed:~~

~~(b) how regional councils make decisions:~~

~~(c) how regional councils undertake processes and methodologies:~~

~~(d) the conditions that must be used for different activities:~~

~~(e) the structure and form of natural environment plans:~~

~~(f) the content of and types of plan provisions. (*see* **section 72**).~~

~~(3) A national instrument may—~~

~~(a) direct that specific provisions be included in natural environment plans:~~

~~(b) direct regional councils to choose from a number of specific provisions to be included in plans either completely or in part.~~

~~(4) If a provision in a national instrument necessitates a change to a plan, a regional council must use a relevant process to amend its plan unless the national instrument specifies otherwise.~~

~~(5) A national instrument may direct a regional council to amend its plan without using a relevant process only if—~~

~~(a) the content of the amendment is set out in the national instrument itself; or~~

~~(b) the purpose of the amendment is to make the plan consistent with any restrictions in that national instrument or another national instrument.~~

~~(6) A regional council must—~~

~~(a) make the amendments authorised under **subsection (5)** as soon as practicable within the time, if any, specified in the national instrument; and~~

~~(b) give public notice of the amendments within 5 working days after making them.~~

~~(7) In this section, **relevant process** means a process in **Schedule 3 of the Planning Act 2025**.~~

~~Compare: 2023 No 46 s 133~~

~~72 National instrument may direct plan provisions in natural environment plans~~

~~(1) A national instrument may contain direction relating to the inclusion of plan provisions in a natural environment plan or proposed plan. A direction—~~

~~(a) may require or authorise a regional council to include a plan provision contained in the national instrument itself; or~~

~~(b) may authorise a regional council to include a plan provision prepared by the regional council.~~

~~(2) For the purpose of **subsection (1)(a)**, a national instrument may—~~

~~(a) contain a plan provision—~~

~~(i) that the regional council must include in its natural environment plan; and~~

~~(ii) in relation to which the regional council has no discretion to determine its spatial application; or~~

~~(b) contain a plan provision in relation to which the regional council may do 1 or more of the following:~~

~~(i) determine the spatial application of the provision:~~

~~(ii) select the provision from 2 or more alternatives set out in the national instrument:~~

~~(iii) determine any content specified by the national instrument but only from within parameters set out in that instrument:~~

~~(iv) choose not to include the provision.~~

~~(3) A national instrument may include substantive or procedural requirements about how a regional council may include a plan provision required or authorised under this section.~~

~~(4) *See* **section 95** (which provides that a regional council must not amend a standardised provision).~~

~~73 Withdrawal of proposed national instrument~~

~~(1) The Minister may withdraw all or part of a proposed national instrument at any time before it is approved under **section 74**.~~

~~(2) The Minister must give public notice of the withdrawal and include reasons for the withdrawal.~~

~~Compare: 51A~~

~~74 Approval of national instrument~~

~~(1) The Governor-General in Council may, on the recommendation of the Minister, approve a national instrument.~~

~~(2) Before recommending that a national instrument be approved after having complied with **section 70**, the Minister must—~~

~~(a) first, must consider the report and any recommendations made under **section 70**; and~~

~~(b) secondly, may—~~

~~(i) make any changes, or no changes, to the proposed national instrument as the Minister thinks fit; or~~

~~(ii) withdraw all or part of the proposed national instrument and give public notice of the withdrawal, including the reasons for the withdrawal.~~

~~(3) Before recommending a national instrument that makes an amendment under **section 85** be approved, the Minister must consider whether it is more appropriate to comply with **section 70** to make the amendment.~~

~~(4) After the national instrument is approved,—~~

~~(a) the Minister must issue the national instrument by publishing it in accordance with **subsection (5)**; and~~

~~(b) the Minister must notify every regional council and the public that the following documents are available and how they can be accessed:~~

~~(i) the chief executive's report and a summary of their recommendations; and~~

~~(ii) a summary of Minister's decision on the recommendations (including reasons for not adopting any recommendations); but~~

~~(c) in the case of a national instrument that makes an amendment under **section 85**, **paragraph (b)** does not apply and the Minister must instead publish their reasons for the amendment on the appropriate internet site.~~

~~(5) The national instrument must be published on the appropriate internet site despite section 69(1)(c) and (d) of the Legislation Act 2019, unless the Attorney-General directs otherwise.~~

~~(6) A national instrument is secondary legislation that is not required to be drafted by the Parliamentary Counsel Office.~~

~~Compare:~~

~~75 Incorporation of material by reference in national instrument~~

~~(1) Material may be incorporated by reference into a national instrument in accordance with section 64 of the Legislation Act 2019, but clause 1 of Schedule 2 of that Act (which is about consultation) does not apply.~~

~~(2) **Subsection (4)** applies if—~~

~~(a) a national instrument incorporates material by reference; and~~

~~(b) the material is amended (within the meaning of section 66(3) of the Legislation Act 2019) by the originator of the material after the national instrument is made.~~

~~(3) However, **subsection (4)** does not apply if the national instrument expressly states that it does not apply.~~

~~(4) Despite section 66(2) of the Legislation Act 2019, the amendments referred to in **subsection (1)(b)** have effect as part of the national instrument only if the Minister publishes a notice that—~~

~~(a) states that the amendments have effect as part of the national instrument; and~~

~~(b) specifies the date on which the amendments have effect.~~

~~(5) A notice under **subsection (4)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).~~

~~76 National instrument may provide for transitional matters~~

~~A national instrument may include transitional provisions for any matter, including its effect on existing matters or proceedings.~~

~~*National policy direction*~~

~~77 National policy direction~~

~~There must always be a national policy direction.~~

~~78 Purpose of national policy direction~~

~~(1) The purpose of a national policy direction is to do 1 or both of the following:~~

~~(a) to particularise the goals and direct how they must be achieved; or~~

~~(b) to help resolve conflicts between the goals in **section 11** of this Act and those in **section 11 of the Planning Act 2025**.~~

~~(2) The purpose in **subsection (1)(a)** is the primary purpose of national policy direction.~~

~~(3) A national policy direction for the purpose in **subsection (1)(b)** may be made under either Act.~~

~~(4) The Minister must be satisfied that any proposed national policy direction is for a purpose specified in **subsection (1)**.~~

~~79 Content of national policy direction~~

~~(1) National policy direction—~~

~~(a) must give direction on matters of policy; and~~

~~(b) may state objectives, policies, or directives that apply to key instruments specified in the direction.~~

~~(2) National policy direction may—~~

~~(a) direct the outcomes that a plan must achieve or provide for:~~

~~(b) direct the content of plans, including by constraining or limiting plan content:~~

~~(c) state matters that territorial authorities or spatial planning committees must consider in preparing plans.~~

~~(3) National policy direction may provide for how the direction must or may be implemented.~~

~~Compare: 45A~~

~~80 National policy direction may restrict how goals may be achieved~~

~~(1) A national policy direction may—~~

~~(a) require that compliance with its objectives, policies, or directives are the only ways in which a goal may be achieved:~~

~~(b) restrict how a specified key instrument achieves a goal.~~

~~(2) Before making a direction under this section, the Minister must be satisfied that—~~

~~(a) the direction does not unreasonably restrict the ability of local authorities to undertake their functions and responsibilities to manage natural resources; and~~

~~(b) the restrictions imposed by the direction in respect of a goal does not unreasonably restrict the achievement of other goals; and~~

~~(c) the direction will not result in severe and irreversible adverse effects to people and the natural environment.~~

~~(3) If the Minister makes a direction under this section, the Minister must include, as a part of the process established under **section 70**, a report stating why they consider the requirements of **subsection (2)** are met.~~

~~81 National policy direction to resolve conflicts between goals in both Acts~~

~~(1) If the purpose of a proposed national policy direction is to help resolve conflicts between the goals in **section 11** and the goals in **section 11 of the Planning Act 2025**—~~

~~(a) the Minister may consider any or all of the goals of either Act; and~~

~~(b) the Minister must consider—~~

~~(i) whether the proposal enables development to occur within environmental limits; and~~

~~(ii) the current and long-term impact of the proposal on people and natural environment.~~

~~(2) In this section, **long-term impact** means an impact spanning 2 or more human generations.~~

~~National standards~~

~~82 National standards~~

~~There must always be national standards.~~

~~83 Purpose of national standards~~

~~(1) The purpose of national standards is to do 1 or more of the following:~~

- ~~(a) to implement national policy direction:~~
- ~~(b) to provide procedural or administrative consistency:~~
- ~~(c) to provide regulatory consistency:~~
- ~~(d) to provide specific direction on how a goal is to be achieved in relation to a matter that is not covered by a national policy direction.~~

~~(2) In this section, **regulatory consistency** means consistency in the regulation of the same activity across different districts.~~

~~84 What national standards can do~~

~~(1) National standards may give directions that—~~

- ~~(a) allow, restrict, or prohibit an activity:~~
- ~~(b) classify an activity or state how it is be classified:~~
- ~~(c) specify conditions that must or may be imposed on a natural resource permit for an activity:~~
- ~~(d) require as a condition of a permit, compliance with requirements specified in the standards or in a plan or proposed plan:~~
- ~~(e) restrict the making of a rule or the granting of a permit to matters specified in the standards:~~
- ~~(f) specify whether an application for a permit for an activity must be notified or precluded from being notified for public or targeted submissions:~~
- ~~(g) may state how environmental limits must be applied, achieved, or implemented; and~~
- ~~(h) provide for any exceptions that apply to infrastructure; and~~
- ~~(i) specify in relation to a rule made before the commencement of the national standards,—~~
  - ~~(i) the extent to which any matter to which the standard applies continues to have effect; or~~
  - ~~(ii) the time period during which any matter to which the standard applies continues to have effect.~~

~~(2) National standards may give directions for the preparation of natural environment plans, including directions relating to—~~

- ~~(a) standard processes and methodologies:~~
- ~~(b) objectives and policies that plans must implement:~~
- ~~(c) objectives, policies, and rules (including for the purpose of zones and overlays) that plans must include:~~
- ~~(d) other content that must be included in plans (for example, definitions).~~

~~(3) National standards may include requirements relating to—~~

~~(a) the structure and form of a plan:~~

~~(b) electronic accessibility and functionality of a plan:~~

~~(c) processes, methodologies, or implementation:~~

~~(d) measuring, monitoring, and reporting:~~

~~(e) records that must be kept and how they must be kept:~~

~~(f) any other matter for the purpose of a national standards or implementation of national standards.~~

~~(4) If conditions in a plan deal with effects of an activity that are the same as those dealt with in the conditions specified in a national standard, the conditions in the standard prevail`.~~

~~(5) National standards may empower regional councils to charge for monitoring any specified permitted activities in the standard.~~

~~Compare: 1991 No 69 ss 43A, 45A, 58C~~

~~85 Minister must ensure national standards enables resource use only within environmental limits~~

~~(1) When preparing national standards that enable the use of natural resources, the Minister must use all reasonable endeavours to ensure that the standards enable the use of those natural resources to occur only within environmental limits.~~

~~(2) The Minister must assess the proposed national standards to identify any reasonably foreseeable adverse risks of environmental limits being breached.~~

~~(3) The Minister ensure that any risks identified are addressed in the proposed national standards to avoid breaching an environmental limit, including—~~

~~(a) if there is a possibility that the limit will be breached, by requiring a rule in a plan or a condition of a permit that is more restrictive than the standard; and~~

~~(b) directing regional councils to undertake forecasting or monitoring; and~~

~~(c) providing a means by which an activity class may be changed to avoid breaching the limit.~~

~~(4) The Minister must—~~

~~(a) undertake monitoring and evaluation of national standards or enable it to be undertaken; and~~

~~(b) review existing national standards in light of performance monitoring and to account for new environmental limits.~~

~~86 National standards relating to significant infrastructure that breach environmental limits~~

~~(1) National standards may establish a consenting pathway for significant infrastructure activities that breach or are likely to breach environmental limits.~~

~~(2) Before making national standards establishing a consenting pathway under this section, the Minister must be satisfied that—~~

~~(a) the pathway is available only to categories of infrastructure activity with significant public benefits; and~~

~~(b) the pathway is available to a user only after they have taken all practicable steps to carry out the activity without breaching environmental limits; and~~

~~(c) users of the pathway will be required to—~~

~~(i) minimise any breach of environmental limits as much as reasonably possible; and~~

~~(ii) manage the environmental effects of the entire activity (not just the effects related to a breach of an environmental limit).~~

~~(3) National standards may specify detailed requirements relating to the matters in **subsection (2)**.~~

~~(4) When developing national standards under this section, the Minister must consider—~~

~~(a) the wider implications for natural resource use; and~~

~~(b) the likely opportunity costs associated with allowing the pathway to be used instead of requiring compliance with environmental limits; and~~

~~(c) the criteria and considerations in **subpart 4** that applied to the making of those environmental limits.~~

~~(5) National standards may be made under this section despite **85**.~~

~~87 National standards or regulations may set operational details for market-based allocation process~~

~~National standards or regulations may—~~

~~(a) require or permit the use of a market-based allocation process to determine the allocation of a right to apply for a permit for a natural resource use activity; and~~

~~(b) impose any operational requirements relating to such matters as—~~

~~(i) the use of a market-based allocation process; and~~

~~(ii) the processes, including auction and tender processes, to be followed; and~~

~~(iii) eligibility criteria.~~

~~Compare: 2023 No 46 s 158~~

~~88 Restrictions on national rules that control fishing~~

~~(1) A national rule that controls fishing—~~

~~(a) must not classify fishing as a restricted discretionary or a discretionary activity:~~

~~(b) may classify fishing as a prohibited activity in an area:~~

~~(c) may classify fishing as a permitted activity in an area only if it is an exception to a rule made under **paragraph (b)** that applies to the area.~~

~~(2) A national rule that controls fishing does not apply does not apply to customary non-commercial fishing provided for in the legislation described in **section 114** (rules that control fishing do not apply to Māori customary non-commercial fishing rights in specified legislation).~~

~~**89 National rules must be clearly identified**~~

~~(1) A national standard that is a national rule must be clearly identified as such by the standard.~~

~~(2) A national rule may (but does not have to) be included in a natural environment plan.~~

~~Compare: 1991 No 69 ss 76, 77, 77A, 77D~~

~~**90 Amendments to national standards without full process**~~

~~(1) The Minister may amend a national standard without complying with **section 70** if the amendment is needed for 1 of the following reasons:~~

~~(a) to align with a New Zealand Standard within the meaning of section 4 of the Standards and Accreditation Act 2015:~~

~~(b) to implement New Zealand's obligations under any international convention, protocol, or agreement to which New Zealand is a party:~~

~~(c) to give effect to a national adaptation plan:~~

~~(d) to extend the time frame for implementation of any part of a national standard:~~

~~(e) to remove provisions in a national standard that are no longer required as a consequence of changes to legislation:~~

~~(f) to make changes that are no more than minor in effect, to correct errors, or to make similar technical alterations.~~

~~(2) **Section 69** does not apply to amendments made under this section.~~

~~(3) *See* **section 74** which provides for how amendments under this section are approved.~~

~~Compare: 1991 No 69 s 44(3), (4)~~

68 Application of national instruments

National instruments may apply generally or to any specified district, region, or part of New Zealand.

69 Regional council must implement national instrument

A regional council must—

(a) comply with the directions of a national instrument; and

(b) implement its provisions in the manner specified in the instrument.

National policy direction

70 National policy direction

There must always be national policy direction.

71 Purpose of national policy direction

(1) The purpose of national policy direction is to—

(a) particularise all the goals and direct how they must be achieved; and

(b) identify and provide for the resolution of—

(i) conflict within a goal or between the goals in **section 11** of this Act; or

(ii) conflict between the goals in **section 11** of this Act and the goals in **section 11 of the Planning Act 2025**; or

(iii) conflict or inconsistencies between national instruments under this Act and, if applicable, national instruments under the **Planning Act 2025**.

(2) In **subsection (1)(a)**, **particularise**, in relation to a goal, means to explain in detail or elaborate further what it means to achieve the goal, for example, by including any context relevant to the goal.

72 Content of national policy direction

(1) National policy direction must include directives to achieve its purpose.

(2) National policy direction—

(a) may specify—

(i) the key instruments to which its directives apply; and

(ii) how its directives must or may be implemented; and

(b) may direct the outcomes that a key instrument must achieve or provide for; and

(c) may specify other approaches that are relevant to the purpose of national policy direction.

(3) National policy direction may direct which of the following approaches to managing the effects of activities must be specified in national standards:

(a) avoid:

(b) remedy:

(c) mitigate:

(d) offset:

(e) compensate.

(4) National policy direction may—

(a) require that compliance with its directives are the only ways in which a goal may be achieved:

(b) restrict how a specified key instrument achieves a goal.

(5) National policy direction may—

(a) include directives or content that apply to key instruments under the **Planning Act 2025**; and

(b) direct what a regional council must consider when preparing its plan.

(6) National policy direction must not include directives or content that are required to be directly inserted into regional spatial plans, land use plans, natural environment plans, or regional combined plans.

(7) National policy direction may provide for when and how its provisions must be monitored and reviewed.

National standards

73 National standards

There must always be national standards.

74 Purpose of national standards

(1) The purpose of national standards is to do 1 or more of the following:

(a) implement national policy direction:

(b) provide procedural consistency:

(c) provide regulatory consistency.

(2) In this section, **regulatory consistency** means consistency in how an activity or its effects are regulated nationally or within or across districts, regions, or any specified area.

75 National rules

(1) National standards that are national rules may give directions that—

(a) allow, restrict, or prohibit an activity:

(b) classify an activity or state how it is to be classified:

(c) specify conditions that must or may be imposed on a planning consent for an activity:

(d) require, as a condition of a planning consent, compliance with requirements specified in the standards or in a plan or proposed plan:

(e) restrict the making of a rule or the granting of a planning consent to matters specified in the standards:

(f) specify whether an application for a planning consent for an activity must be notified or precluded from being notified for public or targeted submissions:

(g) specify, in relation to a rule made before the commencement of the standards,—

(i) the extent to which any matter to which the standard applies continues to have effect; or

(ii) the time period during which any matter to which the standard applies continues to have effect.

(2) National rules that classify activities as permitted activities (permitted activity rules) may—

(a) require the activity to be registered with the permit authority; or

(b) allow or require natural environment plans to require registration of the activity with the permit authority.

76 Restrictions on national rules that control fishing

(1) A national rule that controls fishing—

(a) must not classify fishing as a controlled activity, restricted discretionary activity, or discretionary activity:

(b) may classify fishing as a prohibited activity in an area:

(c) may classify fishing as a permitted activity in an area only if it is an exception to a rule made under **paragraph (b)** that applies to the area.

(2) A national rule that controls fishing does not apply to customary non-commercial fishing provided for in the legislation described in **section 114**.

77 Other content for national standards

(1) National standards may specify—

(a) how, and in what order, adverse effects are to be avoided, mitigated, remedied, offset, or compensated; and

(b) when it is practicable for adverse effects to be avoided, mitigated, or remedied; and

(c) when it is appropriate for adverse effects to be offset or compensated; and

(d) where specific effects are managed under this Act and under the **Planning Act 2025**.

(2) The order in which an approach to managing effects appears in **subsection (1)** does not assign an order of importance to how effects are managed.

(3) National standards—

(a) may include provisions for the purpose of managing the risk of natural hazards (including for the purpose of avoiding or mitigating any adverse effect of a natural hazard); and

(b) may identify a national rule as a specified natural hazard rule only if the rule is for the purpose specified in **paragraph (a)**; and

(c) may include directions relating to—

(i) the allocation of natural resources; and

(ii) environmental limits (but *see* **subpart 4**).

(4) National standards may include requirements relating to—

(a) the structure and form of a natural environment plan:

(b) the electronic accessibility and functionality of a natural environment plan:

(c) any of the following matters to the extent that they relate to natural environment plans:

(i) processes, methodologies, or implementation:

(ii) measuring, monitoring, and reporting:

(iii) records that must be kept and how they must be kept:

(d) any other matter for the purpose of implementing of national standards.

(5) National standards may, for the purpose of protecting other property from the effects of surface water, include requirements that—

(a) apply to a person undertaking building work; and

(b) set performance criteria that are in addition to, or more restrictive than, the building code.

(6) National standards may include transitional provisions for any matter, including its effect on existing matters or proceedings.

(7) In **subsection (5)**, **building code** and **other property** have the meanings given in section 7 of the Building Act 2004.

78 Minister must ensure national standards enable resource use only within environmental limits

(1) When preparing national standards that enable the use of natural resources other than national standards to which **section 79** applies, the Minister must use all reasonable endeavours to ensure that the standards enable the use of those natural resources to occur only within environmental limits.

(2) The Minister must assess the proposed national standards to identify any reasonably foreseeable adverse risks of environmental limits being breached.

(3) The Minister must ensure that any risks identified are addressed in the proposed national standards to avoid breaching an environmental limit, including,—

(a) if there is a possibility that the limit will be breached, by requiring a rule in a plan or a condition of a permit that is more restrictive than the standard; and

(b) directing regional councils to undertake forecasting or monitoring; and

(c) providing a means by which an activity class may be changed to avoid breaching the limit.

(4) The Minister must—

(a) undertake monitoring and evaluation of national standards or enable it to be undertaken; and

(b) review existing national standards in light of performance monitoring and to account for new environmental limits.

(5) **Subsection (3)** does not apply to proposed national standards to which **section 79** applies.

(6) Further provisions that apply to national standards relating to environmental limits are set out in **subpart 4**.

79 National standards may authorise specified activities to breach environmental limits

(1) National standards may authorise activities that breach or are likely to breach specified environmental limits if—

(a) the Minister is satisfied that the public benefits of authorising the activities outweigh—

(i) the harm or potential harm to any aspect of ecosystem health or human health that the environmental limits were intended to protect; and

(ii) community needs and aspirations; and

(b) the Minister has considered (before coming to a view under **paragraph (a)**)—

(i) the wider implications for natural resource use; and

(ii) the likely opportunity costs associated with authorising activities that will or are likely to breach the environmental limits instead of requiring compliance with the limits; and

(iii) the criteria and considerations in **subpart 4** that applied to the making of the environmental limits; and

(c) the proposed national standards—

(i) identify each environmental limit that will or is likely to be breached, including by specifying any particular attribute; and

(ii) identify the activities or classes of activities that are authorised to breach the environmental limit; and

(iii) specify whether and the extent to which regional councils may, in relation to an identified activity or class of activities, impose more restrictive requirements in their natural environment plans to avoid or lessen a breach of an environmental limit.

(2) National standards to which this section applies must be clearly identified as such in the standards.

(3) **Section 78(2) and (4)** applies to national standards to which this section applies.

(4) The requirements of this section must be complied with before the Minister notifies the proposed national standards under **section 84(2)** or recommends proposed national standards be made under **section 88**.

80 National standards relating to natural environment plans

(1) National standards may give directions on the content and preparation of natural environment plans, including directions relating to—

(a) standard processes and methodologies:

(b) objectives and policies that the plan must implement:

(c) objectives, policies, and rules (including for the purposes of zones and overlays) that a plan must include:

(d) any other content that must be included in the plan (for example, definitions).

(2) If a provision in a national standard necessitates a change to a natural environment plan, a local authority must use a process in **Schedule 3 of the Planning Act 2025** to amend its plan unless the national standard specifies otherwise.

(3) National standards may direct a regional council to amend its natural environment plan without using a process in **Schedule 3 of the Planning Act 2025** only if—

(a) the content of the amendment is set out in the national standard itself; or

(b) the purpose of the amendment is to make the plan consistent with any restriction in that national standard or another national standard.

(4) A regional council must—

(a) make the amendments directed by national standards referred to **subsection (3)** as soon as practicable within the time (if any) specified in the national standard; and

(b) give public notice of the amendments within 5 working days after making them.

81 National standards may direct plan provisions in natural environment plans

(1) National standards may direct plan provisions to be included in natural environment plans or proposed natural environment plans.

(2) A direction—

(a) may require or authorise a regional council to include a plan provision contained in the national standard itself; or

(b) may authorise a regional council to include a plan provision that it has prepared.

(3) For the purposes of **subsection (2)(a)**, a national standard may—

(a) contain a plan provision—

(i) that the regional council must include in its plan; and

(ii) in relation to which the regional council has no discretion to determine its spatial application; or

(b) contain a plan provision in relation to which the regional council may do 1 or more of the following:

(i) determine the spatial application of the provision:

(ii) select the provision from 2 or more alternatives set out in the national standard:

(iii) determine any content specified by the national standard but only from within parameters set out in that standard:

(iv) choose not to include the provision.

(4) National standards may include requirements or methods for how a regional council must include and give effect to a plan provision required or authorised under this section.

(5) *See* **section 95(3)** (which provides that a regional council must not amend a standardised plan provision).

82 National rules must be clearly identified

(1) A provision in national standards that is a national rule must be clearly identified as such in the standards.

(2) A national rule may (but does not have to) be included in a natural environment plan.

83 Incorporation of material by reference into national standards

(1) Material may be incorporated by reference into national standards in accordance with section 64 of the Legislation Act 2019, but clause 1 of Schedule 2 of that Act (which is about consultation) does not apply.

(2) **Subsection (4)** applies if—

(a) national standards incorporate material by reference; and

(b) the material is amended (within the meaning of section 66(3) of the Legislation Act 2019) by the originator of the material after the national standards are made.

(3) However, **subsection (4)** does not apply if the national standards expressly state that it does not apply.

(4) Despite section 66(2) of the Legislation Act 2019, the amendments referred to in **subsection (2)(b)** have effect as part of the national standards only if the Minister publishes a notice that—

(a) states that the amendments have effect as part of the national standards; and

(b) specifies the date on which the amendments have effect.

(5) A notice under **subsection (4)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Process

84 Process for making national instrument

(1) Before the Minister may propose to issue a national instrument, the Minister must seek comment from iwi authorities and from any group or sector that the Minister considers appropriate by—

(a) providing them with a draft of the proposed national instrument or a summary of it; and

(b) giving them, as the Minister considers appropriate, adequate time and opportunity to comment on the document; and

(c) having regard to any comments so provided.

(2) If, after complying with **subsection (1)** and, if applicable, **section 48A**, the Minister proposes to issue a national instrument, the Minister must establish and follow a process that includes the following steps:

(a) the public and iwi authorities must be given notice of—

(i) the proposed national instrument (the **proposal**); and

(ii) the purpose of the national instrument in terms of **section 71 or 74**; and

(iii) a summary of—

(A) the reasons for the proposal:

(B) the reasons why the Minister considers the proposal is consistent with the purpose of the national instrument:

(C) how the Minister has considered the matters required under **section 85 or 86** (as applicable):

(b) those notified must be given what the Minister considers to be adequate time and opportunity to make submissions on the subject matter of the proposal; and

(c) a report and recommendations must be made to the Minister on the submissions and the subject matter of the proposal.

(3) The Minister must consult the Minister of Conservation on any proposal that relates to the coastal marine area.

(4) The Minister may consult on the proposal with any person who may have an interest in it.

(5) The Minister may—

(a) establish technical advisory groups to advise the Minister—

(i) on any matter that the Minister considers is relevant to the proposal; and

(ii) in accordance with any terms of reference specified by the Minister; and

(b) consider their advice.

(6) The Minister may carry out consultation referred to in **subsections (2) to (4)** at any step of the process set out in this section.

(7) A person preparing the report and recommendations required by **subsection (2)(c)** must consider—

(a) any matter that the Minister must consider, have regard to, or be satisfied of before recommending the national instrument be made; and

(b) any advice received from a technical advisory group established under this section; and

(c) any comments received from iwi authorities and any group or sector under **subsection (1)**.

(8) The time given for comments under **subsection (1)(b)** or submissions under **subsection (2)(b)** must not be less than 20 working days.

85 Considerations for national policy direction

(1) When notifying a proposed national policy direction under **section 84(2)**, the Minister must give a notice summarising why they consider the proposal is consistent with the purpose of national policy direction under **section 71**.

(2) When developing national policy direction, the Minister must have regard to—

(a) achieving compatibility between the goals in **section 11**, as far as is practicable; and

(b) if compatibility between the goals cannot be achieved, identifying and providing for the resolution of conflict between the goals or within a goal; and

(c) the extent to which the proposed national policy direction needs to be consistent with other national instruments.

(3) However, if, after having regard to the matters in **subsection (2)(b)**, the Minister considers that a provision of a proposed national policy direction cannot achieve compatibility between the goals, resulting in a goal being prioritised over another, the Minister must consider the following matters as far as they relate to people and natural resources:

(a) the current and long-term impacts:

(b) any severe and irreversible adverse effects.

(4) National policy direction is not required to identify and provide for the resolution of every conflict.

(5) In this section, **long-term impact** means an impact spanning 2 or more human generations.

86 Considerations for national standards

(1) When notifying proposed national standards under **section 84**, the Minister must give a notice explaining why they consider the proposal is consistent with the purpose of national standards under **section 74**.

(2) When preparing proposed national standards, the Minister must—

(a) consider the extent to which the proposed national standards need to be consistent with other national instruments; and

(b) subject to **sections 14 and 15**, consider the effects of the activities to which the proposed national standards apply.

87 Withdrawal of proposed national instrument

(1) The Minister may withdraw all or part of a proposed national instrument at any time before it is made under **section 88**.

(2) The Minister must give public notice of the withdrawal and include reasons for the withdrawal.

Compare: 1991 No 69 s 51A

88 Making of national instrument

(1) The Governor-General in Council may, on the recommendation of the Minister, make a national instrument.

(2) Before recommending that a national instrument be made, after having complied with **section 84**, the Minister—

(a) first must consider the report and recommendations made under **section 84(2)(c)**; and

(b) second, may—

(i) make any changes, or no changes, to the proposed national instrument as the Minister thinks fit; or

(ii) withdraw all or part of the proposed national instrument and give public notice of the withdrawal, including the reasons for the withdrawal.

(3) Before recommending a national instrument that makes an amendment as referred to in **section 89 or 90**, the Minister must consider whether it is more appropriate to comply with **section 84**.

(4) After the national instrument is made,—

(a) the Minister must notify every territorial authority and the public that the following documents are available and how they can be accessed:

(i) a summary of report and recommendations made under **section 84(2)(c)**; and

(ii) a summary of the Minister's decision on the recommendations (including reasons for not adopting any recommendations); but

(b) if the national instrument makes an amendment as referred to in **section 89 or 90**, **paragraph (a)** does not apply and the Minister must instead publish their reasons for the amendment on an internet site.

(5) An order made under this section—

(a) is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements); and

(b) is not to be drafted by the Parliamentary Counsel under section 67(1)(d)(i) of that Act.

89 Amendments to national policy direction without full process

(1) The Minister may recommend an amendment to a national policy direction without complying with **section 84** if the amendment is needed to make changes that are no more than minor in effect, to correct errors, or to make similar technical alterations.

(2) **Section 85** does not apply to amendments recommended under this section.

(3) *See* **section 88**, which provides for how amendments recommended under this section are made.

90 Amendments to national standards without full process

(1) The Minister may recommend an amendment to a national standard without complying with **section 84** if the amendment is needed for 1 of the following reasons:

(a) to align with a New Zealand Standard within the meaning of section 4(1) of the Standards and Accreditation Act 2015:

(b) to implement New Zealand's obligations under any international convention, protocol, or agreement to which New Zealand is a party:

(d) to extend the time frame for implementing of any part of a national standard:

(e) to remove provisions in a national standard that are no longer required as a consequence of changes to legislation:

(f) to make changes that are no more than minor in effect, to correct errors, or to make similar technical alterations.

(2) **Section 86** does not apply to amendments made under this section.

(3) *See* **section 88**, which provides for how amendments recommended under this section are made.

Part 3
Combined plan and other matters

~~91 Requirements for combined plan in Planning Act 2025 apply~~

~~**Section 63 of the Planning Act 2025** applies.~~

91 Combined plan

See **section 63 of the Planning Act 2025**, which provides that there must be a combined plan for each region consisting of—

(a) the regional spatial plan for the region (*see* **subpart 1 of Part 3 of the Planning Act 2025**); and

(b) the natural environment plan for the region (*see* **subpart 1 of this Part**); and

(c) a land use plan for each district within the boundaries of the region (*see* **subpart 2 of Part 3 of the Planning Act 2025**).

Subpart 1—~~National~~ Natural environment plans

Core requirements for plan making

92 Purpose of natural environment plan

The purpose of ~~the preparation, implementation, and administration of~~ a natural environment plan is to—

(a) enable and regulate the use, protection, and enhancement of natural resources within a region; and

(b) assist regional councils in carrying out their functions and ~~responsibilities~~ duties under this Act.

Compare: 1991 No 69 s 63

93 Each region must have 1 natural environment plan

There must at all times be 1 natural environment plan for each region.

Compare: 1991 No 69 s 64(1)

94 Schedule 3 of Planning Act 2025 applies

(1AAA) **Schedule 3 of the Planning Act 2025** sets out provisions relating to the preparation and change of natural environment plans under this Act and the preparation and change of land use plans under the **Planning Act 2025**.

(1) A regional council must prepare or change the natural environment plan for its region in accordance with **Parts 1 ~~and~~, 2, and 4 of Schedule 3 of the Planning Act 2025**.

(2) Any person (other than a regional council) may request a change to a natural environment plan in accordance with **clause 49 of Schedule 3 of the Planning Act 2025**.

(3) **Part 3 of Schedule 3 of the Planning Act 2025** sets out when rules in a proposed natural environment plan have legal effect.

~~(4) **Schedule 4 of the Planning Act 2025** sets out provisions relating to the appointment and funding of independent hearings panels, which have functions to hold any hearing and make recommendations when a natural environment plan is being prepared or change.~~

Compare: 1991 No 69 ss 64(4), 65(2), (4)

94A Independent hearings panel

Schedule 4 of the Planning Act 2025 sets out provisions relating to the appointment and funding of independent hearings panels, which have functions to hold any hearing and make recommendations when a natural environment plan is being prepared or changed.

95 Natural environment plan must include standardised plan provisions as directed by national instrument

(1) A regional council—

(a) must include a standardised plan provision in its natural environment plan or a proposed natural environment plan if ~~a~~ national ~~instrument directs~~ standards direct it to include that provision; and

(b) may include a standardised plan provision in its natural environment plan or a proposed natural environment plan if ~~a~~ national ~~instrument directs~~ standards direct that it may include that provision~~; and~~.

~~(c) must comply with any substantive or procedural requirements in a national instrument relating to a standardised plan provision.~~

(2) ~~In particular, a~~ A regional council may do any of the following only if authorised by ~~a~~ national ~~instrument~~ standards:

(a) determine~~ the spatial application of the~~ where a standardised plan provision applies spatially:

(b) select which standardised plan provision, out of 2 or more alternatives set out in the national instrument, it will include in its plan:

(c) determine any content in a standardised plan provision~~ specified by the national instrument~~ from within parameters set out in~~ that instrument~~ the national standards:

(d) choose not to include a standardised plan provision.

(3) A regional council must not amend a standardised plan provision.

96 Plan may include bespoke plan provisions if authorised by national instrument

(1) A regional council may include a bespoke plan provision in a natural environment plan or proposed natural environment plan~~, but~~ only if—

(a) a national instrument authorises the regional council to prepare a bespoke plan provision (*see* **section~~ 72(1)(b)~~ 81(2)(b)**); or

(b) the national instruments do not preclude the regional council from including a bespoke plan provision.

~~(2) A regional council must comply with any substantive or procedural requirements in a national instrument relating to a standardised plan provision (*see* **section 72(3)**).~~

97 Core obligations when preparing and deciding natural environment plan

(1) This section sets out the core obligations that apply when—

(a) a regional council is making a decision~~ on a matter~~ that a national instrument expressly authorises it to make, in relation to if and how it incorporates a standardised plan provision into its plan or proposed plan (*see* **sections~~ 72~~ 81 and 95**); and

(b) a regional council is preparing or deciding a bespoke plan provision (*see* **section 96**).

(2) A regional council must make its decisions in accordance with its~~ responsibilities and~~ functions and duties under **sections 221 to 223** so that the resulting natural environment plan—

(a) implements—

~~(i) the national policy direction; and~~

~~(ii) any national standard; and~~

~~(iii) any relevant provision in a regional spatial plan; and~~

~~(iv) subject to paragraphs (i) to (iii), any agreed action in an action plan; and~~

(i) the regional spatial plan; and

(ii) national instruments, in accordance with **section 12**; and

(b) ensures that environmental limits are complied with; and

(c) is not inconsistent with a water conservation order.

(3) However, **subsection ~~(2)(a)(iii)~~ (2)(a)(i)** does not apply in relation to a provision in a regional spatial plan ~~to the extent that~~ if the regional council is satisfied that—

(a) the provision is out of date ~~as a result~~ because of new information that supersedes the information used to determine the content of the provision in the regional spatial plan; or

(b) there has been a significant change in circumstances ~~or in the natural environment~~ since that provision was decided (for example, a major environmental or economic event).

(4) The regional council must—

(a) have particular regard to—

(i) the evaluation report required by **clause 10 of Schedule 3 of the Planning Act 2025**; and

(ii) ~~any~~ the justification report (if any) required by **clause 11 of Schedule 3 of the Planning Act 2025**; and

(iii) ~~any~~ the further evaluation report or further justification report (if any) required by **clause 26 or 27 of Schedule 3 of the Planning Act 2025**; and

(iv) ~~any~~ a relevant ~~provision in an~~ action plan (if any); and

(b) have regard to—

(i) any statutory acknowledgement that applies to the area ~~to which the proposed natural environment plan or private plan change applies~~; and

(ii) ~~any~~ a relevant planning document (if any) recognised by an iwi authority and lodged with the regional council; and

(c) have regard to ~~any~~ each of the following to the extent that it is relevant to ~~has a bearing on~~ activities in the region and is within the regional council's ~~responsibilities~~ functions or duties:

(i) the Crown's interest in the coastal marine area:

(ii) the extent to which the natural environment plan needs to be consistent with any natural environment plan or proposed natural environment plan of an adjacent regional council:

(iii) the extent to which the natural environment plan needs to be consistent with any regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012:

(iv) any regulations or bylaws under any Act relating to ensuring the sustainability, or the conservation~~,~~ or management~~, or sustainability~~ of fisheries resources (including regulations or bylaws relating to taiāpure ~~taiapure~~, mahinga mātaitai ~~mataitai~~, or other non-commercial Māori customary fishing); and

(v) any ~~adaptation~~ plan relating to adapting to the effects of climate change prepared ~~under the Climate Change Response Act 2002~~ by a local authority; and

(d) in relation to a ~~any~~ planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011,—

(i) recognise and provide for the matters in that document, to the extent that they relate to the relevant customary marine title area; and

(ii) take into account the matters in that document, to the extent that they relate to a part of the common marine and coastal area outside the customary marine title area of the relevant group.

(4A) The regional council must not have regard to trade competition or the effects of trade competition.

(5) The regional council must comply with—

(a) ~~any~~ a direction of the Minister under **section 217**; and

~~(b) any requirements in this subpart; and~~

(c) any regulations.

Compare: 1991 No 69 ss 66, 67(3), (4)

Types of provisions in natural environment plans

98 Types of provisions in natural environment plan

(1) A natural environment plan—

(a) must include objectives, policies, and rules~~, and policies~~; and

(b) must include a relief framework if required by **clause 65 of Schedule 3 of the Planning Act 2025** ~~**section 111**~~; and

(c) may include methods.

(2) A natural environment plan may incorporate material by reference in the ~~prescribed~~ manner prescribed by regulations.

~~(3) If a rule in a natural environment plan is inconsistent with a regulation under this Act, the regulation prevails.~~

Compare: 1991 No 69, ss 67(1), 68(1), (2)

98A Conflicts between rules and regulations

If a rule in a natural environment plan is inconsistent with a regulation under this Act, the regulation prevails.

Further matters relating to rules

99 Rules may allocate natural resource activity

(1) A rule in a natural environment plan may allocate a natural resource use activity.

(2) A rule that allocates a natural resource use activity—

(a) must not allocate the amount of a natural resource that is already allocated by an existing permit~~, while that permit is valid; and~~ during the term of that permit:

(b) may allocate a natural resource in anticipation of the expiry of an existing permit~~ and, in doing so, may—~~:

~~(i) allocate all of the resource used for an activity to the same type of activity; or~~

~~(ii) allocate some of the resource to the same type of activity and the rest to any other type of activity or no type of activity; and~~

(c) may allocate the natural resource among competing types of activities~~; and~~:

(ca) may allocate the natural resource to no type of activity:

(d) must not allocate water, heat, or energy from water in a way that affects the activities authorised by **section 20(4)(b) to (e)**~~; and~~:

(e) may allocate natural resource use as a fixed amount or as a proportion of the available resource.

Compare: 1991 No 69 s 30(4); 2023 No 46 ss 195, 196

~~**100 Rules relating to market-based allocation process or comparative permitting process**~~

~~(1) If required or authorised by a national standard, a rule in a plan may—~~

~~(a) require the use of a market-based allocation process to determine the allocation of a right to apply for that resource permit:~~

~~(b) require a person to hold a right to apply before lodging an application for a permit under a rule:~~

~~(c) enable a consent authority to receive a permit application that is subject to market- based allocation process outside of the time period notified in accordance with **section 210**.~~

~~(2) If required or authorised by a national instrument, a rule in a plan may—~~

~~(a) require a permit application for a natural resource use activity be determined through the comparative permitting process:~~

~~(b) enable a consent authority to receive a permit application that is subject to the comparative consenting process outside of the time period notified in accordance with **section 210**.~~

~~(3) A consent authority that receives an application under a rule described in **subsection (1)(c) or (2)(b)** must hold the application without processing it until the next required time period determined under **section 210**.~~

~~Compare: 2023 No 46 ss 194, 195, 197~~

101 Plan must not permit activity that has certain effects on protected customary rights

(1) A natural environment ~~use~~ plan or a proposed natural environment plan must not include a rule that classifies an activity as a permitted activity if that activity will, or is likely to, have an adverse effect that is more than minor on a protected customary right carried out under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011.

(2) This section applies despite anything to the contrary in a national instrument.

Compare: 1991 No 69 s 85A

102 Process if plan or proposed plan does not comply with section 101

(1) If a protected customary rights group considers that a rule in a natural environment plan or proposed natural environment plan does not comply with **section 101**, the group may—

(a) request a change to the rule in the plan in accordance with **clause 49 of Schedule 3 of the Planning Act 2025**; or

(b) make a submission on the proposed plan in accordance with **Part 1 of Schedule 3 of the Planning Act 2025**; or

(c) apply to the Environment Court in accordance with **clause 49(3) of Schedule 9 of the Planning Act 2025** for a change to the rule in the plan or proposed plan.

(2) In determining whether a rule in a plan or proposed plan complies with **section 101**, the regional council or the Environment Court ~~(as the case requires)~~ must consider the following matters:

(a) the effects of the proposed activity on the exercise of a protected customary right; and

(b) the area that the proposed activity would have in common with the protected customary right; and

(c) the degree to which the proposed activity must be carried out to the exclusion of other activities; and

(d) the degree to which the exercise of a protected customary right must be carried out to the exclusion of other activities; and

(e) whether the protected customary right can be exercised only in a particular area.

Compare: 1991 No 69 s 85B

~~103 Activities with effects on relationship of customary marine title group with customary marine title area~~

~~(1) A natural environment plan or proposed natural environment plan must not include a rule that classifies an activity as a permitted activity if that activity will, or is likely to, have an adverse effect that is more than minor on the relationship of a customary marine title group with their customary marine title area.~~

~~(2) However, a plan or proposed plan may classify an activity described in **subsection (1)** as a permitted activity if the plan or proposed plan—~~

~~(a) includes a permitted activity rule that requires the activity to be registered with the regional council before it is carried out; and~~

~~(b) clearly identifies the activity as an activity subject to this section.~~

~~(3) This section applies despite anything to the contrary in a national instrument.~~

103 Customary marine title permitted activity rules

(1) A natural environment plan or a proposed natural environment plan must not include a rule that classifies an activity in the common marine and coastal area as a permitted activity unless, before including the rule, the regional council considers whether the activity (as permitted by the rule) will or is likely to have—

(a) an adverse effect that is more than minor on the relationship of a customary marine title group with their customary marine title area; or

(b) an adverse effect that is more than minor on the relationship of an applicant group with the area for which they seek customary marine title.

(2) If the regional council considers that the activity will or is likely to have an adverse effect described in **subsection (1)(a) or (b)**, the regional council must identify in the plan or proposed plan that the rule is a customary marine title permitted activity rule.

(3) This section applies whether or not a national instrument requires the permitted activity rule be included in the plan or proposed plan.

(4) *See also* **sections 66 and 68 of the Marine and Coastal Area (Takutai Moana) Act 2011**, which provide that a customary marine title group has a permission right in relation to an activity permitted by a customary marine title permitted activity rule in their customary marine title area.

(5) In this section and in **section 103A**, **applicant group** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011.

103A National rules that are customary marine title permitted activity rules

(1) This section applies if a national rule that classifies an activity as a permitted activity is to apply to any part of the common coastal marine area.

(2) The regional council must consider whether the activity (as permitted by the national rule) will or is likely to have—

(a) an adverse effect that is more than minor on the relationship of a customary marine title group with their customary marine title area; or

(b) an adverse effect that is more than minor on the relationship of an applicant group with the area for which they seek customary marine title.

(3) If the regional council considers that the activity will or is likely to have an adverse effect described in **subsection (2)(a) or (b)**, the regional council must amend its natural environment plan, and any proposed natural environment plan, to identify the national rule as a customary marine title permitted activity rule.

(4) The regional council must make the amendments—

(a) so that they come into force on, or as soon as is reasonably practicable after, the date on which the national rule comes into force; and

(b) without using the process in **Schedule 3 of the Planning Act 2025**.

103B Rules to protect other property from the effects of surface water may set higher performance criteria than building code

(1) A rule in a natural environment plan may, for the purpose of protecting other property from the effects of surface water, include requirements that—

(a) apply to a person undertaking building work; and

(b) set performance criteria that are in addition to, or more restrictive than, the building code.

(2) In this section, **building code** and **other property** have the meanings given in section 7 of the Building Act 2004.

Compare: 1991 No 69 s 68(2A)

103C Plan may permit effects that water services standard does not deal with

(1) **Subsection (2)** applies if a water services standard provides that—

(a) an activity is permitted; or

(b) an activity does not require a natural resource permit.

(2) A natural environment plan may permit, and impose conditions that deal with, any effects of the activity that differ from those regulated or managed in the water services standard.

(3) However, **subsection (2)** does not apply if the wastewater environmental performance standard or stormwater environmental performance standard provides otherwise.

Compare: 1991 No 69 ss 58JC, 58JE

Adaptive management and incentives

104 Plan may require adaptive management approach

(1) A natural environment plan may include provisions that require an adaptive management approach to be used in relation to any activity.

(2) Provisions in a plan that require an adaptive management approach—

(a) must meet the requirements of **section 167(2)(a) to (c)**; and

(b) may include provisions described in **section 167(2)(d) to (f)**.

(3) ~~In determining whether to recommend and when~~ When deciding provisions that require an adaptive management approach, ~~the independent hearings panel or~~ the regional council ~~(as the case requires)~~ must comply with **section 167(3) and (4)** as if references in that section to a permit ~~consent~~ authority were references to ~~the panel or~~ the regional council.

Compare: 2023 No 46 s 179

105 Methods relating to incentives

A method in a natural environment plan may provide an incentive to a land owner to undertake an activity only if—

~~(a) the incentive meets any criteria set out in regulations; and~~

(b) the regional council considers that the activity will help achieve the objectives and policies of the plan~~.~~; and

(c) the incentive complies with the requirements, if any, prescribed by a national instrument or regulations.

~~*Evaluation reports and justification reports*~~

~~**106 Requirements for evaluation reports**~~

~~(1) An evaluation report required under **clause 10 of Schedule 3 of the Planning Act 2025** for a draft of a proposed plan must set out how the draft proposed plan implements—~~

~~(a) the relevant spatial plan; and~~

~~(b) any applicable national policy direction; and~~

~~(c) any applicable goal to the extent permitted by **section 12(4)**.~~

~~(2) The evaluation report must—~~

~~(a) summarise the regional council's reasons for selecting any standardised provision from a national standard, if a national standard authorises or~~

~~requires the regional council to choose between any 2 or more alternative standardised provisions; and~~

~~(b) state how, if at all, the draft has been influenced by—~~

~~(i) pre-notification consultation (*see* **clause 5 of Schedule 3 of the Planning Act 2025**); and~~

~~(ii) any other engagement with local communities.~~

~~(3) If the proposed plan includes rules that controls fishing in the coastal marine area, the evaluation report must also include an assessment of the impact of those rules prepared in the prescribed manner.~~

~~(4) If the proposed plan includes a land use control or input control for the purpose of ensuring compliance with an environmental limit, the evaluation must examine and explain why the following measures are not sufficient to ensure compliance with the limit:~~

~~(a) non-regulatory methods specified in an action plan:~~

~~(b) freshwater farm plans:~~

~~(c) any rules in an operative natural environment plan.~~

~~(5) The evaluation report—~~

~~(a) must contain sufficient detail to identify the key content in a draft proposed plan; but~~

~~(b) is not required to individually address every objective, policy, rule, or method in the draft.~~

~~Compare: 1991 No 69 s 32~~

~~107 Requirements for further evaluation reports~~

~~(1) A further evaluation report required under **clause 26 or 27 of Schedule 3 of the Planning Act 2025** for a proposed plan—~~

~~(a) is required only for any significant changes that have been made to, or are proposed for, the proposed plan since the relevant evaluation report or previous further evaluation report was completed; but~~

~~(b) is not required if the significant change is the replacement of a bespoke plan provision with a standardised plan provision.~~

~~(2) A further evaluation report must—~~

~~(a) be prepared in accordance with **section 106(1) to (4)**; and~~

~~(b) contain a level of detail that corresponds to the scale and significance of the changes.~~

~~Compare: 1991 No 69 s 32AA~~

~~108 Requirements for justification reports~~

~~(1) This section sets out the requirements for a justification report required under **clause 11 of Schedule 3 of the Planning Act 2025** for a draft of a proposed plan that contains—~~

~~(a) a bespoke provision; or~~

~~(b) a provision on a specified topic; or~~

~~(c) a provision to which **section 51(4)** applies (which relates to less stringent ecosystem health limits).~~

~~(2) In relation to a bespoke provision, a justification report must—~~

~~(a) justify why the provision is either—~~

~~(i) expressly authorised by a national instrument; or~~

~~(ii) not precluded by the national instruments; and~~

~~(b) describe the positive and negative impacts of the provision; and~~

~~(c) assess the costs and benefits of the provision, including any costs and benefits from the provision or reduction of development capacity; and~~

~~(d) state how the regional council proposes to monitor the effectiveness of the proposed provision; and~~

~~(e) summarise the evidence for its view that **section 97(3)** applies, if the regional council is proposing that the bespoke provision will not give effect to any provision in the regional spatial plan in accordance with that section; and~~

~~(f) state how, if at all, the draft has been influenced by—~~

~~(i) pre-notification consultation (*see* **clause 5 of Schedule 3 of the Planning Act 2025**); and~~

~~(ii) any other engagement with local communities.~~

~~(3) In relation to a provision on a specified topic, a justification report must—~~

~~(a) identify which specified topic the provision relates to; and~~

~~(b) justify why the provision is not precluded by national instruments; and~~

~~(c) describe the area to which the provision applies; and~~

~~(d) assess the extent to which the provision is appropriate in relation to the cultural or natural values associated with that area; and~~

~~(e) describe the key data and evidence that has informed the proposed provision, including the spatial application of the proposed provision; and~~

~~(f) include the matters in **subsection (2)(b) to (e)**.~~

~~(4) In relation to an ecosystem health limit that is less stringent than the minimum acceptable level specified in national standards, a justification report must comply with the prescribed requirements.~~

~~(5) The justification report must contain a level of detail that corresponds to the scale and significance of the content of the draft proposed plan.~~

~~Compare: 1991 No 69 s 32~~

~~109 Requirements for further justification reports~~

~~(1) A further justification report required under **clause 26 or 27 of Schedule 3 of the Planning Act 2025** for a proposed plan—~~

~~(a) is required only for any significant changes that have been made to, or are proposed for, a bespoke provision or a provision on a specified topic since the relevant justification report or previous further justification report was completed; but~~

~~(b) is not required if the significant change is the replacement of a bespoke plan provision with a standardised plan provision.~~

~~(2) A further justification report must—~~

~~(a) be prepared in accordance with **section 108(1) to (4)**; and~~

~~(b) contain a level of detail that corresponds to the scale and significance of the changes.~~

~~Compare: 1991 No 69 s 32AA~~

~~110 Failure to properly prepare evaluation report or justification report~~

~~(1) A proposed plan or any provision in it—~~

~~(a) may be challenged on the grounds that **section 106 or 107** or **clause 10, 11, or 12 of Schedule 3 of the Planning Act 2025** have not been complied with; but~~

~~(b) may only be challenged in a submission on the proposed plan made in accordance with **Schedule 3 of the Planning Act 2025**.~~

~~(2) **Subsection (1)** does not prevent a person who is hearing a submission or an appeal on a proposed plan from having regard to the matters in **section 106 or 107**.~~

~~Compare: 1991 No 69 s 32A~~

Regulatory relief

111 Obligations relating to regulatory relief in Schedule 3 of Planning Act 2025

Part 4 of Schedule 3 of the Planning Act 2025 sets out obligations ~~where a rule in a plan or proposed plan relates to a specified topic and entitlements where that rule has a significant impact on the reasonable use of land~~ relating to the regulatory relief framework and has effect according to its terms.

Review of natural environment plans

112 Review of provisions in natural environment plan at least every 10 years

(1) A regional council must commence a review of a provision in a natural environment plan if that provision has been operative for 10 years and has not been subject to either ~~any~~ of the following ~~in the previous 10 years~~ during that period:

(a) a proposed plan or private plan change:

(b) a review under this section.

(2) If, after reviewing the provision, the regional council considers that the provision should be amended, the regional council must prepare and notify for submissions (in accordance with **Schedule 3 of the Planning Act 2025**) a proposed plan to amend or replace the provision.

(3) If, after reviewing the provision, the regional council considers that the provision does not need to be amended, the regional council must prepare and notify for submissions (in accordance with **Schedule 3 of the Planning Act 2025**) a proposed plan that includes the provision unchanged.

(4) A provision in a natural environment plan does not cease to be operative because the provision is due for review, or is being reviewed, under this section.

(4A) A regional council may commence a review of a provision in a natural environment plan at any time.

(5) To avoid doubt, a regional council may choose to comply with this section by carrying out a full review of all provisions in its natural environment plan (regardless of when those provisions became operative or were last reviewed) and proceeding to prepare and notify for submissions a proposed plan.

Compare: 1991 No 69 s 79

Fishing and aquaculture

113 Requirements for rules that control fishing

~~(1) This section applies to rules that control fishing within the coastal marine area.~~

(2) A regional council must not include ~~a rule~~ in a natural environment plan a rule that controls fishing within the coastal marine area unless—

~~(a) the rule is included in the proposed plan when it is notified for submissions; or~~

~~(b) the rule applies within an area to which a rule described in **paragraph (a)** applies.~~

(a) the rule complies with **subsection (3)**; and

(b) either—

(i) the rule was included in the proposed plan when it was notified for submissions and applies to the same area as shown in the proposed plan (subject to minor boundary adjustments); or

(ii) the rule applies within an area to which a rule described in **subparagraph (i)** applies.

~~(3) However, a regional council may, after a proposed plan is notified for submissions, make minor adjustments to the boundaries of an area to which a rule that controls fishing in the coastal marine area applies.~~

~~(4) If a regional council includes a rule in a plan that controls fishing in the coastal marine area,—~~

~~(a) the rule must not classify fishing as a restricted discretionary or discretionary activity:~~

~~(b) the rule may classify fishing as a prohibited activity in an area:~~

~~(c) the rule may classify fishing as a permitted activity in an area only if it is an exception to a rule made under **paragraph (b)** that applies to the area.~~

(3) A rule in a natural environment plan that controls fishing in the coastal marine area—

(a) may classify fishing as a prohibited activity:

(b) may classify fishing as a permitted activity, but only if it is an exception to a rule that classifies fishing as a prohibited activity:

(c) must not classify fishing as a controlled activity, a restricted discretionary activity, or a discretionary activity.

(4) **Subsection (3)** applies despite **section 32**.

Compare: 1991 No 69 s 71

114 Rules that control fishing do not apply to Māori customary non-commercial fishing rights in specified legislation

A rule in a natural environment plan that controls fishing does not apply to customary non-commercial fishing provided for in—

(a) regulations made under any of sections 186, 297, and 298 of the Fisheries Act 1996 for the purpose of giving effect to section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; or

(b) regulations made under an Act that requires regulations to be made or to be treated as made under the Fisheries Act 1996 for the purpose of giving effect to section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; or

(c) the Te Arawa Lakes (Fisheries) Regulations 2006; or

(d) regulations made under an Act for the purpose of giving effect to a Treaty settlement between the Crown and tangata whenua in respect of their customary non-commercial fishing rights.

Compare: 1991 No 69 s 86H

115 Aquaculture areas

(1) A natural environment plan may prescribe aquaculture areas~~, including~~ for the purposes of—

(a) providing for, and managing, aquaculture activities in an aquaculture settlement area gazetted under the ~~Māori~~ Maori Commercial Aquaculture Claims Settlement Act 2004; and

(b) enabling requests to be made for aquaculture area decisions under **clause 47 of Schedule 3** ~~**section 47**~~.

(2) A natural environment plan that prescribes an aquaculture area must—

(a) ensure that an aquaculture area is used principally for aquaculture activities; and

(b) ~~must~~ specify the boundaries of the aquaculture area using geographic coordinates; and

(c) ~~must~~ ensure that no application (other than under an authorisation) can be made for a coastal permit to occupy space in an aquaculture area before a date to be specified in a public notice; and

(d) ~~must~~ ensure that no application (other than under an authorisation) can be made for a coastal permit for aquaculture activities in any part of the aquaculture area where the relevant chief executive has made an aquaculture area decision that is a reservation related to customary fishing, ~~or~~ recreational fishing, or commercial fishing for stocks not subject to the quota management system.

(3) A rule in a plan that applies to an aquaculture area may be subject to an aquaculture area decision by the relevant chief executive under the Fisheries Act 1996.

(4) In this clause, ~~**relevant chief executive** means the chief executive of the department responsible for administering the Fisheries Act 1996.~~ —

authorisation has the meaning given in **clause 1 of Schedule 3**

relevant chief executive means the chief executive of the department responsible for administering the Fisheries Act 1996.

Compare: 2023 No 46 ss 184, 189

116 Restriction on classifying aquaculture as permitted activity in coastal marine area

A rule in a natural environment plan must not classify an aquaculture activity as a permitted activity in the coastal marine area unless the rule applies solely to a space~~ that was subject to a coastal permit authorising aquaculture activities at the time the plan was being developed~~ where an aquaculture activity is authorised by a current coastal permit.

Compare: 2023 No 46 s 192(3)

Other matters

116A Joint natural environment plans

(1) The regional councils of 2 or more regions may agree to prepare, implement, and administer a joint natural environment plan that applies to their combined regions.

(2) A joint natural environment plan—

(a) must be prepared in accordance with **subpart 1** (including **Schedule 3 of the Planning Act 2025** as applied by that subpart); and

(b) must clearly identify which regional council or regional councils are responsible for administering each provision of the joint natural environment plan.

(3) A joint proposed natural environment plan that is notified for submissions by 1 or more regional councils in accordance with **clause 15 or 16 of Schedule 3 of the Planning Act 2025** must be treated as if it were a separate proposed natural environment plan for each region of those regional councils.

(4) A joint natural environment plan (or provision in a joint natural environment plan) that becomes operative in accordance with **clause 45 of Schedule 3 of the Planning Act 2025** in relation to 1 or more regional councils must be treated as if it were a separate natural environment plan (or a provision in a separate natural environment use plan) for each region of those regional councils.

(5) Clauses 30 and 30A of Schedule 7 of the Local Government Act 2002 apply to the appointment and conduct of any joint committee set up for the purposes of preparing, implementing, or administering a joint natural environment plan.

Compare: 1991 No 69 s 80(3), (4), (6A), (8)–(11)

117 Statutory acknowledgements to be attached to natural environment plans

(1) Every statutory acknowledgement that applies in a region must be attached to the natural environment plan for that region.

(2) The provisions of the legislation that ~~provides~~ provide for a statutory acknowledgement apply.

(3) The attachment of a statutory acknowledgement to a natural environment plan is for public information only and, unless adopted by the regional council as part of the plan, is not part of the plan.

118 Disputes relating to whether natural environment plan implements national instrument or regional spatial plan

(1) This section applies if there is a dispute about whether a natural environment plan implements—

(a) ~~the~~ a national instrument ~~policy direction~~; or

~~(b) a national standard; or~~

(c) ~~any relevant provision of a~~ the regional spatial plan.

(2) The Minister, the regional council responsible for the natural environment plan, or the spatial plan committee responsible for the regional spatial plan may refer the dispute to the Environment Court.

(3) If~~, after considering the dispute,~~ the Environment Court considers that the natural environment plan does not implement the ~~relevant~~ national 1 instrument or regional spatial plan, the court must order the regional council to amend the natural environment plan in accordance with **section 71(4) or (5)** (as applicable).

(4) However, the Environment Court does not need to make an order ~~under **subsection (3)**~~ if it considers that the departure from ~~a~~ the national instrument or the regional spatial plan is minor or inconsequential.

Compare: 1991 No 69 s 82

119 Presumption of validity

If a regional council asserts ~~claims~~ that a natural environment plan or a provision in a natural environment plan is operative, the plan or provision—

(a) must be treated as having been prepared and approved in accordance with **Schedule 3 of the Planning Act 2025**; and

(b) must not be challenged except by an enforcement order of a kind described in **section 258(1)(i)** (*see* **section 260(3)** for application requirements) ~~application for an enforcement order under **section 260(3)**~~.

Compare: 1991 No 69 s 83; 2023 No 46 s 212

120 Regional council must comply with and enforce natural environment plan

(1) A regional council—

(a) must comply with its own natural environment plan and any rule of its proposed natural environment plan that has legal effect; and

(b) to the extent of its authority, must enforce compliance with its plan and any rule of its proposed plan that has legal effect.

(2) No purported grant of a natural resource permit, and no waiver from a plan or a rule in a proposed plan that has legal effect, whether written or otherwise, has effect to the extent that it is contrary to **subsection (1)**.

(3) **Subsection (2)** does not apply if the non-compliance is authorised by this Act.

Compare: 1991 No 69 s 84

121 Boundary adjustments

(1) If the boundaries of a region are changed so that any area that was formerly part of the region is administered by a different regional council, the natural environment plan and any proposed natural environment plan ~~or private plan change~~ that applied to the area before the boundary change—

(a) ~~continues~~ continue to apply to the area; and

(b) ~~is~~ are to be treated as part of the natural environment plan or proposed plan of~~, or a private plan change of,~~ the different regional council.

(2) If the boundaries of a region are changed to include, within the region, an area that was not previously within the boundaries of another region, the ~~land~~ natural resources in that area must not be used—

(a) unless the use is expressly allowed by a natural resource permit; or

(b) until the natural environment plan provides that the ~~land~~ natural resources may be used as proposed.

(3) If the boundaries of a region are changed to include a new area,—

(a) the regional council must, as soon as practicable (but not later than 2 years after the change to the boundaries), change its natural environment plan to apply it to the new area; and

(b) on and from the date that those changes are operative, **subsections (1) and (2)** do not apply to the area.

Compare: 1991 No 69 s 81; 2023 No 46 s 210

122 Environment Court may give directions ~~in respect of~~ for land subject to controls

(1) An interest in land is deemed not to be taken or injuriously affected by reason of any provision in a natural environment plan unless otherwise provided for in this Act.

(2) Despite **subsection (1)**, a person with an interest in land to which a provision in a natural environment plan or proposed natural environment plan applies, and who considers that the provision would severely impair the reasonable use of that interest in land, may challenge the provision on those grounds—

(a) in a submission made under **Schedule 3 of the Planning Act 2025** in respect of a proposed plan; or

(b) in a change request made under **clause 49 of Schedule 3 of the Planning Act 2025** in respect of a plan.

(3) Despite **subsection (1)**, if an appeal is made to the Environment Court in relation to a provision of a proposed plan, the court may give a direction under **subsection (4)** after—

(a) being satisfied that the provision—

(i) would severely impair the reasonable use of land; and

(ii) places an unfair and unreasonable burden on any person who has an interest in that land; and

(b) having regard to—

(i) **subpart 2 of Part 2**; and

(ii) the effect of **subsection (1)**; and

(iii) **Part 4 of Schedule 3 of the Planning Act 2025**; and

(c) taking into account any relief provided under **Part 4 of Schedule 3 of the Planning Act 2025** in relation to the land.

(4) The Environment Court may direct the local authority to do 1 or more of the following:

(a) at the local authority's choosing ~~election~~,—

(i) modify, delete, or replace the provision in the natural environment plan or proposed natural environment plan in the manner directed by the court; or

(ii) acquire all or part of an estate or interest in the land under the Public Works Act 1981, as long as—

(A) the person with the estate or interest in the land or part of it agrees; and

(B) the requirements of **subsection (5)** are met:

(b) make a monetary payment:

(c) waive or reduce local government rates or fees for permit ~~planning consent~~ applications:

(d) grant similar or alternative development rights elsewhere:

(e) offer alternative parcels of land in exchange for the affected site:

(f) provide access to targeted grant programmes for restoration, fencing, planting, or other mitigation activities.

(5) The local authority must not choose ~~elect~~ a direction under **subsection (4)(a)(ii)** unless—

(a) the person with the estate or interest in the land concerned (or the spouse, civil union partner, or de facto partner of that person)—

(i) ~~had~~ acquired the estate or interest in the land before the date on which the provision or proposed provision was first notified or otherwise included in the relevant plan or proposed plan; and

(ii) the provision or proposed provision remained in substantially the same form; and

(b) the person with the estate or interest in the land consents to the giving of the direction.

(6) A direction given under **subsection (4)** has effect under this Act as if it were ~~made or~~ given under **clause 48 of Schedule 9 of the Planning Act 2025**.

(7) ~~Nothing in **subsections (3) to (6)** limits~~ **Subsections (3) to (6)** do not limit the powers of the Environment Court under **clause 48 of Schedule 9 of the Planning Act 2025** on an appeal made under **Schedule 3** of that Act.

(8) **Part 4 of Schedule 3 of the Planning Act 2025** does not provide relief for any matter to which **subsection (1)** may apply, but is relevant for the purposes of this section to the extent that any relief provided under that Part ~~subpart~~ must be taken into account for the purposes of **subsection (3)**.

(9) In this section, **reasonable use**, in relation to land, includes the use or potential use of the land for any activity where the actual or potential effects on any natural resource or on any person (other than the ~~applicant~~ person challenging the provision) would not be significant.

Compare: 1991 No 69 s 85

Subpart 2—Coastal matters, water conservation orders, and freshwater farm plans

Coastal matters

123 Coastal matters

~~The provisions set out in~~ **Schedule 3** sets out provisions relating to coastal matters ~~have~~ and has effect according to ~~their~~ its terms. ~~, relating to the following—~~

~~(a) the meaning of terms used in the schedule:~~

~~(b) managing occupation in the common marine and coastal area:~~

~~(c) ministerial powers in relation to applications for coastal permits to undertake aquaculture activities in the common marine and coastal area:~~

~~(d) the processing and hearing together of applications for coastal permits:~~

~~(e) the order in which applications by existing consent holders are to be processed:~~

~~(f) aquaculture areas:~~

~~(g) coastal tendering relating to removing any sand, shingle, shell, or other natural material, and reclaiming or draining any foreshore or seabed:~~

~~(h) the continuation of certain coastal permits extended under the Resource Management Act 1991.~~

Water conservation orders

124 Water conservation orders

~~The provisions set out in~~ **Schedule 4** sets out provisions relating to water conservation orders ~~have~~ and has effect according to ~~their~~ its terms.~~, relating to the following:~~

~~(a) the purpose of water conservation orders:~~

~~(b) the meaning of terms used in the schedule:~~

~~(c) the legal effect of water conservation orders:~~

~~(d) applications for water conservation orders:~~

~~(e) hearings by a special tribunal of water conservation order applications:~~

~~(f) appeals on decisions by a special tribunal on water conservation order applications:~~

~~(g) the process for making, revoking, and amending water conservation orders.~~

Freshwater farm plans

125 Freshwater farm plans

~~The provisions set out in~~ **Schedule 5** sets out provisions relating to freshwater farm plans and has ~~have~~ effect according to ~~their~~ its terms.~~, relating to the following:~~

~~(a) the purpose of the freshwater farm plans provisions:~~

~~(b) the meaning of terms used in the schedule:~~

~~(c) the application of the schedule and when it ceases to apply:~~

~~(d) the circumstances in which a farm must have a freshwater farm plan:~~

~~(e) the main duties of farm operators:~~

~~(f) the contents, certification, and audit of freshwater farm plans:~~

~~(g) the functions and duties of regional councils relevant to freshwater farm plans:~~

~~(h) the Minister's ability to approve industry organisations to provide certification and audit services in regard to freshwater farm plans:~~

~~(i) the relationship between freshwater farm plan and specified instruments:~~

~~(j) empowering provisions for regulations in relation to freshwater farm plans.~~

Part 4
Natural resource permits

126 Application of Planning Act 2025 to this Part

If a provision in this Part applies the **Planning Act 2025**, the relevant provision of that Act must be read—

(a) as if a reference to the consent authority were a reference to the permit authority:

(b) as if a reference to a planning consent were a reference to a natural resource permit:

(c) as if a reference to a land use plan were a reference to a natural environment plan:

(d) as if a reference to a national rule were a reference to a national rule under **subpart 3 of Part 2** of this Act:

(e) as if a reference to adverse effects on the built environment were a reference to adverse effects on natural resources or people:

(f) with all other necessary modifications.

Subpart 1—Types of permit

127 Meaning of natural resource permit

In this Act, a **natural resource permit** or **permit** means any of the following:

(a) a **coastal permit**, which is a permit to do something in a coastal marine area that would otherwise contravene **section 18, 20, 21, 22, 23, or 24**:

(b) a **discharge permit**, which is a permit to do something (other than in a coastal marine area) that would otherwise contravene **section 21**:

(c) a **land use permit**, which is a permit to do something (other than in a coastal marine area) that would otherwise contravene **section 17 or 19**:

(d) a **water permit**, which is a permit to do something (other than in a coastal marine area) that would otherwise contravene **section 20**.

Compare: 1991 No 69 s 87; 2023 No 46 s 220

~~128 Natural resource permit may include wildlife approval~~

~~A natural resource permit may include a **wildlife approval**, which is a lawful authority for an act or omission that would otherwise be an offence under sections 58(1), 63(1), 63A, 64, 65(1)(f), 70G(1), 70P, and 70T(2) of the Wildlife Act 1953.~~

128 Wildlife approvals

(1) This section applies if an activity requires a natural resource permit and the activity for which the natural resource permit is sought may affect protected wildlife.

(2) An applicant for a natural resource permit may seek a wildlife approval in accordance with this section and **Schedule 2A**.

(3) A wildlife approval is a lawful authority, separate from the associated natural resource permit, for acts or omissions that arise from, or are incidental to, the activity for which the natural resource permit is sought and that would otherwise contravene any of the following provisions of the Wildlife Act 1953:

- (a) section 56(1)(a) and (ab) (capturing or liberating wildlife):
- (b) section 63(1) (taking protected wildlife or game):
- (c) section 63A (taking absolutely or partially protected marine wildlife):
- (d) section 65(1)(f) (acting without required authority):
- (e) section 70G(1) (taking protected wildlife or game):
- (f) section 70J(1)(a) or (b) (liberating wildlife):
- (g) section 70P (acting without required authorisation).

(4) A wildlife approval must not be granted in relation to an activity in or on any of the following:

- (a) public conservation land:
- (b) any area that is a marine reserve as defined in section 2 of the Marine Reserves Act 1971 or is deemed by any Act to be a marine reserve declared under section 4(1) of that Act.

(5) If an application for a natural resource permit does not indicate whether a wildlife approval is to be sought,—

- (a) the permit authority may, with the applicant's consent, place the application on hold until the applicant confirms whether they intend to seek a wildlife approval:
- (b) the permit authority may, in the absence of the applicant's consent, do either or both of the following:
  - (i) proceed with the natural resource permit application as if no wildlife approval is sought:
  - (ii) specify a reasonable time frame within which the applicant must confirm whether they intend to seek a wildlife approval:
- (c) if the permit authority proceeds as if no wildlife approval is sought, either under **paragraph (b)(i)** or because the applicant failed to provide confirmation under **paragraph (b)(ii)**, the applicant may not seek a wildlife approval for same activity or using the same application for a natural resource permit.

(6) In this section and **Schedule 2A**,—

protected wildlife means—

(a) wildlife declared by section 3 of the Wildlife Act 1953 to be absolutely protected wildlife:

(b) wildlife declared by section 4 of that Act to be game:

(c) wildlife declared by section 5 of that Act to be partially protected wildlife

public conservation land means land that is—

(a) held, managed, or administered by the Department of Conservation under the Conservation Act 1987 or an enactment listed in Schedule 1 of that Act; and

(b) owned by the Crown.

(7) **Schedule 2A** has effect according to its terms.

Subpart 2—Applying for natural resource permit

General requirements

129 Prior consultation not required

The following applies to an applicant for a natural resource permit and the permit authority:

(a) neither has a duty under this Act to consult any person about the application; and

(b) each must comply with a duty under any other ~~enactment~~ legislation to consult any person about the application; and

(c) each may consult any person about the application.

Compare: 1991 No 69 s 36A

130 Applying for natural resource permit

(1) A person may apply for a natural resource permit by lodging an application with the ~~relevant~~ permit authority in the manner prescribed in regulations.

~~(2) An application must—~~

~~(a) be made in the prescribed form and manner; and~~

~~(b) include the information that is required by **Schedule 2**~~.

(2) An application must include—

(a) the information required by **Schedule 2**; and

(b) any other information prescribed by regulations.

(3) An applicant must ensure that information required by **subsection ~~(2)(b)~~ (2)** is provided at a level of detail that is proportionate to the scale and significance of the ~~matter~~ effects of the activity to which the application relates.

(4) A permit authority may accept an application that does not fully comply with **subsection ~~(2)(b)~~ (2)** if the authority is satisfied that the information provided by the applicant is at a level of detail that is proportionate to the scale and significance of the ~~matter~~ effects of the activity to which the application relates.

(5) An application is lodged on the date that it is received by the relevant permit authority.

(6) An application for a coastal permit to undertake an aquaculture activity must include a copy for the ministry responsible for the administration of the Fisheries Act 1996.

Compare: 1991 No 69 s 88(1), (2), (2AA), (2AB), (2A)

131 Activity classification to remain the same

(1) This section applies if—

(a) an application for a natural resource permit has been lodged under **section 130**; and

(b) the activity classification of the activity (being restricted discretionary or discretionary) is ~~altered~~ changed after the application was first lodged as a result of—

(i) a proposed natural environment plan provision being notified; or

(ii) a decision being made under **clause 27 of Schedule 3 of the Planning Act 2025** (as applied by **section 94** of this Act); or

(iii) any other matter.

(2) The application must continue to be processed, considered, and decided as if the activity had the same activity classification that it had when the application was first lodged.

(3) This section does not affect a requirement in **section 156** to have regard to any relevant ~~provision~~ provisions of a natural environment plan or proposed natural environment plan that exists when the application is considered.

Compare: 1991 No 69 s 88A

131A Joint application for natural resource permit and exchange of recreation reserve land

(1) A person may make a joint application for a natural resource permit and an exchange of recreation reserve land under section 15AA of the Reserves Act 1977 if the permit authority—

(a) is also the administering body in which the recreation reserve land is vested; and

(b) agrees that the applications may be made jointly.

(2) If a joint application is made, the application to exchange recreation reserve land must be—

(a) processed, with the natural resource permit application, in accordance with this Part; and

(b) decided under section 15AA of the Reserves Act 1977.

Compare: 1991 No 69 s 88(1A), (6)

132 Application affecting navigation to be referred to Maritime New Zealand

(1) This section applies to the following applications:

(a) an application for a coastal permit to do any of the following in the coastal marine area:

(i) reclaim land:

(ii) build a structure:

(iii) do or maintain works for the improvement, management, protection, or utilisation of a harbour:

(b) an application for a coastal permit to remove boulders, mud, sand, shell, shingle, silt, stone, or other similar material from the coastal marine area:

(c) an application for a land use permit to use the bed of a navigable lake or river.

(2) The permit authority must send a copy of the application to Maritime New Zealand.

(3) Maritime New Zealand must report to the permit authority on any navigation-related matters that Maritime New Zealand considers relevant to the application, including any conditions that it considers should be included in the permit for navigation-related purposes.

(4) If Maritime New Zealand wants to report, it must do so within 15 working days after receiving a copy of the application. If it fails to report within that time ~~limit~~ frame, the permit authority may take the failure as an indication that Maritime New Zealand has nothing to report.

(5) The permit authority must—

(a) ensure that a copy of Maritime New Zealand's report is provided to—

(i) the applicant; and

(ii) every person who has made a submission on the application; and

(b) take the report into account in its consideration of the application.

Compare: 1991 No 69 s 89A

133 Applications to undertake aquaculture activities

(1) This section applies to an application for a coastal permit authorising aquaculture activities to be undertaken in the coastal marine area.

(2) However, this section does not apply to—

(a) an application for a coastal permit by a person who already holds a coastal permit to occupy the same space in a common marine and coastal area for aquaculture activities, unless a previous aquaculture decision in relation to that area included a condition under section 186H(3) of the Fisheries Act 1996:

(b) an application for a coastal permit in a part of an aquaculture area in respect of which a determination has been made under section 186JB of the Fisheries Act 1996 by the chief executive of the Ministry responsible for the administration of that Act (the **chief executive**).

(3) The permit authority must,—

(a) unless the application is returned under **section 135**, forward a copy of the application to the chief executive as soon as is reasonably practicable; and

(b) forward any information or report obtained in relation to the application under **section 140 or 141**, or **clause 50 of Schedule 3 of the Planning Act 2025**, to the chief executive as soon as is reasonably practicable; and

(c) if the application is notified, provide the chief executive with a copy of the submissions as soon as is reasonably practicable after the closing date for submissions.

Compare: 2023 No 46 s 293

134 Application relating to area where group seeks customary marine title

(1) If a person applies for a natural resource permit relating to an area where an applicant group seeks customary marine title,—

(a) the person must comply with section 62A of the Marine and Coastal Area (Takutai Moana) Act 2011 (which requires the person to notify applicant groups, provide a list of the groups notified, and record their views); and

(b) the application must be treated as incomplete <u>under **section 135**</u> if this is not done.

(2) In this section, **applicant group** has the meaning given to it by section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011.

Compare: 1991 No 69 s 88(7), (8)

135 Permit authority may return incomplete application

(1) A permit authority may, within 10 working days after an application ~~was first~~ <u>is</u> lodged, determine that an application is incomplete if the application does not include the information required by **section ~~130(2)(b)~~ <u>130(2)</u>**.

(2) If the permit authority decides that the application is incomplete, it must immediately return the application to the applicant with written reasons for the decision.

(3) A person may apply to the Planning Tribunal ~~under **clause 15 of Schedule 10 of the Planning Act 2025**~~ to review a decision that an application is incomplete.

(4) If an application that has been returned under this section is lodged again with the permit authority, that application must be treated as a new application.

Compare: 1991 No 69 s 88(3), (3A), (4)~~, (7), (8)~~

136 Priority of competing applications

(1) A permit authority that receives competing applications must determine the applications in the order in which they are ~~received~~ lodged.

(2) **Subsection (1)** applies unless this Act expressly provides otherwise.

(3) In this section, **competing applications** means 2 or more completed applications for permits for the same natural resource use activity where the granting of one application would prevent or limit the granting of another application.

137 Deferral pending application for additional permits

(1) A permit authority may determine not to proceed with the notification or hearing of an application for a natural resource permit if it considers on reasonable grounds that—

(a) other permits under this Act will also be required in respect of the proposal to which the application relates; and

(b) it is appropriate, for the purpose of better understanding the nature of the proposal, that applications for any 1 or more of those other permits be made before proceeding further.

~~(2) If a permit authority makes a determination under subsection (1), it must immediately notify the applicant of the determination.~~

(2) The permit authority must—

(a) make a determination under **subsection (1)**—

(i) before it decides whether to give public or targeted notification, or decides to not notify, an application for a natural resource permit under **section 144**; and

(ii) before a hearing is held in relation to the application; and

(b) notify the applicant of the determination.

(2A) The determination does not affect whether notification or hearing of the application is required.

(3) The applicant may apply to the Planning Tribunal ~~for an order directing that any~~ to review a determination under this section ~~be revoked~~.

Compare: 1991 No 69 s 91

Time frames ~~and excluded time periods~~

138 Permit processing time frames

(1) The maximum processing time frames for applications for natural resource permits—

(a) are set out in the table in **subsection (3)**; and

(b) are subject to—

(i) other provisions of this Act; and

(ii) any time frames or excluded time periods prescribed by regulations made under **section 308**.

(2) For the purposes of this section, the processing of an application—

(a) begins on the first working day after the date that the application is lodged under **section 130(5)**; and

(b) ends on the date that the permit authority notifies the applicant of the decision on the application.

(3) The processing time frames for natural resource permits are as follows:

Type of notification	Maximum processing time frame
Non-notified permit ~~with or~~ without hearing	45 working days
Non-notified permit with hearing	50 working days
Targeted notified permit without hearing	70 working days
Targeted notified permit with hearing	100 working days
Publicly notified permit without hearing	90 working days
Publicly notified permit with hearing	130 working days

(4) A permit authority must suspend the processing of an application for a natural resource permit ~~on the grounds and~~ in the manner prescribed in ~~the~~ regulations.

(5) The time during which the processing of an application is suspended under **subsection (4)** does not count towards the maximum processing time frame.

139 Certain permits must be processed and decided no later than 1 year after lodgement

(1) The time period within which a permit authority must process and decide an application for a natural resource permit for a specified energy activity or ~~wood processing~~ wood-processing activity (the **time period**) is 1 year after the date that the application is lodged.

(2) An extension of the time period may be granted on the terms specified in **section 118(2) to (8) of the Planning Act 2025**, and that section applies with all necessary modifications.

(3) This section applies despite any time frames or excluded time periods that are prescribed in ~~the~~ regulations.

Compare: 1991 No 69 s 88BA

Permit authority may require further information or report

140 Request for further information

(1) A permit authority may request that the applicant provide further information relating to ~~the~~ an application for a natural resource permit at any reasonable time before the hearing of ~~an~~ the application ~~for a natural resource permit~~ or, if no hearing is held, before the decision to grant or refuse ~~the application~~ to grant the permit.

(2) The permit authority may make a request ~~under **subsection (1)**~~ only if it is satisfied that obtaining the information will ensure that the permit authority has ~~enough~~ sufficient and necessary information to understand the implications of its decision, after considering—

(a) the cost and feasibility of obtaining the information; and

(b) the scale and significance of the ~~matter~~ effects of the activity to which the decision relates.

(2A) A permit authority may request further information from an applicant only once in relation to any 1 application, unless—

(a) the applicant agrees that the permit authority may make a further request for further information; or

(b) the information provided by the applicant as a result of a request for further information under **subsection (1)** changes the permit authority's understanding of the effects of the proposed activity; or

(c) the applicant changes the proposal to which the application relates.

(2B) **Subsection (2A)** applies only if the applicant has satisfied the request for further information made under **subsection (1)**.

(3) A permit authority that requests further information ~~under this section~~ must do so in the ~~prescribed form and~~ manner prescribed in regulations.

Compare: 1991 No 69 s 92(1)

141 Request for report

(1) A permit authority may commission a person to prepare a report on a matter relating to the application, ~~including~~ which may include a matter relating to information provided by the applicant in the application or under **section 140**,—

(a) at any reasonable time before the hearing of an application for a natural resource permit or, if no hearing is held, before the decision to grant or refuse the application; and

(b) only if the applicant is notified before the permit authority commissions the report, and does not refuse, in accordance with the regulations, to agree to the commissioning of the report.

(2) The permit authority may notify the applicant that it wants to commission a report~~ under **subsection (1)**~~ only if it is satisfied that~~ obtaining the report will ensure the permit authority has enough information to understand the implications of its decision, after considering—~~

~~(a) the cost and feasibility of obtaining the report; and~~

~~(b) the scale and significance of the matter to which the decision relates.~~

(a) the activity to which the application relates may, in the authority's opinion, have significant adverse effects on natural resources or people; and

(b) obtaining the report will ensure that the permit authority has sufficient and necessary information to understand the implications of its decision, after considering—

(i) the cost and feasibility of obtaining the report; and

(ii) the scale and significance of the effects of the activity to which the decision relates.

(3) A report commissioned under **subsection (1)** may be in the form of a review of the information provided by the applicant in the application or under **section 140**.

(4) If the report is a review of the information provided by the applicant,—

(a) it must be carried out by an expert appointed by the permit authority; and

(b) it must be limited to an assessment of the methodology used to reach the conclusion of that information.

(5) A permit authority that commissions a report under this section must do so in the~~ prescribed~~ manner prescribed in regulations.

Compare: 1991 No 69 s 92(2)

142 Response to request for further information or report

An applicant that receives a request for further information under **section 140**, or notification that the permit authority wants to commission a report under **section 141**, must respond to the permit authority in the manner~~ and within the time~~ prescribed in~~ the~~ regulations.

Compare: 1991 No 69 s 92A

143 Consequences of applicant's failure to respond to requests, etc

(1) A permit authority may ~~determine~~ decide that an application for a natural resource permit is incomplete if—

(a) the applicant was required to provide one of the following responses:

(i) to provide further information in response to a request under **section 140** within the time ~~specified~~ frame prescribed in ~~the~~ regulations; or

(ii) to tell the permit authority in a written notice whether the applicant agrees to the commissioning of a report under **section 141** within the time ~~specified~~ frame prescribed in ~~the~~ regulations; or

(iii) to pay an ~~additional charge~~ administrative fee to the permit authority required under **section ~~229~~ 317A or 317B** and specified in a written notice by an agreed date; or

(iv) to give the permit authority written approval for a proposed activity under **section 128(1)(b)(i) of the Planning Act 2025** by an agreed date; and

(b) 3 months after the expiry of the applicable time frame specified in **paragraph (a)**, the applicant has not provided the required response; and

(c) the permit authority has notified the applicant~~, by a method specified in **section 324**,~~ of its intention to return the application.

(2) After ~~determining~~ deciding that an application is incomplete under this section, the permit authority may return the application to the applicant with written reasons for the ~~determination~~ decision.

(3) If, after an application has been returned as incomplete ~~under this section~~, that application is lodged again with the permit authority, that application is to be treated as a new application.

(4) In this section, **agreed date** means a date agreed between the applicant and the permit authority.

Compare: 1991 No 69 s 92AA

Subpart 3—Notification, submissions, and hearings

Notification

144 Time limit for public notification or targeted notification

A permit authority must, within 20 working days after the application is ~~first~~ lodged,—

(a) decide whether to give public or targeted notification of an application for a natural resource permit in accordance with **sections 145 and 146**; and

(b) notify the applicant, in the manner prescribed in regulations, if it decides to do so.

Compare: 1991 No 69 s 95

145 Mandatory public notification in some circumstances

A permit authority must publicly notify an application for a natural resource permit if—

(a) the applicant has requested that the application be publicly notified:

~~(b) public notification is required under **section 147**:~~

(b) the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977:

(c) a rule in a natural environment plan or a national rule requires public notification in relation to the activity ~~or activities~~ to which the application relates.

146 Notification requirements if section 145 does not apply

(1) This section applies if an application for a natural resource permit is not required to be publicly notified under **section 145**.

Certain affected groups and affected persons must be notified

(2) A permit authority must determine—

(a) whether there are any—

(i) affected protected customary rights groups; or

(ii) affected customary marine title groups (in the case of an application for a natural resource permit for an accommodated activity); and

(b) whether—

(i) the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement ~~made in accordance with an Act specified in **Schedule 6**~~; and

(ii) the person to whom the statutory acknowledgement is made is an affected person under **section 149**.

(3) The permit authority must notify the application to each affected group and each affected person identified under **subsection (2)**, unless **subsection (6)** applies.

Notification requirements if affected persons or significant adverse effects

(4) The permit authority must ~~determine~~ decide—

(a) whether there are affected persons, in accordance with **section 149**; and

(b) whether all affected persons can be identified in the manner prescribed in regulations.

(5) If all affected persons can be identified under **subsection (4)**, the permit authority—

(a) must notify those persons of the application (**targeted notification**); and

(b) must not publicly notify the application.

(6) However, if targeted notification does not occur under **subsection (5)**, a permit authority must publicly notify the application if—

(a) ~~if it determines~~ it decides that the activity will have, or is likely to have, significant adverse effects on natural resources or people in accordance with **section 148**; and

(b) either—

(i) there are no affected persons; or

(ii) it is not possible, or it is impractical, to identify all affected persons.

~~(7) **Subsections (4) to (6)** do not apply if a natural environment plan, national rule, or water services standard precludes notification in relation to the activity or activities to which the application relates.~~

(7) **Subsections (4) and (5)** do not apply if a natural environment plan, national rule, or water services standard precludes targeted notification in relation to the activity to which the application relates.

(8) **Subsection (6)** does not apply if a natural environment plan, national rule, or water services standard precludes public notification in relation to the activity to which the application relates.

Compare: 1991 No 69 s 95B

~~147 Public notification of permit application after request for further information or report~~

~~(1) A permit authority must publicly notify an application for a natural resource permit if—~~

~~(a) it has not already decided whether to give public or targeted notification of the application; and~~

~~(b) **subsection (2) or (3)** applies.~~

~~(2) This subsection applies if the permit authority requests further information on the application under **section 140**, but the applicant—~~

~~(a) does not provide the information within the time specified in the regulations; or~~

~~(b) refuses to provide the information.~~

~~(3) This subsection applies if the permit authority notifies the applicant under **section 141** that it wants to commission a report, but the applicant—~~

~~(a) does not respond within the time specified in the regulations; or~~

~~(b) refuses to agree to the commissioning of the report.~~

~~(4) This section applies despite any rule in a natural environment plan or national rule that precludes public or targeted notification of the application.~~

~~Compare: 1991 No 69 s 95C~~

148 Whether significant adverse effects on natural resources or people

(1) This section applies to a permit authority that is deciding, under **section ~~145(6)(a)~~ 146(6)(a)**, whether an activity will have, or is likely to have, significant adverse effects on natural resources or people.

(2) A permit authority must not have regard to—

(a) any effect on persons who own or occupy the land in, on, or over which the activity will occur; and

(b) any adverse effect of the activity if a rule in a natural environment plan or national rule permits an activity with that effect, subject to **subsection (3)**; and

(c) in the case of a restricted discretionary activity, any adverse effect of the activity that does not relate to a matter for which a rule in a natural environment plan or national rule reserves discretion; and

(d) trade competition and the effects of trade competition; and

(e) any effect on a person who has given written approval to the ~~relevant~~ application.

(3) If the activity is a natural resource use activity, the permit authority may, in its discretion, consider any adverse effect of the activity on natural resources and people regardless of whether a rule in a natural environment plan or national rule permits an activity with that effect.

Compare: 1991 No 69 s 95D

149 Whether person is affected person

(1) For the purpose of **section 146(2)(b)~~(i)~~(ii) and (4)**,—

(a) a person is an **affected person** if the permit authority decides that—

(i) the activity's adverse effects on the person are more than minor; or

(ii) the activity's adverse effects on ~~a management unit, or~~ the persons within ~~that~~ a management unit~~,~~ are more than minor~~, and the person resides within that management unit~~; but

(b) a person is not an affected person if—

(i) the person has given, and not withdrawn, approval for the proposed activity in a written notice received by the permit authority before the authority has decided whether there are any affected persons; or

(ii) the permit authority is satisfied that it is unreasonable in the circumstances for the applicant to seek the person's written approval.

~~(2) **Subsection (1)(b)** prevails over **subsection (1)(a)**.~~

(3) When assessing whether an activity's adverse effects on a person or the persons within a management unit are more than minor~~ under **subsection (1)(a)**~~, the permit authority—

(a) must disregard an adverse effect of the activity on the person or the persons within a management unit if a rule in a natural environment plan or a national rule permits an activity with that effect, subject to **subsection (4)**; and

(b) if the activity is a restricted discretionary activity, must disregard an adverse effect of the activity on the person or the persons within a management unit if the effect does not relate to a matter for which a rule in a natural environment plan or a national rule has reserved discretion; and

(c) must have regard to every relevant statutory acknowledgement~~ made in accordance with an Act specified in **Schedule 6**~~.

(4) If the activity is a natural ~~resources~~ resource use activity, the permit authority may, in its discretion, consider any adverse effect of the activity on natural resources and people regardless of whether a rule in a natural environment plan or national rule permits an activity with that effect.

Compare: 1991 No 69 s 95E

150 Meaning of affected protected customary rights group

A protected customary rights group is an **affected protected customary rights group**, in relation to an activity in the protected customary rights area relevant to that group, if—

(a) the activity may have adverse effects on a protected customary right carried out in accordance with Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(b) the protected customary rights group has not given written approval for the activity or has withdrawn approval for the activity in a written notice received by the permit authority before the authority has made a~~ decision under this section~~ determination under **section 146(2)**.

Compare: 1991 No 69 s 95F

151 Meaning of affected customary marine title group

A customary marine title group is an **affected customary marine title group**, in relation to an accommodated activity in the customary marine title area relevant to that group, if—

(a) the activity may have adverse effects on the exercise of the rights applying to a customary marine title group under subpart 3 of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(b) the customary marine title group has not given written approval for the activity in a written notice received by the permit authority before the authority has made a~~ decision under this section~~ determination under **section 146(2)**.

Compare: 1991 No 69 s 95G

Submissions on applications

152 Submissions on applications

(1) If public notification is given for an application for a natural resource permit~~ is publicly notified~~, the following persons may make a submission about it to the permit authority in the manner described in **section 132 of the Planning Act 2025**:

(a) a qualifying resident of the region to which the application relates:

(b) a person who is not a qualifying resident of the region to which the application relates if that person is an affected person under **section 149**.

(2) If targeted notification is given for an application for a natural resource permit ~~is the subject of targeted notification~~ a person served with notice of the application may make a submission about it to the permit authority in the manner described in **section 132 of the Planning Act 2025**.

(3) In addition to the matters specified in **section 132(1) of the Planning Act 2025**, a submission must not be made in relation to trade competition or the effects of trade competition.

(4) A permit authority may strike out a submission, or part of a submission, in accordance with **section 133 of the Planning Act 2025**.

Compare: 1991 No 69 s 96

Hearings

153 Hearing of natural resource permit application

The following provisions of the **Planning Act 2025** apply to an application for a natural resource permit:

(a) **section 134** (consent authority may refer to conference or mediation):

(b) **section 135** (obligation to hold a hearing):

(c) **section 136** (decision by commissioner)~~.~~:

(d) **section 136A** (combined hearing for 2 or more applications in relation to same proposal).

153A Joint hearing if 2 or more permit or consent authorities

(1) If applications for natural resource permits in relation to the same proposal have been made to 2 or more permit authorities and those applications are to be heard, the hearings commissioner must hear and consider those applications together.

(2) If 1 or more applications for a natural resource permit under this Act and 1 or more applications for a planning consent under the **Planning Act 2025** have been made in relation to the same proposal, and those applications are to be heard, the commissioner must hear and consider those applications together.

(3) However, the commissioner need not hear and consider the applications together if—

(a) the permit authorities and consent authorities agree that the applications are sufficiently unrelated that hearing the applications together is unnecessary; and

(b) the applicant agrees that the applications need not be heard together.

(4) A hearing under this section must be conducted in the manner prescribed in regulations.

Subpart 4—Consideration of application and decision

154 ~~Application of this subpart~~ What this subpart does

This subpart sets out the matters that apply ~~to the consideration by~~ when a permit authority ~~of~~ is considering a natural resource permit application and any submissions on the application.

155 Matters that permit authority must disregard

(1) ~~A~~ The permit authority must not have regard to—

(a) any effect on a person who has given written approval to the application:

(b) any adverse effect of the activity on the natural environment if the natural environment plan or a national rule permits an activity with that effect, subject to **~~sections~~ section 156(2)**:

~~(c) if the activity is a restricted discretionary activity, any matter in relation to which the natural environment plan, proposed natural environment plan, a national rule, or a water services standard has not reserved discretion:~~

(d) trade competition or the effects of trade competition.

(2) *See* also~~ **section 12**, which applies to a permit authority when considering a natural resource permit application.~~—

(a) **section 156(3)**, which provides that if a natural resource permit application is for an activity that is a restricted discretionary activity, the permit authority may have regard to a matter only if discretion is reserved in relation to that matter by a natural environment plan, proposed natural environment plan, national rule, or water services standard; and

(b) **section 156(4)**, which provides that if a natural resource permit application is for an activity that is a controlled activity, the permit authority may have regard to a matter only if discretion is reserved in relation to that matter by a natural environment plan, proposed natural environment plan, national rule, or water services standard; and

(c) **section 12**, which applies to a permit authority when considering a natural resource permit application.

(3) **Subsection (1)(a)** does not apply if the person withdraws their approval by written notice received by the permit authority before the hearing or, if there is no hearing, before the application is ~~determined~~ decided.

~~(4) This section also applies to a permit authority considering any submissions on the application.~~

156 Consideration of natural resource permit application

(1) ~~Subject to **subsection (3)**, a~~ The permit authority must have regard to the following:

(a) any adverse effect on—

(i) a person, unless **section 155(1)(a)** applies:

(ii) the natural environment:

(b) any effect that is—

(i) positive:

(ii) cumulative:

(c) any measure proposed or agreed to by the applicant to avoid, remedy, minimise, offset, or compensate for~~,~~ any adverse effects on the natural environment resulting, or likely to result, from the activity:

(d) any relevant provisions of—

(i) the natural environment plan or proposed plan:

~~(ii) the regional spatial plan or proposed regional spatial plan, if the application is for an activity that is a discretionary activity:~~

(ii) a national rule in national standards:

(iii) a water services standard:

(e) any relevant provisions of other key instruments in accordance with **section 12**:

(f) any relevant matter specified in an action plan:

(g) if the application is affected by **section 181(a)** (which applies **section 164 of the Planning Act 2025**), the value of the investment to the existing permit holder:

(h) if the application is affected by **section 181(a)** (which applies **section 164 of the Planning Act 2025**) in relation to long-lived infrastructure, the effects of that infrastructure:

(i) the matters specified in **sections 157 to 164**.

(1A) **Subsection (1)** is subject to **subsections (2) to (4)**.

(2) If the activity is a natural resource use activity, the permit authority may, in its discretion, consider any adverse effect of the activity on natural resources and people regardless of whether the natural environment plan or a national rule permits an activity with that effect.

(3) ~~However, if~~ If a natural resource permit application is for an activity that is a restricted discretionary activity, ~~a~~ the permit authority may have regard to a matter only if discretion is reserved in relation to that matter by any of the following:

(a) a natural environment plan or proposed natural environment plan:

(b) a national rule:

(c) a water services standard.

~~(4) This section also applies to a permit authority considering any submissions on the application.~~

(4) If a natural resource permit application is for an activity that is a controlled activity, the permit authority may have regard to a matter only if control is reserved in relation to that matter by any of the following:

(a) a natural environment plan or proposed natural environment plan:

(b) a national rule:

(c) a water services standard.

157 Matters relevant to activities affecting drinking water supply source water

The permit authority must have regard to—

(a) the actual or potential effect of the proposed activity on the source of a drinking water supply that is registered under section 55 of the Water Services Act 2021; and

(b) any risks that the proposed activity may pose to the source of a drinking water supply that are identified in a source water risk management plan prepared in accordance with the requirements of the Water Services Act 2021.

158 Matters relevant to application for discharge permit, coastal permit, or reclamation

(1) If an application is for a discharge permit or coastal permit to do something that would contravene **section 21 or 23**, the permit authority must have regard to—

(a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and

(b) the applicant's reasons for the proposed choice; and

(c) any possible alternative methods of discharge, including discharge into any other receiving environment.

(2) If an application is for a natural resource permit for a reclamation, the permit authority must consider whether an esplanade reserve or esplanade strip is appropriate and, if so, impose a condition under **section 169(1)(i)**.

(3) However, **subsections (1) and (2)** do not apply if an application is for an activity—

(a) that is regulated by a wastewater environmental performance standard or a stormwater environmental performance standard and the application complies with the relevant environmental performance standard; or

(b) that is regulated by an infrastructure design solution and the application complies with the infrastructure design solution.

Compare: 1991 No 69 s 105

<u>158A Permit authority may have regard to public access to and along coastal marine area</u>

<u>(1) If an application is for a coastal permit to do something that would contravene **section 18**, the permit authority may have regard to the effects of the proposed activity on public access to and along the coastal marine area.</u>

<u>(2) This section applies despite **section 184A(2) of the Planning Act 2025**.</u>

159 Activities in area within scope of planning document prepared by customary marine title group

If the proposed activity is in an area within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, the permit authority—

(a) must have regard to any matters relevant to this Act that are set out in the planning document; and

(b) must, if it is a regional council, continue to have regard to those matters until it has completed its obligations in relation to its regional planning documents under section 93(5) of the Marine and Coastal Area (Takutai Moana) Act 2011.

160 Matters relevant to application relating to wastewater network

(1) ~~When considering a~~ If the natural resource permit application ~~that~~ relates to a wastewater network, as defined in section 5 of the Water Services Act 2021, ~~a~~ the permit authority—

(a) must not grant the permit contrary to—

(i) a wastewater environmental performance standard; or

(ii) an infrastructure design solution; and

(b) must include, as a condition of granting the permit, requirements that are no more or less restrictive than is necessary to give effect to—

(i) the wastewater environmental performance standard; or

(ii) the infrastructure design solution.

(2) However, **subsection (1)**—

(a) does not apply if an exception under a wastewater environmental performance standard or an infrastructure design solution applies; and

(b) except as ~~expressly~~ otherwise expressly provided in this Act, does not prevent ~~a~~ the permit authority from including, as a condition of granting a natural resource permit, a requirement that relates to any activity, effect, or other matter that a wastewater environmental standard or an infrastructure design solution does not regulate or manage.

Compare: 1991 No 69 s 104(2D), (2DA)

161 Matters relevant to application relating to stormwater network

(1) ~~When considering a~~ If the natural resource permit application ~~that~~ relates to a stormwater network, as defined in section 5 of the Water Services Act 2021, ~~a~~ the permit authority—

(a) must not grant the permit contrary to—

(i) a stormwater environmental performance standard; or

(ii) an infrastructure design solution; and

(b) must include, as a condition of granting the permit, requirements that are no more or less restrictive than is necessary to give effect to—

(i) the stormwater environmental performance standard; or

(ii) the infrastructure design solution.

(2) However, **subsection (1)**—

(a) does not apply if an exception under a stormwater environmental performance standard or an infrastructure design solution applies; and

(b) except as ~~expressly~~ otherwise expressly provided in this Act, does not prevent ~~a~~ the permit authority from including, as a condition of granting a natural resource permit, a requirement that relates to any activity, effect, or other matter that a stormwater environmental standard or an infrastructure design solution does not regulate or manage.

Compare: 1991 No 69 s 104(2E), (2EAAA)

162 Applicant's compliance history

(1) The permit authority may have regard to any previous or current abatement notices, enforcement orders, infringement notices, pecuniary penalties, or convictions under this Act, the **Planning Act 2025**, or the Resource Management Act 1991—

(a) received by the applicant, if the applicant is not a natural person:

(b) received by the applicant within the previous 7 years, if the applicant is a natural person:

(c) received, within the previous 7 years, by a director or person concerned with the management of the applicant, if the applicant is not a natural person.

(2) In addition, the permit authority may have regard to any previous or current abatement notices, enforcement orders, infringement notices, pecuniary penalties, or convictions under this Act, the **Planning Act 2025**, or the Resource Management Act 1991 received within the previous 7 years by a person that—

(a) is not a natural person; and

(b) is not the applicant; but

(c) at the time that person received the abatement notice, enforcement order, infringement notice, pecuniary penalty, or conviction, was directed or managed by a person who is a director or person concerned with the management of the applicant.

(3) The permit authority may decline an application for a natural resource permit if the applicant has a record of significant non-compliance with a requirement of this Act, the **Planning Act 2025**, or the Resource Management Act 1991—

(a) that is ongoing or repeated; and

(b) that, if the applicant is not a natural person, has been or is the subject of an enforcement order, a pecuniary penalty, or a conviction under this Act or, if the applicant is a natural person, has been or is the subject of an enforcement order, a pecuniary penalty, or a conviction under this Act within the previous 7 years.

Compare: 1991 No 69 s 104~~(6)~~(6A)

163 Land use permit may be refused or granted with conditions if risk from natural hazards

(1) A permit authority may refuse to grant a land use permit, or may grant a land use permit subject to conditions, if it considers that there is a significant risk from natural hazards.

(1A) For the purposes of **subsection (1)**, an assessment of the risk from natural hazards—

(a) must be carried out in the manner prescribed in national standards; or

(b) if national standards do not prescribe the manner for carrying out an assessment, requires a combined assessment of all of the following taken together:

(i) the likelihood of natural hazards occurring (whether individually or in combination):

(ii) the material damage to land in respect of which the permit is sought, other land, or structures that would result from natural hazards:

(iii) whether the proposed use of the land would accelerate, worsen, or result in material damage of the kind referred to in **paragraph (ii)**:

(iv) whether the proposed use of the land would result in adverse effects on the health or safety of people.

(2) ~~Conditions~~ A condition imposed under **subsection (1)** must be—

(a) for the purposes of avoiding~~, remedying,~~ or mitigating the effects referred to in **subsection (1)**; and

(b) of a type that could be imposed under **section ~~170~~ 169**.

~~(3) For the purposes of **subsection (1)**, an assessment of the risk from natural hazards requires a combined assessment of all of the following taken together:~~

~~(a) the likelihood of natural hazards occurring (whether individually or in combination):~~

~~(b) the material damage to land, structures, or the natural environment that would result from natural hazards:~~

~~(c) whether the proposed use of the land would accelerate, worsen, or result in material damage of the kind referred to in **paragraph (b)**:~~

~~(d) whether the proposed use of the land would result in adverse effects on natural resources or people.~~

~~(4) **Subsection (1)** does not apply to land use permits if the use of the land for which the permit is sought is a primary production activity, as described in the national standards.~~

(4) This section does not apply to a land use permit for—

(a) constructing, upgrading, maintaining, or operating infrastructure, except to the extent that national standards provide that this section applies; and

(b) a primary production activity, except to the extent that national standards provide that this section applies.

(5) In this section, **primary production activity**—

(a) means any agricultural, aquaculture, forestry, horticultural, mining, pastoral, or quarrying activity; and

(b) includes initial processing of a commodity that results from an activity in **paragraph (a)** if the initial processing is ancillary to that activity; but

(c) includes any land and buildings—

  (i) used for the production of a commodity that results from an activity in **paragraph (a)**; or

  (ii) used for the initial processing of that commodity, as described in **paragraph (b)**; but

(d) excludes further processing of those commodities into a different product.

164 Matters for which permit must not be granted

(1) A permit authority must not grant a natural resource permit if—

(a) it is contrary to—

  (i) **clause 3 of Schedule 4**:

  (ii) any regulations:

  (iii) a wāhi tapu condition included in a customary marine title order or agreement:

  (iv) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011:

(b) it should have been notified and was not:

(c) granting the permit would result in the breach of an environmental limit, unless the breach is authorised by—

  (i) national standards ~~made under **section 86**~~ to which **section 79** applies; or

  (ii) a water services standard.

(2) For the purposes of **subsection (1)(c)**, a **breach of an environmental limit**—

(a) means a breach of that environmental limit, if no target date is set for the limit in national standards or a natural environment plan; or

(b) if a target date is set for the environmental limit, means—

  (i) the breach of any related interim limit that applies before the target date; and

  (ii) the breach of the environmental limit on and from the target date.

Compare: 1991 No 69 s 104(3)

164A Certain activities that breach identified environmental limit

(1) This section applies to a permit authority if—

(a) national standards to which **section 79** applies authorise an activity that breaches or is likely to breach an environmental limit identified in the national standards; and

(b) an application for a natural resource permit is lodged for an activity that—

(i) is not an activity authorised by the national standards; but

(ii) if carried out in combination with the activity authorised by the national standards, would breach or worsen the breach of the environmental limit identified in the national standards.

(2) When considering whether to grant the permit and any conditions of the permit, the permit authority—

(a) must have particular regard to how the breach can be remedied over time; and

(b) must consider the extent to which the breach or the worsening of the breach is caused by an activity authorised by national standards; and

(c) is not prevented by **section 164(c)** from granting the permit.

165 ~~Determination of~~ Decision on natural resource permit

(1) After considering an application for a natural resource permit for an activity that is classified as a restricted discretionary activity or a discretionary activity, a permit authority may grant or refuse ~~the application~~ to grant a natural resource permit.

(2) If it grants ~~the application~~ a natural resource permit, the permit authority may impose conditions on the natural resource permit,—

(a) for a restricted discretionary activity, only for those matters over which the natural environment plan, proposed natural environment plan, water services standard, or a national rule has reserved discretion:

(b) for a discretionary activity, under **section 169**.

(2A) After considering an application for a natural resource permit for an activity that is classified as a controlled activity, a permit authority—

(a) must grant the permit; and

(b) may impose conditions on the permit under **section 169** only for those matters over which the natural environment plan, proposed natural environment plan, water services standard, or a national rule has reserved control.

(3) A permit authority may grant a natural resource permit on the basis that the activity is classified as a restricted discretionary activity, ~~or~~ a discretionary activity, or a controlled activity regardless of what type of activity the application was expressed to be for.

(4) A permit authority may ~~decline an application for~~ refuse to grant a natural resource permit on the ground that it has inadequate information to ~~determine~~ decide the application.

(5) In making an assessment on the adequacy of the information, the permit authority must have regard to whether any request made of the applicant for further information or reports resulted in further information or any ~~report~~ reports being made available.

~~166 Precautionary principle where information uncertain or inadequate~~

~~(1) When deciding whether to grant or refuse an application for a natural resource permit, a permit authority must favour caution and environmental protection if the information available to determine the application is uncertain or inadequate.~~

~~(2) However, if applying **subsection (1)** means that the application is likely to be refused, the permit authority must consider whether including a condition that requires, or conditions that form, an adaptive management approach would address the concerns arising from the uncertainty or inadequacy of the information.~~

167 Permit authority may grant application with adaptive management approach

(1) A permit authority may grant a natural resource permit that includes a condition that requires, or conditions that form, an adaptive management approach.

(2) An adaptive management approach—

- (a) must allow an activity to commence on a small scale, ~~or~~ for a short period, or in stages~~,~~ to allow its effects to be monitored; and
- (b) must require baseline information for—
  - (i) monitoring and reporting; and
  - (ii) setting triggers and limits (other than an environmental limit) for the purpose of monitoring and reporting; and
- (c) must require ongoing monitoring and reporting; and
- (d) may require certification and review of environmental management plans; and
- (e) may ~~include provisions to allow~~ provide for an activity to step back to a previous stage or cease temporarily ~~where~~ if triggers or limits are met~~,~~ to allow for management practices or monitoring requirements to be adapted accordingly; and
- (f) may ~~include provisions to allow~~ provide for an activity to be discontinued permanently (in circumstances where the effects are found to be unanticipated at the time that the permit was granted).

(3) In ~~determining~~ deciding on the use of an adaptive management approach, the permit authority must consider—

(a) whether there is adequate evidence that using an adaptive management approach will—

(i) sufficiently reduce uncertainty about the effects of the activity; and

(ii) adequately manage any remaining risk; and

(b) the extent of any environmental risk (including the consequences if the risk is realised); and

(c) the importance of the activity for which the permit relates; and

(d) the degree of uncertainty about the effects of the activity; and

(e) whether, and the extent to which, the adaptive management approach will sufficiently diminish the risk and the uncertainty.

(4) A permit authority may decide that an adaptive management approach sufficiently diminishes the risk and uncertainty if it is satisfied that—

(a) there is sufficient monitoring of the receiving environment to set appropriate indicators and compliance limits; and

(b) the conditions provide for effective monitoring of adverse effects using appropriate indicators; and

(c) indicators are set to prompt remedial action before adverse effects occur or reach unacceptable levels; and

(d) any effects that might arise can be remedied before they become irreversible.

167A Natural resource permit giving effect to Te Ture Whaimana o Te Awa o Waikato may be contrary to water services standard

(1) A permit authority may grant a natural resource permit contrary to a water services standard for the purpose of giving effect to any of the following:

(a) Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River:

(b) a provision that—

(i) is included in a natural environment plan or proposed natural environment plan to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River; and

(ii) is more stringent than the water services standard.

(2) This section applies despite **section 33**, **section 158(3)**, **section 160**, **section 161**, **section 178B** and **section 186**.

Subpart 5—Conditions and other requirements for decisions

Conditions of natural resource permits

168 General requirements before conditions may be included

(1) When granting a natural resource permit, the permit authority may include any condition that it considers appropriate after being satisfied that—

(a) **subsections (2) and (3)** are complied with; and

(b) any requirements in section **section 169** for particular permits or conditions are complied with.

(2) A permit authority must not include a condition unless—

(aaa) the applicant has agreed to the condition; or

(a) ~~the applicant has agreed to the condition and~~ the condition contains measures ~~in order to—~~ that avoid, minimise, remedy, offset, or provide compensation for any adverse effects; or

~~(i) give rise to positive effects; or~~

~~(ii) avoid, minimise, remedy, offset, or provide compensation for, any adverse effects; or~~

(b) the condition is directly connected to—

(iaaa) any adverse effects of the activity; or

(i) an applicable provision in the natural environment plan or national rule; or

(ii) a water services standard; or

(c) the condition relates to administrative matters that are essential for the efficient implementation of the natural resource permit.

(3) A permit authority must not include a condition that is contrary to a water services standard.

(4) This section does not limit ~~**section 31** (meaning of rule) or~~ **section 163** ~~(land use permit may be refused or granted with conditions if risk from natural hazards)~~.

(5) For the purpose of **subsection (2)(b)(i)**, a provision is **applicable** if the application of the provision to the activity is the reason, or one of the reasons, that a natural resource permit is required for the activity.

Compare: 1991 No 69 ss 108, 108AA

169 Particular conditions that may be included in natural resource permits

(1) Without limiting the generality of **section 168**, a natural resource permit may include any 1 or more of the following conditions:

(a) a condition specifying the duration of the permit:

(b) a condition specifying the date that the permit will lapse, subject to **section 165 of the Planning Act 2025** (as applied by **section 181(b)** of this Act):

(c) a condition requiring a bond to be given (and describing the terms of that bond) in accordance with **clauses 3 and 4 of Schedule 8 of the Planning Act 2025** (as applied by **section 297** of this Act):

(d) a condition requiring services or works to be provided, including (but without limitation) protecting, planting, or replanting ~~of~~ any tree or other vegetation or protecting, restoring, or enhancing any natural or physical resource:

(e) a condition requiring that a covenant be entered into, in favour of the permit authority, in respect of the performance of any condition of the natural resource permit (being a condition ~~which~~ that relates to the use of land to which the permit relates):

(f) a condition to mitigate any risk that the natural resource permit holder may not ~~be complied with~~ comply with the permit, having regard to any previous non-compliance by the applicant that is the subject of an abatement ~~order~~ notice, enforcement order, infringement notice, pecuniary penalty, or conviction under this Act, the **Planning Act 2025**, or the Resource Management Act 1991 referred to in **section 162**:

(g) a condition requiring the holder of a natural resource permit to supply to the permit authority information relating to the exercise of the natural resource permit:

(h) in the case of a discharge permit or a coastal permit to do something that would otherwise contravene **section 21** (relating to the discharge of contaminants) or **section 23**, a condition requiring the holder to adopt the best practicable option to prevent or minimise any actual or likely adverse effect on natural resources or people of the discharge and other discharges (if any) made by the person from the same site or source:

(i) in the case of a natural resource permit for a reclamation, a condition requiring an esplanade reserve or esplanade strip of any specified width to be set aside or created under **Part 3 of Schedule 7 of the Planning Act 2025**:

(j) in the case of a coastal permit to occupy any part of the common marine and coastal area, a condition—

(i) detailing the extent of the exclusion of other persons:

(ii) specifying any coastal occupation charge.

(2) A condition under **subsection (1)(e)** may, among other things, provide that the covenant may be varied, ~~or~~ cancelled, or renewed at any time by agreement between the permit holder and the permit authority.

(3) Without limiting **subsection (1)(g)**, a condition made under that subsection may require the holder of the natural resource permit to do 1 or more of the following:

(a) to make and record measurements:

(b) to take and supply samples:

(c) to carry out analyses, surveys, investigations, inspections, or other specified tests:

(d) to carry out measurements, samples, analyses, surveys, investigations, inspections, or other specified tests in a specified manner:

(e) to provide information to the permit authority at a specified time or times:

(f) to provide information to the permit authority in a specified manner and, if applicable, in a manner consistent with any regulations ~~made under a relevant empowering provision in this Act~~:

(g) to comply with the condition at the permit holder's expense.

Compare: 1991 No 69 s ~~121~~ 108

170 Review of draft conditions of permit

An applicant for a natural resource permit may request that the permit authority provide them with any draft conditions of the permit in accordance with **section 152 of the Planning Act 2025**, and that section applies with all necessary modifications.

Compare: 1991 No 69 s 107G

~~171 Decision on application~~

~~A permit authority must give notice of its decision on an application for a natural resource permit in the manner and form prescribed in the regulations.~~

171 Permit authority must notify decision

A permit authority must notify, in the manner prescribed in regulations, the following persons of its decision on an application for a natural resource permit:

(a) the applicant:

(b) any other persons prescribed in regulations.

Appeals

172 Right to appeal

(1) Any 1 or more of the following persons may appeal to the Environment Court ~~in accordance with~~ under **section 173** against the whole or any part of a decision of a permit authority on an application for a natural resource permit, ~~or~~ on an application for a change of permit conditions, or on a review of permit conditions:

(a) the applicant or permit holder:

(b) ~~any~~ a person who made a submission on the application or review of permit conditions.

(2) A person exercising a right of appeal under **subsection (1)(b)** may appeal—

(a) any matter that was raised in the person's submission except any part of the submission that is struck out under **section 152(3)**; and

(b) any matter that was not raised in the person's submission.

(3) This section is in addition to the rights provided for in ~~**clause 14 of**~~ **Schedule 10 of the Planning Act 2025** (which provides for a right of review by the Planning Tribunal), as applied by **section 241** of this Act.

Compare: 1991 No 69 s 120

173 Procedure for appeal

(1) Notice of an appeal under **section 172** must be in the prescribed form and—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required by regulations; and

(c) be lodged with the Environment Court and served on the permit authority whose decision is appealed within 15 working days after receiving notice of the decision in accordance with this Act.

(2) The appellant must ensure that a copy of the notice of appeal is served on every person referred to in **section 172(1)** (other than the appellant) within 5 working days ~~of~~ after the notice ~~being~~ is lodged with the Environment Court.

Compare: 1991 No 69 s 121

Subpart 6—Nature of permits, commencement, duration, and review

174 Permits not real or personal property

(1) A natural resource permit is neither real nor personal property.

(2) Unless the conditions of a permit expressly state otherwise,—

(a) on the death of the permit holder ~~of a permit~~, the permit vests in the personal representative of the holder as if the permit were personal property, and the personal representative may deal with the permit to the same extent as the holder would have been able to do; and

(b) on the bankruptcy of an individual who is the permit holder ~~of a permit~~, the permit vests in the Official Assignee as if it were personal property, and the Official Assignee may deal with the permit to the same extent as the holder would have been able to do; and

(c) a permit must be treated as property for the purposes of the Protection of Personal and Property Rights Act 1988.

(3) The permit holder ~~of a natural resource permit~~ may grant a ~~charge~~ security interest over ~~that~~ the permit as if it were personal property, but the permit may only be transferred to the ~~chargee~~ secured party, or by or on behalf of the ~~chargee~~ secured party, to the same extent as it could be so transferred by the holder.

(4) The Personal Property Securities Act 1999 applies ~~in relation~~ to a natural resource permit—

(a) as if the permit were goods within the meaning of that Act; and

(b) as if the permit were situated in the ~~provincial~~ district in which the activity permitted by the permit may be carried out (or, where it may be carried out in more than 1 ~~provincial~~ district, in those ~~provincial~~ districts); and

(c) subject to the provisions of this Act, and in particular to **subsection (3)**.

(5) A coastal permit—

(a) is not an authority for the holder to occupy a coastal marine area to the exclusion of all or any class of persons; and

(b) does not confer on the holder the same rights in relation to the use and occupation of the area against those persons as if they were a tenant or licensee of the land.

(6) A coastal permit is not an authority for the holder to remove sand, shingle, shell, or other natural material as if it were a licence or profit à prendre.

(7) However, **subsections (5) and (6)** do not apply—

(a) to the extent that the coastal permit expressly provides otherwise; and

(b) to the extent that is reasonably necessary to achieve the purpose of the coastal permit.

Compare: 1991 No 69 s 122

174A Natural resource permit prevails over certain water services standards

(1) A natural resource permit that is granted before one of the following standards is made prevails over that standard:

(a) a stormwater environmental performance standard:

(b) a wastewater environmental performance standard.

(2) However, **subsection (1)** ceases to apply if—

(a) the permit authority reviews the conditions of the natural resource permit under **section 186(1)(ea)**; and

(b) the review results in either or both of the standards listed in **subsection (1)** prevailing over the natural resource permit.

Compare: 1991 No 69 s 122A

Commencement

175 Commencement of natural resource permit

(1) A natural resource permit that has been granted commences in the same manner as is set out in the following sections of the **Planning Act 2025**:

(a) **section 158** (commencement of consent):

(b) **section 159** (commencement of consent~~ for non-notified application~~ if no submissions, etc):

(c) **section 160** (commencement of consent if request for review lodged).

(2) However, this section is subject to **sections 176 and 177**.

~~Compare: 1991 No 69 s~~

176 Commencement of permit where customary marine title order or agreement in effect

If a natural resource permit is granted for an activity in a part of the common marine and coastal area where a customary marine title order or agreement is in effect, section 68(1) of the Marine and Coastal Area (Takutai Moana) Act 2011 applies.

177 When coastal permit for certain aquaculture activities may commence

(1) A coastal permit to undertake aquaculture activities in the coastal marine area cannot commence other than in accordance with this section unless it is a coastal permit that does not require an aquaculture decision under the Fisheries Act 1996 (in which case **section 175(a)** applies).

(2) If the chief executive of the Ministry responsible for the administration of the Fisheries Act 1996 (the **chief executive**) makes a determination in relation to the permit, and has notified the permit authority of that decision in accordance with section 186H of the Fisheries Act 1996, the permit authority must, as soon as is reasonably practicable,—

(a) amend the permit, if necessary, to note any conditions specified under section 186H(3) of the Fisheries Act 1996 that may not be changed or cancelled until the chief executive makes a further aquaculture decision; and

(b) notify the applicant that the permit commences in respect of the area that is the subject of the determination on the date of notification under this paragraph or, if the permit specifies a later commencement date, on that date.

(3) If the chief executive makes a reservation in relation to recreational fishing, ~~or~~ customary fishing, or commercial fishing in relation to stocks or species not subject to the quota management system and has notified the permit authority of that decision in accordance with section 186H of the Fisheries Act 1996, the permit authority must, as soon as is reasonably practicable,—

(a) amend the permit to remove the areas affected by the reservation; and

(b) provide the applicant with a copy of the amended permit; and

(c) cancel the permit to the extent that it applies to the removed areas by written notice served on the applicant.

(4) If the chief executive makes a reservation in relation to commercial fishing in relation to stocks or species subject to the quota management system and has notified the permit authority of that decision in accordance with section 186H of the Fisheries Act 1996, the permit authority must, as soon as is reasonably practicable,—

(a) amend the permit to show the areas affected by the reservation; and

(b) provide the applicant with a copy of the amended permit; and

(c) notify the applicant that the permit will not commence in the area affected by the reservation, unless—

(i) an aquaculture agreement is registered in accordance with section 186ZH of the Fisheries Act 1996; or

(ii) a compensation declaration has been registered under section 186ZHA of the Fisheries Act 1996.

(5) If **subsection (4)** applies and the chief executive has notified the permit authority that an aquaculture agreement or compensation declaration has been registered for those stocks under section 186ZH or 186ZHA of the Fisheries Act 1996 (as the case may require), the permit authority must, as soon as reasonably practicable,—

(a) amend the permit so that it no longer shows the areas affected by the reservation; and

(b) provide the applicant with a copy of the amended permit; and

(c) notify the applicant that the permit (as amended) commences in respect of the area previously shown subject to the reservation on the date of notification under this paragraph, unless the permit states a later date.

(6) If **subsection (5)** applies, then for the purposes of **section 181(b)**, the entire permit, as amended, is to be treated as having commenced on the commencement date notified under **subsection (5)(c)**, unless the permit states a later date.

(7) If **subsection (4)** applies and the chief executive has notified the permit authority under section 186ZK of the Fisheries Act 1996 that no aquaculture agreement or compensation declaration has been registered, the permit authority must, as soon as is reasonably practicable,—

(a) amend the permit to remove the areas affected by the reservation; and

(b) provide the applicant with a copy of the amended permit; and

(c) cancel the permit to the extent that it applies to the removed areas by written notice served on the applicant.

(8) If the chief executive makes a reservation to which **subsection (3)** applies~~,~~ for the entire permit area, the permit authority must cancel the permit by written notice served on the applicant.

(9) **Subsections (3) and (7)** apply even if the permit was granted under **section 165**.

Compare: 2023 No 46 s 324

177A Commencement if subject to grant of application to exchange recreation reserve land

If a natural resource permit is subject to the grant of an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977,—

(a) the permit authority must notify the applicant when the procedures in sections 15 and 15AA of that Act are complete; and

(b) the natural resource permit commences on—

(i) the date of the notification under **paragraph (a)**; or

(ii) any later date that is specified in the notification.

Compare: 1991 No 69 s 116B

Duration

~~178 Duration of natural resource permit~~

~~(1) The duration of a natural resource permit must be determined in accordance with this section unless **section 179 or 180** apply.~~

~~(2) The maximum period for which any of the following natural resource permits may be granted is unlimited:~~

~~(a) a coastal permit for a reclamation:~~

~~(b) a land use permit in respect of a reclamation that would otherwise contravene **section 19**.~~

~~(3) The maximum period for which any other natural resource permit may be granted is—~~

~~(a) a period specified in the permit not exceeding 35 years after the date of the commencement of the permit; or~~

~~(b) 5 years from the date of the commencement of the permit if no period is specified.~~

~~(4) This section is subject to **section 181(b)** (lapsing of permits).~~

~~Compare: 1991 No 69 s 123~~

178 Duration of natural resource permit

(1) The period for which a natural resource permit is granted is—

(a) a period specified in the permit not exceeding 35 years after the date of the commencement of the permit; or

(b) 5 years after the date of the commencement of the permit if no period is specified.

(2) However, **subsection (1)** is subject to **sections 178A to 180**.

(3) This section, and **sections 178A to 180**, is subject to **section 181(b)** (which provides for when a permit lapses).

178A Duration of coastal permit for reclamation or land use permit

The period for which any of the following natural resource permits is granted is unlimited, unless otherwise specified in the consent:

(a) a coastal permit for a reclamation:

(b) a land use permit.

178B Duration of permit for activity meeting requirements of water services standard

The period for which any of the following natural resource permits is granted is 35 years after the date of commencement of the permit:

(a) a natural resource permit for an activity that meets the requirements of a wastewater environmental performance standard or a stormwater environmental performance standard:

(b) a natural resource permit for a wastewater treatment plant that meets the requirements of an infrastructure design solution.

179 Duration of permit for renewable energy and long-lived infrastructure

(1) A natural resource permit authorising a renewable energy activity or a long-lived infrastructure activity must specify the period for which it is granted.

(2) The period specified under **subsection (1)** must be not less than 35 years after the date of commencement of the permit unless—

(a) the applicant requests a shorter period; or

(b) a national standard expressly allows a shorter period; or

(c) the permit authority decides to specify a shorter period after considering a request from a relevant group for a shorter period for the purpose of managing any adverse effects on the natural environment.

(3) In making a decision under **subsection (2)(c)**, the permit authority must consider—

(a) the need to provide for adequate management of any adverse effects on the natural environment; and

(b) the benefits of providing certainty of long-term permit duration.

(4) The specified period must be not more than—

(a) 50 years after the date of commencement of the permit, in the case of a permit that authorises ~~any structure~~ long-lived infrastructure that would otherwise contravene **section 18 or 19**:

(b) 35 years after the date of commencement of the permit, in the case of any other permit that authorises a renewable energy activity or ~~a~~ long-lived infrastructure activity.

~~(5) This section is subject to **section 181(b)** (lapsing of permits).~~

(5) In this section, **relevant group** means a group who may be or is required to be involved in processes under this Act that relate to planning documents or natural resource permits by virtue of any Treaty settlement, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or the Marine and Coastal Area (Takutai Moana) Act 2011.

Compare: 1991 No 69 s 123B

180 Duration of permit for aquaculture activities

(1) A coastal permit authorising aquaculture activities to be undertaken in the coastal marine area must specify the period for which it is granted.

(2) The period specified under **subsection (1)** must be not less than 20 years after the date of commencement of the permit under **section 177** unless—

(a) the applicant has requested a shorter period; or

(b) a shorter period is required to ensure that adverse effects on ~~the environment~~ natural resources and people are adequately managed; or

(c) a framework rule expressly allows a shorter period.

(3) The specified period must be not more than 35 years after the date of commencement of the permit under **section 177**.

~~(4) This section applies subject to **section 181(b)** (lapsing of permits).~~

Compare: 2023 No 46 s 327

181 Provisions of Planning Act 2025 that apply to duration

The following provisions of the **Planning Act 2025** apply to the duration of a natural resource permit:

(a) **section 164** (exercise of consent while applying for new consent):

(aa) **section 164A** (applicant may lodge new application that complies with water services standard):

(ab) **section 164B** (environmental performance standard does not apply if applicant proceeds with unamended application):

(b) **section 165** (lapsing of consent):

(c) **section 166** (cancellation of consent).

Natural resource use activity applications by existing permit holder or other

182 When sections 183 and 184 apply and when they do not apply

(1) In this section, and **sections 183 and 184**, **existing permit application** means an application affected by **section 164 of the Planning Act 2025** (as applied by **section 181(a)**).

(2) **Sections 183 and 184** apply to an existing permit application if, when the application is made, the relevant plan has not allocated any of the natural resources used for the activity.

(3) **Sections 183 and 184** also apply to an existing permit application as follows:

(a) they apply if, when the application is made,—

(i) the relevant plan has allocated some or all of the natural resources used for the activity to the same type of activity; and

(ii) the relevant plan does not expressly say that **sections 182 to 184** do not apply; and

(b) they apply to the extent to which the amount of the natural resource sought by a person described in **section 183(1)(a) and (b)** is equal to or smaller than the amount of the resource that—

(i) is allocated to the same type of activity; and

(ii) is left after the deduction of every amount allocated to every other existing natural resource permit.

(4) Sections 183 and 184 do not apply to an existing permit application if, when the application is made, the relevant plan expressly says that **sections 182 to 184** do not apply.

Compare: 1991 No 69 s 124A

183 Application by existing permit holder

(1) This section applies when—

(a) a person holds an existing natural resource permit to undertake an activity under any of **sections 18, 19, 20, and 21** using a natural resource; and

(b) the person makes an existing permit application; and

(c) the permit authority receives 1 or more other applications for a natural resource permit that—

(i) are to undertake an activity using some or all of the natural resource to which the existing permit relates; and

(ii) could not be fully exercised until the expiry of the existing permit.

(2) The application described in **subsection (1)(b)** is entitled to priority over every application described in **subsection (1)(c)**.

(3) The permit authority must determine the application described in **subsection (1)(b)** before it determines any application described in **subsection (1)(c)**.

~~(4) The permit authority must determine an application described in **subsection (1)(b)** by applying all the relevant provisions of this Act and the following criteria:~~

~~(a) the efficiency of the person's use of the resource; and~~

~~(b) the use of industry good practice by the person; and~~

~~(c) if the person has been served with an enforcement order not later cancelled under **section 265**, or has been convicted of an offence under **section 278**,—~~

~~(i) how many enforcement orders were served or convictions entered; and~~

~~(ii) how serious the enforcement orders or convictions were; and~~

~~(iii) how recently the enforcement orders were served or the convictions entered.~~

Compare: 1991 No 69 s 124B

184 Applications by person who is not existing permit holder

(1) This section applies when—

(a) a person makes an application for a natural resource permit to undertake an activity under any of **sections 18, 19, 20, and 21** using a natural resource; and

(b) the person does not hold an existing permit for the same activity using some or all of the same natural resource; and

(c) a permit granted as a result of the application could not be fully exercised until the expiry of the permit described in **section 183(1)(a)**; and

(d) the person makes the application more than 3 months before the expiry of the permit described in **section 183(1)(a)**.

(2) The permit authority must—

(a) hold the application without processing it; and

(b) notify the holder of the existing permit—

(i) that the application has been received; and

(ii) that the holder may make an existing permit application.

(3) If the holder of the existing permit notifies the permit authority in writing that the holder does not propose to make an existing permit application, the permit authority must process and determine the application described in **subsection (1)(a)**.

(4) If the holder of the existing permit does not make an existing permit application more than 3 months before the expiry of the permit, the permit authority must process and determine the application described in **subsection (1)(a)**.

(5) If the holder of the existing permit makes an existing permit application more than 3 months before the expiry of the permit, the permit authority must hold the application described in **subsection (1)(a)** until the determination of the holder's application and any appeal.

(6) If the result of the determination of the holder's application and any appeal is that the holder's existing permit application is granted, the application described in **subsection (1)(a)** lapses to the extent to which the use of the resource has been granted to the holder.

Change or cancellation of permit condition on application by permit holder

185 Change or cancellation of permit condition on application by permit holder

(1) A permit holder may apply to a permit authority for a change or cancellation of a condition of the permit.

(2) However, no permit holder may apply for a change or cancellation of a condition that relates to the duration of the permit.

(3) **Subparts 1 to 5 of this Part** apply, with all necessary modifications, as if—

(a) the application were an application for a natural resource permit for a discretionary activity; and

(b) the references to a natural resource permit and to the activity were references only to—

(i) the change or cancellation of a condition; and

(ii) the effects of that change or cancellation.

(4) If the natural resource permit is a coastal permit authorising aquaculture activities in the coastal marine area, an aquaculture decision is not required if the application—

(a) proposes to change or cancel a condition of the permit; but

(b) does not propose to change or cancel a condition specified under section 186H(3) of the Fisheries Act 1996.

(5) **Subsection (3)(a)** does not apply if—

(a) the application relates to an aquaculture activity; and

(b) a national rule—

(i) applies to applications of that kind; and

(ii) states that an application by a permit holder to change or cancel permit conditions must be treated as an application for a natural resource permit for a restricted discretionary activity.

(6) For the purposes of determining who is adversely affected by the change or cancellation, the permit authority must consider, in particular, every person who—

(a) made a submission on the original application; and

(b) may be affected by the change or cancellation.

Compare: 1991 No 69 s 127

Review of permit conditions by permit authority

186 Circumstances when permit conditions can be reviewed

(1) A permit authority may~~, in accordance with **section 187**,~~ serve notice on a permit holder of its intention to review the conditions of a natural resource permit—

(a) at any time or times specified in the permit for any of the following purposes:

(i) to deal with any adverse effect on natural resources or people ~~which~~ that may arise from the exercise of the permit and ~~which it is~~ that is appropriate to deal with at a later stage; or

(ii) to require a holder of a discharge permit or a coastal permit to do something that would otherwise contravene **section 21 or 23** to adopt the best practicable option to remove or reduce any adverse effect on natural resources or people; or

(iii) for any other purpose specified in the permit; or

(b) if the permit authority determines that the permit holder ~~of the permit~~ has contravened a condition of the permit; or

(c) when relevant national standards have been made; or

(d) ~~in the case of a land use permit,~~ in relation to a relevant national rule; or

(e) if—

(i) a natural environment plan contains a rule that relates to maximum or minimum flows, levels, and volumes, or rates of use of water, or minimum standards of water quality or air quality, or ranges of temperature or pressure of geothermal water, and

(ii) the rule has been made operative; and

(iii) the regional council considers that it is appropriate to review the conditions of the permit ~~or permit~~ in order to enable the levels, flows, rates, or standards set by the rule to be met; or

(ea) in the case of a natural resource permit for an activity that is regulated by a wastewater environmental performance standard or a stormwater environmental performance standard, when the environmental performance standard has been made or amended; or

(f) if the information made available to the permit authority by the applicant for the permit for the purposes of the application contained inaccuracies ~~which~~ that materially influenced the decision made on the application and the effects of the exercise of the permit are such that it is necessary to apply more appropriate conditions; or

(g) if the review is part of a review carried out under **subsection (3)**.

(2) A permit authority must~~, in accordance with **section 186**,~~ serve notice on a permit holder of its intention to review the conditions of natural resource permit if required by an order made by the Environment Court under **section 256(6)(b) of the Planning Act 2025**.

(3) If more than 1 natural resource permit is affected by the rule referred to in **subsection (1)(e)(i)**, the permit authority may review the conditions of those permits together for the purpose of managing the effects of the activities carried out under those permits.

(4) A regional council must notify the chief executive of the Ministry responsible for administration of the **Fisheries Act 1996** as soon as is reasonably practicable if it intends to review a condition of a coastal permit authorising an aquaculture activity to be undertaken in the coastal marine area and the condition has been specified under section ~~186H(1A)~~ 186H(3) of the Fisheries Act 1996 as a condition that may not be changed or cancelled until the chief executive of that Ministry makes a further aquaculture decision.

(5) **Clause 64 of Schedule 3** applies to any notice of review under **subsection (1)** of the conditions of a coastal permit that is extended under section 165ZFHC of the Resource Management 1991.

Compare: 1991 No 69 s 128

187 Notice of review

(1) A notice of intent to review the conditions of a permit under **section 186**—

(a) must advise the permit holder of the conditions of the permit ~~which~~ that are the subject of the review; and

(b) must state the reasons for the review; and

(c) must specify the information ~~which~~ that the permit authority took into account in making its decision to review the permit, unless the notice is given under **section 186(1)(a) or (2)**; and

(d) must advise a permit holder by whom a charge is payable under the regulations in relation to the review—

(i) of the fact that the charge is payable; and

(ii) of the estimated amount of the charge; and

(e) may propose, and invite the permit holder to propose within 20 working days ~~of~~ after service of the notice, new permit conditions.

(2) If notification of the review is required under **section 188**, the notification must include a summary of the notice served under this section, and the notification must be served within—

(a) 30 working days after the service of the notice (if the permit holder is invited to propose new conditions); or

(b) 10 working days after the service of the notice (if the permit holder is not invited to propose new conditions).

Compare: 1991 No 69 s 129

188 Public notification, submissions, and hearing, etc

(1AAA) **Sections 144 to 151** apply, with all necessary modifications, as if—

(a) the review of permit conditions were an application for a natural resource permit for a discretionary activity; and

(b) the references to a natural resource permit and to the activity were references only to the review of the conditions and to the effects of the change of conditions respectively.

(1) **Sections 152 and 153** apply, with all necessary modifications, in respect of a review of ~~any~~ the conditions of a natural resource permit as if—

(a) the notice of review under **section 187** were an application for a natural resource permit; and

(b) the permit holder were the applicant for the natural resource permit.

~~(2) **Sections 144 to 151** apply, with all necessary modifications, as if—~~

~~(a) the review of permit conditions were an application for a natural resource permit for a discretionary activity; and~~

~~(b) the references to a natural resource permit and to the activity were references only to the review of the conditions and to the effects of the change of conditions respectively.~~

(3) If a plan states that a rule will affect the exercise of existing natural resource permits that are subject to review under **section 186(1)(e)(i)**, a permit authority—

(a) is not required to comply with **sections 144 to 151**; but

(b) must hear submissions only from the permit holder if the permit holder requests (within 20 working days ~~of~~ after service of the notice under **section 187**) to be heard.

(4) When reviewing the conditions of a natural resource permit under **section 186(1)(c)**, the permit authority must serve on the Minister notice of the review, and the Minister may—

(a) make a submission to the permit authority; and

(b) request to be heard.

Compare: 1991 No 69 s 130

189 Matters to be considered in review

(1) When reviewing the conditions of a natural resource permit, the permit authority—

(a) must have regard to the matters specified in **subpart 4** and to whether the activity allowed by the permit will continue to be viable after the change; and

(b) in the case of a review under **section 186(2)**, must have regard to any reasons that the court provided for making the order requiring the review; and

(c) may have regard to the manner in which the permit has been used.

(2) Before changing the conditions of a discharge permit or a coastal permit to do something that would otherwise contravene **section 21 or 23** to include a condition requiring the holder to adopt the best practicable option to remove or reduce any adverse effect on natural resources or people, the permit authority must— ~~be satisfied that including that condition is the most efficient and effective means of removing or reducing that adverse effect, in the particular circumstances and having regard to—~~

~~(a) the nature of the discharge and the receiving environment; and~~

~~(b) the financial implications for the applicant of including that condition; and~~

~~(c) other alternatives, including a condition requiring the observance of minimum standards of quality of the receiving environment.~~

(a) be satisfied that including that condition is the most efficient and effective means of removing or reducing that adverse effect in the particular circumstances; and

(b) have regard to—

(i) the nature of the discharge and the receiving environment; and

(ii) the financial implications for the applicant of including that condition; and

(iii) other alternatives, including a condition requiring the observance of minimum standards of quality of the receiving environment.

Compare: 1991 No 69 s 131

190 Decisions on review of permit conditions

(1) A permit authority may change the conditions of a natural resource permit (other than a condition specifying the duration of the permit) on a review under **section 186** if 1 or more of the circumstances specified in that section ~~applies~~ apply.

(2) If a permit authority decides to ~~do~~ conduct a review and, as a result of the review, intends to change a condition of a coastal permit and it is required by

section 186(4) to give notice of the intended review to the responsible chief executive~~ under that provision~~, it must give notice of its decision in the prescribed manner.

(3) **Subparts 4 and 5** apply, with all necessary modifications, to a review under **section 186** as if—

(a) the review were an application for a natural resource permit; and

(b) the permit holder were an applicant for a natural resource permit.

(4) A permit authority may cancel a natural resource permit if—

(a) it reviews the permit under **section 186(1)(f)**; and

~~(b) the application for the permit contained inaccuracies that the authority considers materially influenced the decision made on the application; and~~

(c) there are significant adverse effects on natural resources or people resulting from the~~ exercise~~ use of the permit.

(5) A permit authority may also cancel a natural resource permit if—

(a) it reviews the permit under **section 186(2)**; and

(b) there are significant adverse effects on natural resources or people resulting from the~~ exercise~~ use of the permit.

Compare: 1991 No 69 s 132

191 Powers under Part 6 not affected

~~Nothing in **sections** ~~**Sections 185 to 190** ~~limits ~~do not limit the power of the Environment Court to change or cancel a natural resource permit by an enforcement order under **Part 6**.

Compare: 1991 No 69 s 133

192 Minor corrections of natural resource permits

A permit authority that grants a natural resource permit may, within 20 working days ~~of ~~after the grant, issue an amended permit that corrects minor mistakes or defects in the permit.

Compare: 1991 No 69 s 133A

Transfer and surrender

193 Land use permits attach to land

(1) A land use permit attaches to the land to which the permit relates and accordingly may be enjoyed by the owners and occupiers of the land for the time being, unless the permit expressly provides otherwise.

(2) **Subsection (1)** does not apply to any land use permit to do something that would otherwise contravene **section 19**.

(3) The holder of a land use permit described in **subsection (2)** may transfer the whole or any part of the holder's interest in the permit to any other person unless the permit expressly provides otherwise.

(4) The transfer of the holder's interest in a permit described in **subsection (2)** has no effect until written notice of the transfer is given to the permit authority that granted the permit.

Compare: 1991 No 69 s 134

194 Transferability of coastal permits

(1) Unless the permit or a plan rule expressly provides otherwise, a holder of a coastal permit—

(a) may transfer the whole or any part of the holder's interest in the permit to any other person:

(b) may not transfer the whole or any part of the holder's interest in the permit to another site.

(2) The transfer of the holder's interest in a coastal permit has no effect until written notice of the transfer is given to the permit authority that granted the permit.

Compare: 1991 No 69 s 135

195 Transferability of water permits

(1) A holder of a water permit granted for damming or diverting water may transfer the whole of the holder's interest in the permit to any owner or occupier of the site in respect of which the permit is granted, but may not transfer the permit to any other person or from site to site.

(2) A holder of a water permit granted other than for damming or diverting water may transfer the whole or any part of the holder's interest in the permit—

(a) to any owner or occupier of the site in respect of which the permit is granted; or

(b) to another person on another site, or to another site, if both sites are in the same catchment (either upstream or downstream), aquifer, or geothermal field, and the transfer—

(i) is expressly allowed by a plan; or

(ii) has been approved by the permit authority that granted the permit on an application for transfer under **subsection (5)**.

(3) A transfer under **subsection (1) or (2)** may be for a limited period.

(4) A transfer under any of **subsections (1) and (2)(a) and (b)(i)** has no effect until written notice of the transfer is received by the permit authority that granted the permit.

(5) An application for transfer under **subsection (2)(b)(ii)**—

(a) must be in the prescribed form and be lodged jointly by the holder of the water permit and the person to whom the interest in the water permit will transfer; and

(b) must be considered in accordance with **subparts 1 to 5** of this Part as if—

(i) the application for a transfer were an application for a natural resource permit; and

(ii) the permit holder were an applicant for a natural resource permit.

(6) When considering an application for transfer under **subsection (2)(b)(ii)**, the permit authority must, in addition to the matters set out in **subpart 4**, have regard to the effects of the proposed transfer, including the effect of ceasing or changing the exercise of the permit under its current conditions, and the effects of allowing the transfer.

(7) If the transfer of the whole or part of the holder's interest in a water permit is notified under **subsection (4)**, or approved by the permit authority under **subsection (2)(b)(ii)**, and is not for a limited period, the original permit, or that part of the permit transferred, is deemed to be cancelled and the interest or part transferred is deemed to be a new permit—

(a) on the same conditions as the original permit (if **subsection (4)** applies); or

(b) on such conditions as the permit authority determines under **subsection (5)** (if that subsection applies).

Compare: 1991 No 69 s 136

196 Transferability of discharge permits

(1) The holder of a discharge permit may—

(a) transfer the whole or part ~~or all~~ of the holder's interest in the permit; and

(b) make the transfer for the whole or part ~~or all~~ of the remaining period of the permit.

(2) The holder may make the transfer if it—

(a) is for the site for which the permit is granted; and

(b) is to—

(i) another owner or occupier of the site for which the permit is granted; or

(ii) a local authority.

(3) The holder may make the transfer if it is for another site and is to any person~~,~~ if ~~a plan~~ the transfer—

~~(a) allows the transfer; or~~

~~(b) allows the holder to apply to the permit authority that granted the permit to be allowed to make the transfer.~~

(a) is expressly allowed by a plan; or

(b) has been approved by the permit authority that granted the permit on an application for transfer under **subsection (5)**.

(4) A plan may allow a transfer, or a permit authority may allow a transfer on application by the permit holder, if—

(a) the transfer does not worsen the actual or potential effect of any discharges on natural resources or people; and

(b) the transfer does not result in any discharges that contravene a national rule; and

(c) if the discharge is to water, both sites are in the same catchment; and

(d) if the discharge is to air and a national rule applies to a discharge to air, both sites are in the same air-shed as defined in the rule; and

(e) if the discharge is to air and **paragraph (d)** does not apply, both sites are in the same region.

(5) An application under **subsection (3)(b)**—

(a) must be in the prescribed form (if any); and

(b) must be lodged jointly by the holder and the person to whom it is proposed to transfer the interest in the permit; and

(c) must be considered under **subparts 1 to 5** of this Part as if—

(i) the application for a transfer were an application for a natural resource permit; and

(ii) the holder were an applicant for a natural resource permit.

(6) The transfer has no effect until the permit authority that granted the permit receives written notice of it.

(7) When a planning authority receives written notice of a transfer that is made for all of the remaining period of the permit,—

(a) the original permit, or the part of it that relates to the part of the interest transferred, is cancelled; and

(b) the interest, or the part of ~~it~~ the interest transferred, is a new permit ~~on~~ with the same conditions as the original permit.

Compare: 1991 No 69 s 137

197 Surrender of permit

(1) The permit holder ~~of a natural resource permit~~ may surrender the permit, either in whole or in part, by giving written notice to the permit authority.

(2) A permit authority may refuse to accept the surrender of part of a natural resource permit ~~where~~ if it considers that the surrender of that part would—

(a) affect the integrity of the permit; or

(b) affect the ability of the permit holder to meet other conditions of the permit; or

(c) lead to an adverse effect on natural resources or people.

(3) A person who surrenders a natural resource permit remains liable under this Act—

(a) for any breach of conditions of the permit that occurred before the surrender of the permit; and

(b) to complete any work to give effect to the permit unless the permit authority directs otherwise in its notice of acceptance of the surrender ~~under **subsection (4)**~~.

(4) A surrender of a natural resource permit takes effect on receipt by the permit holder of a notice of acceptance of the surrender from the permit authority.

Compare: 1991 No 69 s 138

198 Special provisions relating to coastal permits for dumping and incineration

(1) When considering an application for a coastal permit to do something that would otherwise contravene **section 22(1)**, a permit authority, in having regard to the actual and potential effects on natural resources or people of allowing the activity, must have regard to—

(a) the nature of any discharge of any contaminant ~~which~~ that the dumping or incineration may involve, the sensitivity of the receiving environment to adverse effects, and the applicant's reasons for making the proposed choice; and

(b) any possible alternative methods of disposal or combustion, including any involving discharge into any other receiving environment.

(2) The permit authority may require the applicant to give further information to explain any matter referred to in **subsection (1)(a) and (b)**. The requirement must be in writing and may be made at a reasonable time before the hearing (or, if there is no hearing, the determination) of the application.

(3) The permit authority may include a condition requiring the permit holder to adopt the best practicable option to prevent or minimise any actual or likely adverse effect on natural resources or people of any discharge of any contaminant ~~which~~ that may occur in the exercise of the permit (**best practicable option condition**).

(4) A permit authority may, at any time, in accordance with **section 187**, serve notice on the permit holder of its intention to review the conditions of the permit for the purpose of including the best practicable option condition.

(5) Before deciding to include the best practicable option condition (when granting the permit or as a result of a review under **subsection (4)**), the permit authority must—

(a) have regard to—

(i) the nature of any discharge of a contaminant and the receiving environment; and

(ii) the financial implications for the permit holder of including that condition; and

(iii) other alternatives, including a condition requiring the observance of minimum standards of quality of the receiving environment; and

(b) be satisfied, in the particular circumstances, that including the condition is the most efficient and effective means of removing or reducing any adverse effect.

(6) It is a condition of the permit that the permit holder must—

(a) comply with any requirements in regulations~~ made under section 800~~ to keep records of specified information; and

(b) provide the relevant local authority each year with information specified in those regulations.

(7) **Sections 187 to 192** apply, subject to **subsection (5)**, to a review of a permit under **subsection (4)**. The powers of a permit authority under **subsection (4)** are in addition to its powers under **section 186**.

(8) This section does not limit—

(a) **subpart 4**:

(b) **section 169** except as provided in **subsection (5)**.

Processes relating to activities that do not require natural resource permit

199 Permit authority may treat certain activities as permitted activities

(1) An activity is a permitted activity if—

(a) the activity would be a permitted activity except for a marginal or temporary non-compliance with requirements, conditions, and permissions specified in this Act, regulations, a natural environment plan, or a proposed natural environment plan; and

(b) any adverse effects of the activity on natural resources and people are no different in character, intensity, or scale than they would be in the absence of the marginal or temporary non-compliance~~ referred to in **paragraph (a)**~~; and

(c) any adverse effects of the activity on a person are minor or less than minor; and

(d) the permit authority, in its discretion, decides to notify the person proposing to undertake the activity that the activity is a permitted activity.

(2) A permit authority may give a notice under **subsection (1)(d)**—

(a) after receiving an application for a natural resource permit for the activity; or

(b) on its own initiative.

(3) The notice must be in writing and must include—

(a) a description of the activity; and

(b) details of the site at which the activity is to occur; and

(c) the permit authority's reasons for considering that the activity meets the criteria in **subsection (1)(a) to (c)**~~;~~ and the information relied on by the permit authority in making that decision.

(4) If a person has submitted an application for a natural resource permit for an activity that is a permitted activity under this section, the application need not be further processed, considered, or decided and must be returned to the applicant.

(5) A notice given under **subsection (1)(d)** lapses 5 years after the date of the notice unless the activity permitted by the notice is given effect to.

Compare: 1991 No 69 s 87BB

200 Certificate of compliance where activity does not require permit

(1) A person may apply to the permit authority for a certificate of compliance in relation to an activity that can be done lawfully in a particular location without a natural resource permit in accordance with **section 178 of the Planning Act 2025**, and that section applies with all necessary modifications.

(2) A certificate treated as a natural resource permit is subject to **section 25(2)**.

(3) A certificate treated as a natural resource permit is subject to this Act as if it were a natural resource permit, except that the only sections in this Part that apply to it are **sections 172 to 174, 181(b), and 193 to 196**.

(4) In this section, **activity** includes a particular proposal.

Compare: 1991 No 69 s 139

201 Existing use certificates

(1) A person may request the permit authority to issue a certificate that—

(a) describes an activity to which **section 25** applies; and

(b) states that the activity was an activity allowed by **section 25** on the date on which the authority issues the certificate; and

(c) specifies the character, intensity, and scale of the activity on the date on which the authority issues the certificate; and

(d) describes the period for which the activity is allowed under **section 25**.

(2) **Section 179(3) to (7) and (9) of the Planning Act 2025** apply to the request for, and issue of, a certificate under **subsections (1) and (2)**.

(3) An existing use certificate is treated as an appropriate natural resource permit, and it is subject to this Act as if it were a natural resource permit, except that the only sections in this Part that apply to it are **sections 172 to 174**.

Compare: 1991 No 69 s 139A

202 Notification and registration of activity subject to permitted activity rule

(1) This section applies to a person proposing to carry out an activity in accordance with a permitted activity rule that requires an activity to be registered (*see* **section 39**).

(2) The person must, in writing,—

(a) notify the relevant permit authority that they propose to carry out a permitted activity in accordance with the permitted activity rule; and

(b) include in the notification—

(i) a description of how ~~any~~ the conditions set by the permitted activity rule will be met; and

(ii) any other information required by the permitted activity rule.

(3) The permit authority must, within 10 working days ~~of~~ after receiving the notification,—

(a) determine, on the information provided, whether the permitted activity rule will be met; and

(b) notify the person of that determination.

(4) If the permit authority determines that the permitted activity rule will be met, the permit authority must—

(a) register the activity; and

(b) carry out any monitoring of the activity required to ensure that the permitted activity rule is met.

(5) The registration of an activity that is subject to a permitted activity rule lapses 3 years after the date the activity is registered under **subsection (4)**, unless the person carries out the activity in accordance with the permitted activity rule before the registration lapses.

Further provisions relating to reclamation

203 Further provisions relating to reclamation

Part 5 of Schedule 7 of the Planning Act 2025 sets out further provisions relating to reclamation that apply if a natural resource permit for a reclamation is granted.

~~Subpart 7—Market-based allocation processes and comparative permitting processes~~

~~*Market-based allocation process*~~

~~**204 Application of sections 205 and 206**~~

~~(1) **Sections 205 and 206** apply if a right to apply for a permit to undertake a natural resource use activity relating to a resource listed in **section 223** is issued to a person—~~

~~(a) by a permit authority through a market-based allocation process as required or permitted by a national standard or required by a plan; or~~

~~(b) by the Minister responsible for aquaculture under this Act.~~

~~(2) In this section and **sections 205 and 206**,—~~

~~**relevant permit** means the permit to which the right to apply relates~~

~~**right to apply** means an exclusive right to apply for a permit, or an authorisation for the purpose of any preferential rights held by iwi, to undertake a natural resource use activity.~~

~~Compare: 2023 No 46 s 226~~

~~**205 Right to apply may be transferred**~~

~~A right to apply for a permit may be transferred by its holder to any other person, but the right does not take effect until written notice of the transfer has been received by the appropriate regional council or unitary authority.~~

~~Compare: 2023 No 46 s 227~~

~~**206 When right to apply lapses**~~

~~(1) A right to apply lapses on the close of 2 years after it was issued (the **2-year date**) unless—~~

~~(a) the holder of the right has, within the 2-year period obtained a relevant natural resource permit (and as a consequence the right to apply lapses when the permit is issued); or~~

~~(b) the situation described in **subsection (2)** has occurred and as a consequence the right to apply lapses when the time for lodging an appeal expires or the decision of the court on appeal has been given (as the case may be).~~

~~(2) The situation referred to in **subsection (1)(b)** is as follows:~~

~~(a) the holder of the right has lodged an application for a relevant permit with the permit authority before the 2-year date; and~~

~~(b) on the 2-year date—~~

~~(i) the regional council has not made a decision; or~~

~~(ii) the regional council has made a decision but the time for lodging appeals to the Planning Tribunal or the Environment Court has not expired; or~~

~~(iii) an appeal has been lodged but the court has not made a decision on that appeal.~~

~~Compare: 1991 No 69 s 164, 2023 No 46 s 228~~

~~207 Restrictions on use of market based allocation method~~

~~The use of market based allocation method under this subpart is subject to **clause 3, 6, and 42(2) of Schedule 3**.~~

~~Comparative consenting process~~

~~208 Defined terms~~

~~In **sections 209 to 214**,—~~

~~**affected application** means an application that satisfies the requirements of **section 209(a) and (b)**~~

~~**required time period** means the time period determined under **section 210**.~~

~~209 Permit authority must deal with affected applications~~

~~A permit authority must hear, process, and determine an application for a natural resource permit in accordance with this Part, but only if—~~

~~(a) the application is one that is required, by a rule in a plan to be processed under this Part; and~~

~~(b) the application is made within the required time period.~~

~~Compare: 2023 No 46 Schedule 10 cl 2~~

~~210 Required time period must be publicly notified~~

~~Every permit authority must—~~

~~(a) determine the required time period; and~~

~~(b) not later than 40 working days before a required time period commences, give public notice of the required time period.~~

~~Compare: 2023 No 46 Schedule 10 cl 3~~

~~211 Part applies to affect application~~

~~This Part applies to an affected application except and to the extent it provides otherwise.~~

~~Compare: 2023 No 46 Schedule 10 cl 4~~

~~212 Affected applications to be dealt with at same time~~

~~All affected applications submitted to a permit authority within the same required time period must,—~~

~~(a) subject to this Part, together undergo the procedures and requirements of the permitting process at the same time; and~~

~~(b) undergo those procedures and requirements in accordance with the same time frame.~~

~~Compare: 2023 No 46 Schedule 10 cl 5~~

~~213 When time frame for processing affected applications commences~~

~~The time frame for processing an affected application commences on the next working day after the close of the required time period.~~

~~Compare: 2023 No 46 Schedule 10 cl 7~~

~~214 Requirement for determining affected applications~~

~~(1) When determining affected applications under this Part, a permit authority must,—~~

~~(a) when having regard to the matters in **subpart 4**, consider the merits of each affected application against the merits of all the other affected applications; and~~

~~(b) have regard to any other applicable criteria set out in the relevant plan, any regulations, or a national instrument.~~

~~(2) A permit authority—~~

~~(a) must not determine an affected application in the order the application is lodged; but~~

~~(b) must instead determine affected applications together.~~

~~(3) **Subsection (1)** is in addition to any other requirements, criteria, or other matters that a decision maker must consider or take into account under this Part when determining an affected application.~~

~~Compare: 2023 No 46 Schedule 10 cl 11~~

Part 5
Key roles

Subpart 1—Functions and powers of central and local government

215 Functions of Minister

The Minister has the following functions under this Act:

(a) recommending the approval of a national instrument under **section ~~74~~ 88**:

(b) recommending the ~~issue~~ making, revocation, or amendment of water conservation orders under **clause 13 or 15 of Schedule 4**:

(c) monitoring the exercise and performance ~~of the systems~~, by local authorities and any other person, of the functions, powers, and duties under this

Act and the **Planning Act 2025**~~, including the functions, duties, and powers exercised by any person under those Acts~~:

(d) monitoring the ~~effect of and~~ implementation and effect of this Act (including any regulations in force under it), national policy direction, ~~and~~ national standards, and water conservation orders:

(e) monitoring ~~of~~ the relationship between the functions, powers, and duties of central government and local government under this Part:

(f) monitoring and ~~investigation~~ investigating, in such manner as the Minister thinks fit, ~~of~~ any significant ~~land use~~ natural environment or natural resource matter:

(g) considering and investigating the use of economic instruments (including charges, levies, other fiscal measures, and incentives) to achieve the purpose of this Act:

(h) any other functions specified in this Act.

Compare: 1991 No 69 s 24

215A Minister of Conservation has certain powers of regional council

(1) The Minister of Conservation—

(a) has, in respect of the coastal marine areas of the islands specified in **subsection (2)**, the functions, powers, and duties that a regional council would have under this Act if those coastal marine areas were within the region of that regional council; and

(b) may, in respect of those islands, exercise and perform the functions, powers, and duties that a regional council would have under this Act if those islands were within the region of that regional council.

(2) The islands are—

(a) the Kermadec Islands:

(b) the Snares Islands:

(c) the Bounty Islands:

(d) the Antipodes Islands:

(e) the Auckland Islands:

(f) Campbell Island:

(g) the islands adjacent to Campbell Island.

(3) The functions, powers, and duties conferred or imposed on the Minister of Conservation by this section are in addition to the functions, powers, and duties conferred or imposed on that Minister by this Act.

Compare: 1991 No 69 s 31A(1)(a), (b)(i), (3)

215B Functions of the Minister responsible for aquaculture

The Minister responsible for aquaculture has the following functions under this Act:

(a) recommending the making of regulations under **section 310** that amend plans in relation to aquaculture activities in the coastal marine area and establish rules for the allocation of specified aquaculture-related authorisations:

(b) offering authorisations for coastal permits for the occupation of space in the common marine and coastal area under **clause 8 of Schedule 3**:

(c) accepting offers for authorisations for activities in the common marine and coastal area under **clause 23 of Schedule 3**:

(d) suspending receipt of applications for coastal permits to occupy space in a common marine and coastal area for the purposes of aquaculture activities—

(i) at the request of the regional council made under **clause 27 of Schedule 3**; or

(ii) at their own initiative under **clause 28 of Schedule 3**:

(e) directing a permit authority to process and hear together applications for coastal permits authorising aquaculture activities to be undertaken in the coastal marine area under **clause 34 of Schedule 3**.

216 ~~Powers of~~ Minister has certain powers in Planning Act 2025

(1) In addition to the powers set out in this subpart, the Minister may exercise the powers set out in **sections 201, 202, 204, and 207 of the Planning Act 2025** as if they applied in relation to this Act and with all necessary modifications.

(2) The exercise of the powers under **subsection (1)** is subject to any applicable requirements set out in **section 206 of the Planning Act 2025**.

217 Minister may direct preparation of plan, ~~document,~~ plan change, or variation

(1) The Minister—

(a) may direct a regional council—

(i) to prepare a natural environment plan that addresses ~~a natural resource~~ an issue relating to a ~~function~~ duty set out in **section ~~224~~ 221**; or

(ii) to prepare a change to its natural environment plan that addresses the issue; or

(iii) to prepare a variation to its proposed natural environment plan that addresses the issue; and

(b) may direct the council, in preparing the plan, plan change, or variation, to deal with the whole or a specified part of the council's region; and

(c) must~~, in giving a direction,~~ specify a reasonable~~ period~~ time frame within which the plan, plan change, or variation must be notified.

(2) However, the Minister must not issue a direction under **subsection (1)** unless—

(a) the Minister has investigated the regional council under **section 201(1)(a) or (c) of the Planning Act 2025** in relation to the~~ natural resource~~ issue; and

(b) the Minister has made recommendations to the regional council under **section 201(1)(b) or (d) of the Planning Act 2025** in relation to the ~~natural resource~~ issue.

(3) The Minister is not required to comply with the requirement in **subsection ~~(3)(a)~~ (2)(a)** if the Minister has reasonable evidence that a regional council is not exercising or performing the relevant functions, powers, or duties under this Act.

(4) In **subsection~~ (4)~~ (3)**, **reasonable evidence** means—

(a) the regional council has published 1 or more of the following that establish that it does not intend to exercise or perform the relevant functions, powers, or duties:

(i) a resolution:

~~(ii) a written statutory document; or~~

(ii) any document required by legislation; or

(b) ~~there is~~ evidence of the regional council's failure to comply with ~~statutory~~ time frames ~~in~~ under this Act or prescribed in a national instrument~~.~~; or

(c) information collected by the Minister as part of the Minister's ongoing monitoring of the regional council's exercise or performance of its functions, powers, or duties.

~~(5) If a national direction requires a regional council to prepare a document other than a plan or policy statement and the council has not prepared the document as required, the Minister—~~

~~(a) may direct the council to—~~

~~(i) prepare the document; or~~

~~(ii) amend the document to meet the requirements of the national direction; and~~

~~(b) must, in giving a direction, specify a reasonable period within which the document must be prepared or amended.~~

~~(6) The Minister—~~

~~(a) may direct a regional council to—~~

~~(i) prepare a plan change or variation to address any non-compliance with a national direction; and~~

~~(ii) use the planning process under this Act to prepare the plan change or variation; and~~

~~(b) must, in giving a direction, specify a reasonable period within which the plan change or variation must be notified.~~

~~(7) However, the Minister must not make a direction under **subsection (6) or (7)** unless—~~

~~(a) the Minister has investigated the regional council under **section 201(1)(c) of the Planning Act 2025** in relation to the non-compliance with the national policy statement; and~~

~~(b) the Minister has made recommendations to the regional council under **section 201(1)(d) of the Planning Act 2025** in relation to that non-compliance.~~

Compare: 1991 No 69 s 25A

217A Minister may direct compliance with national instrument

(1) If a national instrument requires a regional council to prepare a document other than a plan, and the council has not prepared the document as required, the Minister—

(a) may direct the council to—

(i) prepare the document; or

(ii) amend the document to meet the requirements of the national instrument; and

(b) must specify a reasonable time frame within which the document must be prepared or amended.

(2) The Minister—

(a) may direct a regional council to—

(i) prepare a plan change or variation to address any non-compliance with a national instrument; and

(ii) use the planning process under **Schedule 3 of the Planning Act 2025** to prepare the plan change or variation; and

(b) must specify a reasonable time frame within which the plan change or variation must be notified.

(3) However, the Minister must not make a direction under **subsection (1) or (2)** unless—

(a) the Minister has investigated the regional council under **section 201(1)(c) of the Planning Act 2025** in relation to the non-compliance with the national instrument; and

(b) the Minister has made recommendations to the regional council under **section 201(1)(d) of the Planning Act 2025** in relation to that non-compliance.

218 Ministers may direct commencement of review

(1) The Minister may direct a regional council to commence a review of the whole or any part of its natural environment plan and, if the Minister does so, must specify a reasonable ~~period~~ time frame within which the review must commence.

(2) For the purposes of **subsection (1)**, **section 112(2) to (4)** applies to the review with ~~any~~ all necessary ~~modification~~ modifications.

Compare: 1991 No 69 s 25B

218A Restriction on ministerial direction

The Minister may not give a direction under section 103 of the Crown Entities Act 2004 that relates to the exercise of the EPA's functions under **section 246**.

~~Delegations~~ Ministerial delegations

219 Delegation of functions by Ministers to chief executive

(1) ~~Any~~ A Minister of the Crown may, either generally or particularly, delegate to the chief executive of that Minister's department, in accordance with clause 5 of Schedule 6 of the Public Service Act 2020, any of that Minister's functions, powers, or duties under this Act other than the following:

(a) appointing persons to exercise powers or perform functions or duties in place of a local authority under **section 202 of the Planning Act 2025**:

(b) recommending the making of a national instrument under **section ~~74~~ 88**:

(c) recommending the making of regulations under this Act:

(d) recommending the making of an Order in Council under this Act:

(e) issuing directions in relation to the exercise of a local authority's functions, powers, or duties under this Act:

(f) making decisions on ~~the environmental limits framework~~ setting human health limits:

(g) recommending the ~~issue~~ making, revocation, or amendment of a water conservation order under **clause 13 or 15 of Schedule 4**:

(h) this power of delegation.

(2) A chief executive may, in accordance with clauses 2 and 3 of Schedule 6 of the Public Service Act 2020, subdelegate any function, power, or duty delegated to ~~him or her~~ them by a Minister under clause 5 of that schedule.

(3) Any delegation or subdelegation made under this section may be revoked in accordance with clause 4 or 6 of Schedule 6 of the Public Service Act 2020.

Compare: 1991 No 69 s 29

~~Minister of Conservation~~

~~220 Minister of Conservation to has powers of regional council~~

~~(1) The Minister of Conservation may exercise, in respect of the islands specified in **subsection (2)** the powers and responsibilities, that—~~

~~(a) a regional council has in respect of the coastal marine area; and~~

~~(b) a territorial authority has in respect of the islands.~~

~~(2) The islands referred to in **subsection (1)** are—~~

~~(a) the Kermadec Islands:~~

~~(b) the Snares Islands:~~

~~(c) the Bounty Islands:~~

~~(d) the Antipodes Islands:~~

~~(e) the Auckland Islands:~~

~~(f) Campbell Island:~~

~~(g) the islands adjacent to Campbell Island.~~

~~(3) The responsibilities, duties, and powers conferred on the Minister of Conservation by this section are in addition to the responsibilities, duties, and powers conferred on that Minister by this Act.~~

~~Compare: 1991 No 69 s 31A(1)(a), (b)(i), (3)~~

Subpart 2—Functions, powers, and ~~responsibilities~~ duties of regional councils

221 ~~Overview of responsibilities~~ Duties of regional councils

(1) ~~Every~~ A regional council must enable and regulate the use, protection, and enhancement of the natural environment within its region.

(2) In undertaking its ~~responsibilities~~ duties under **subsection (1)**, a regional council must regulate and manage ~~the matters specified in this subpart in relation to the following~~ the following matters:

(a) the quality and quantity of water and geothermal resources:

(b) the discharge of contaminants to land, air, or water:

(c) indigenous biodiversity:

(d) the coastal marine area, including coastal occupation:

(e) natural hazard risks as they relate to natural resources:

(f) soil conservation:

(g) the bed of any water body:

(h) the use of land ~~where~~ if required for regulating the use of, and effects on, natural resources:

(i) the allocation of natural resources.

(3) In this section, **soil conservation** means ~~managing the use and condition of soil, including soil erosion and soil contamination.~~—

(a) avoiding, mitigating, or remedying soil erosion:

(b) maintaining the physical, chemical, and biological qualities of soil.

222 Functions of regional councils

(1) ~~Every~~ A regional council has the following functions:

~~*Planning and related functions*~~

(a) making and ~~maintaining~~ reviewing a natural environment plan for ~~the~~ its region~~; and~~:

(b) administering and implementing ~~the~~ its natural environment plan~~, including—~~:

~~(i) setting the environmental limits for the region; and~~

~~(ii) acting as a permitting authority for the region; and~~

~~(iii) undertaking monitoring, enforcement, and compliance actions to achieve compliance with this Act, national standards, regulations, and the provisions of the plan; and~~

(ba) monitoring the implementation of this Act within its region:

(bb) acting as a permit authority for its region:

(bc) monitoring and enforcing compliance with this Act:

(bd) monitoring, within its region,—

(i) the state of the natural environment; and

(ii) the effects on human health caused by the discharge of contaminants:

(be) setting environmental limits for its region:

(c) jointly with ~~the territorial authorities of the region~~ other local authorities, making and maintaining a regional spatial plan for the region~~; and~~:

(d) regulating and managing effects ~~in accordance with~~ under **subpart 1 of Part 2**~~; and~~:

(e) any other functions or ~~responsibilities~~ duties specified in this Act or in the **Planning Act 2025**.

(2) Despite **section 221**, a regional council—

(a) must not perform its functions to control the taking, allocation, or enhancement of fisheries resources in the coastal marine area for the purpose of managing fishing or fisheries resources controlled under the Fisheries Act 1996; but

(b) may perform its functions to control aquaculture activities in the coastal marine area so as to avoid, minimise, or remedy the effects of aquaculture activities on fishing and fisheries resources.

~~*Monitoring and enforcing compliance*~~

~~(2) In addition to the general responsibility of every regional council, the following are the functions and responsibilities of a regional council within its region:~~

~~(a) monitoring compliance with standards, rules, and permits and responding proportionately, consistently, and reasonably to non-compliance using the functions and powers available to them under this Act, so as to promote compliance, in a way that gives effect to the purpose, goals, and procedural principles of this Act.~~

~~*Functions relating to fisheries*~~

~~(3) A regional council and the Minister of Conservation may perform the functions set out in **subsection (3A)** to control aquaculture activities so as to avoid, minimise, or remedy the effects of aquaculture activities on fishing and fisheries resources.~~

~~(4) The functions referred to in **subsection (3)** are the control of—~~

~~(a) land and its associated natural and physical resource:~~

~~(b) the occupation of space in, and the extraction of sand, shingle, shell, or other natural material from the coastal marine area where it is within the common marine and coastal area:~~

~~(c) the taking, using, damming, and diverting of water:~~

~~(d) discharges of contaminants into or onto land, air, or water and discharges of water into water:~~

~~(e) the dumping and incineration of waste or other matter and the dumping of ships, aircraft, and offshore installations:~~

~~(f) any actual or potential effects of the use, development, or protection of land, including avoiding or mitigating natural hazards:~~

~~(g) the emission of noise and mitigation of the effects of noise:~~

~~(h) activities in relation to the surface of water.~~

~~(5) However, a regional council and the Minister of Conservation must not perform the functions specified in **subsection (3A)(a), (b), and (h)** for the purpose of controlling the taking, allocation, or enhancement of fisheries resources~~

~~so as to manage fishing or fisheries resources controlled under the Fisheries Act 1996.~~

Compare: 1991 No 69 s 30(1)(c)–(f), (g), (2), and (3)

~~Other functions and responsibilities~~

223 Allocation of natural resources

~~Every~~ A regional council ~~has responsibility~~ is responsible for allocating any of the following, as it considers appropriate:

(a) the taking, diverting, or use of freshwater, geothermal water, or coastal water:

(b) the taking or use of heat or energy from water:

(c) the taking or use of heat or energy from the material surrounding geothermal water:

(d) the capacity of air or water to assimilate a discharge of a contaminant:

(da) the damming of water:

(e) the occupation of space in the common marine and coastal area:

(f) the extraction of natural materials such as sand, shell, and shingle from—

(i) ~~river or lakebeds~~ the beds of lakes and rivers that are land of the Crown; and

(ii) the common marine and coastal area.

~~**224 Regulatory agencies to enforce law proportionately, consistently, and reasonably**~~

~~In addition to the general responsibility of every regional council, the following are the functions and responsibilities of a regional council has responsibility, within its region,—~~

~~(a) to monitor compliance with standards, rules, and permits; and~~

~~(b) to respond proportionately, consistently, and reasonably to non-compliance; and~~

~~(c) to use the functions and powers available to them under this Act, so as to promote compliance, in a way that gives effect to the purpose, goals, and procedural principles of this Act.~~

224 Monitoring and information gathering

(1) A regional council must—

(a) carry out its monitoring functions in its region; and

(b) report on the results of that monitoring; and

(c) if monitoring shows that action is needed, take appropriate action having regard to its functions, powers, and duties under this Act.

(2) In particular, a regional council must—

(a) monitor the state of the natural environment, and the effects on human health caused by the discharge of contaminants, in relation to the whole or any part of its region; and

(b) monitor the implementation of water conservation orders within its region; and

(c) identify contaminated land and land associated with hazardous activity or industry within its region; and

(d) keep a record that is available to the public in relation to the matters specified in **paragraph (c)**.

(3) A regional council must gather the information that it needs to exercise or perform its functions, powers, and duties under this Act.

(4) A regional council must keep, reasonably available and in an accessible format, information that is relevant to the exercise or performance of its functions, powers, and duties under this Act, so that members of the public—

(a) are better informed of those functions, powers, and duties; and

(b) are able to participate in the relevant processes under this Act.

(5) A regional council must comply with any requirements relating to monitoring, reporting, and information gathering under this section prescribed in regulations and national instruments.

224A Duty to keep records about iwi and hapū

(1) A regional council must, for the purposes of this Act, keep and maintain for each iwi and hapū within its region, a record of—

(a) the contact details for each iwi authority within the region and for groups representing hapū within the region; and

(b) the planning documents recognised by each iwi authority and lodged with the regional council; and

(c) any area in the region where 1 or more iwi or hapū exercise kaitiakitanga; and

(d) any Mana Whakahono ā Rohe applying in the region.

(2) The Crown must maintain and provide to each regional council information (including updated information) on—

(a) the iwi authorities within the region of that regional council and any areas where 1 or more iwi exercise kaitiakitanga; and

(b) any groups that represent hapū for the purposes of this Act within the region and any areas where 1 or more hapū exercise kaitiakitanga; and

(c) the matters provided for in **paragraphs (a) and (b)** that another local authority has advised to the Crown.

(3) A regional council—

(a) must include in its records all the information provided to it by the Crown under **subsection (2)**; and

(b) may also keep a record of information relevant to the region—

(i) about 1 or more iwi, obtained directly from the relevant iwi authority; and

(ii) about 1 or more hapū, obtained directly from the relevant group representing the hapū for the purposes of this Act.

(4) In this section, the requirement under **subsection (1)** does not apply to hapū unless a hapū, through its representative group, requests the Crown or the regional council to include the information for that hapū.

(5) If the information recorded under **subsection (1)** conflicts with a provision of other legislation, or advice given or a determination made under the other legislation, the provision, advice, or determination under the other legislation prevails.

(6) A regional council may use the information kept and maintained under this section only—

(a) for the purposes of this Act or the **Planning Act 2025**; or

(b) for other purposes with the written agreement of the iwi authority for the iwi, or the group representing hapū for the hapū, to which the information relates.

(7) Information required to be provided under this section must be provided in accordance with any requirements prescribed in regulations.

Compare: 1991 No 69 s 35A

Statutory acknowledgements

225 Obligations relating to statutory acknowledgements

~~Every~~ A regional council must ensure that, in undertaking its planning and other functions ~~and responsibilities~~, powers, and duties under this subpart, its ability to fulfil the obligations relating to any statutory acknowledgements applying within, or in any part of, its region is not impeded.

226 Provision of relevant information to post-settlement governance entity

(1) This section applies if—

(a) a ~~consent~~ permit authority is or was required by legislation to provide relevant information relating to a natural resource permit application for an activity within, adjacent to, or directly affecting a statutory area of a post-settlement governance entity; but

(b) the requirement no longer ~~no longer~~ applies (for example, because the period specified in the legislation has expired).

(2) The ~~consent~~ permit authority must provide the post-settlement governance entity with ~~relevant information relating information relating to a permit application.~~ a summary of the natural resource permit application, if the application is received by the permit authority.

~~(3) In this section, **relevant information** means the following information relating to an application for an activity within, adjacent to, or directly affecting a statutory area of the post-settlement governance entity:~~

~~(a) a summary of the application, if the application is received by the consent authority; or~~

~~(b) a copy of the notice, if a notice of the application is served on the consent authority under this section.~~

(4) The summary must be the same as would be given to an affected person by ~~limited~~ targeted notification under **section 146** or as may be agreed between the post-settlement governance entity and the ~~consent~~ permit authority.

~~(5) A consent authority must provide the post-settlement governance entity—~~

~~(a) with the summary—~~

~~(i) as soon as reasonably practicable after the consent authority receives the application for the permit; but~~

~~(ii) before the relevant consent authority decides under **section 144** whether to notify the application; and~~

~~(b) with a copy of the notice not later than 10 working days after the day on which the consent authority receives the notice.~~

(5) A permit authority must provide the post-settlement governance entity with the summary—

(a) as soon as is reasonably practicable after the permit authority receives the natural resource permit application; and

(b) before the permit authority decides under **section 144** whether to notify the application.

(6) The post-settlement governance entity may, by written notice to the ~~consent~~ permit authority,—

(a) waive the right to be provided with the summary or copy of the notice; and

(b) state the scope of that waiver and the period that it applies for.

(7) This section does not affect the ~~obligations~~ duty of the ~~consent~~ permit authority to decide,—

(a) under **section 144**, whether to notify an application:

(b) under **section 149**, whether the post-settlement governance entity is an affected person in relation to an activity.

~~(8) In this section, **legislation** has the meaning given in section 5 of the Legislation Act 2019 and includes any enactment.~~

Compare: 1991 No 69 s 42AA

~~*Information and monitoring*~~

~~227 Information gathering, monitoring, and keeping records~~

~~(1) Every regional council must monitor the state of the environment in relation to the whole or any part of the region.~~

~~(2) Monitoring must include consideration of the following:~~

~~(a) the efficiency and effectiveness of limits, rules, or other methods in the regional plan; and~~

~~(b) the exercise of any functions and responsibilities under its plan or delegated or transferred by the regional council; and~~

~~(c) the exercise of permits; and~~

~~(d) the exercise of a protected customary right in its region, including any controls imposed on the exercise of that right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011.~~

~~(3) Every regional council must take appropriate action in accordance with any national standard or other regulations, having regard to the methods it is able to use under this Act, when its monitoring of the state of the environment shows action is needed.~~

~~(4) Every regional council must take appropriate action, including in accordance with any regulations made under this Act or the **Planning Act 2025**, having regard to the methods it is able to use under this Act when monitoring shows that action is needed.~~

~~Compare: 1991 No 69 s 35(1), (2), (2AA)~~

~~228 Duty to keep records about iwi and hapū~~

~~(1) Every regional council must, for the purposes of this Act or regulations made under this Act, keep and maintain for each iwi and hapū within its region, a record of—~~

~~(a) the contact details for each iwi authority within the region and for groups within the region representing hapū; and~~

~~(b) the planning documents recognised by each iwi authority and lodged with the regional council; and~~

~~(c) any area in the region where 1 or more iwi or hapū exercise kaitiakitanga:~~

~~(d) any existing or initiated Mana Whakahono a Rohe applying in the region.~~

~~(2) The Crown must maintain and provide to each regional council information (including updated information) on—~~

~~(a) the iwi authorities within the region of that regional council and any areas where 1 or more iwi exercise kaitiakitanga; and~~

~~(b) any groups that represent hapū for the purposes of this Act within the region and any areas where hapū exercise kaitiakitanga; and~~

~~(c) the matters provided for in **paragraphs (a) and (c)** that the regional council has advised to the Crown.~~

~~(3) Each regional council—~~

~~(a) must include in its records all the information provided to it by the Crown under **subsection (2)**; and~~

~~(b) may also keep, for the purposes of this Act or regulations under this Act, a record of information relevant to the region—~~

~~(i) about 1 or more iwi, obtained directly from the relevant iwi authority; and~~

~~(ii) about 1 or more hapū, obtained directly from the relevant group representing the hapū for the purposes of this Act or regulations made under this Act.~~

~~(4) In this section the requirement under **subsection (1)** does not apply to hapū unless a hapū, through its representative group, requests the Crown or the regional council to include the information for that hapū.~~

~~(5) If the information recorded in accordance with **subsection (1)** conflicts with a provision of another enactment, or advice given or determination made under the other enactment, the provision, advice, or determination under the other enactment, prevails.~~

~~(6) Information kept and maintained by a regional council under this section must not be used by the council except for the purposes of this Act or of regulations made under this Act.~~

~~(7) Information required to be provided under this section must be provided in accordance with any prescribed requirements.~~

~~Compare: 1991 No 69 s 35A~~

~~*Administrative charges*~~

~~229 Administrative charges~~

~~(1) A local authority may fix charges of all or any of the following kinds:~~

~~(a) charges payable in relation to any application, notice, or request under this Act where the local authority or an independent hearings panel has functions under this Act in relation to the application, notice, or request:~~

~~(b) charges payable to recover the costs of the carrying out by the local authority of its functions, duties, or powers under this Act:~~

~~(c) charges payable by a person who, in the opinion of an enforcement officer, has contravened this Act, a national environmental standard, a regulation, a rule in a plan, or a natural resource permit, for the carrying out by the local authority of any function necessary to determine whether the contravention has occurred:~~

~~(d) charges authorised by regulations.~~

~~(2) Charges must be fixed in accordance with requirements prescribed in regulations.~~

~~Compare: 1991 No 69 s 36~~

~~**230 Other matters relating to administrative charges**~~

~~(1) A local authority may waive the whole or any part of any charge of a kind referred to in **section 229** that would be payable in any particular case.~~

~~(2) Where a charge of a kind referred to in **section 229** is payable to a local authority, the local authority need not perform the action to which the charge relates until the charge has been paid to it in full.~~

~~(3) However, **subsection (2)** does not apply to a charge to which **section 229(1)(a)** applies in relation to an independent hearings panel.~~

~~(4) A local authority must publish and maintain, on an internet site to which the public has free access, an up-to-date list of charges fixed under **section 229**.~~

~~Compare: 1991 No 69 s 36AAB~~

Subpart 3—Transfer and delegation of powers

Transfer of powers, functions, and ~~responsibilities~~ duties

~~**231 Definition applying in this subpart**~~

~~In this subpart,—~~

~~**public authority** means the following:~~

~~(a) a local authority; and~~

~~(b) a government department; and~~

~~(c) a joint committee; and~~

~~(d) a local board~~

~~**unitary authority** has the meaning given in section 5(1) of the Local Government Act 2002.~~

231 Meaning of public authority

In this subpart, **public authority** means any of the following:

(a) a local authority:

(b) a public service agency within the meaning given by section 5 of the Public Service Act 2020:

(c) a joint committee appointed under clause 30 of Schedule 7 of the Local Government Act 2002:

(d) a local board within the meaning given by section 5(1) of the Local Government Act 2002.

232 Transfer of powers

(1) A regional council may transfer any of its functions, powers, or ~~responsibilities~~ duties under this Act to another public authority in accordance with this section.

(2) A regional council may transfer ~~any~~ a function, power, or ~~responsibility~~ duty~~,~~ ~~but~~ only if both authorities concerned agree—

(a) on the terms and conditions of the transfer; and

(b) that the public authority to which the transfer is made represents the appropriate community of interest for the exercise or performance of the function, power, or ~~responsibility~~ duty being transferred; and

(c) that the transfer is desirable on the grounds of efficiency and technical or special capability or expertise.

(3) A local authority that has transferred a function, power, or ~~responsibility~~ duty under this section may change or revoke the transfer at any time by notice to the transferee.

(4) A public authority to which a function, power, or ~~responsibility~~ duty has been transferred under this section may relinquish the transfer in accordance with the transfer agreement.

(5) To avoid doubt, the transfer of a power that relates to functions that are not provided for by or under this Act or the **Planning Act 2025** will cease to have legal effect on and after the commencement of this Act and the **Planning Act 2025**.

Compare: 1991 No 69 s 33(1), (2), (6)–(9)

Delegation of functions, powers, and ~~responsibilities~~ duties

233 Delegation of functions, etc

(1) A regional council may delegate any of its functions, powers, or ~~responsibilities to a local board or community board, other than in relation to the approval of a plan or of a plan change~~ duties to a committee of the council established under the Local Government Act 2002.

(2) ~~Before a final decision is made approving a plan or plan change, a~~ A unitary authority may delegate to a local board any of its functions, powers, or ~~responsibilities~~ duties relating to a matter of local significance, other than the appro-

val of~~ a plan or a change to a plan~~ a regional spatial plan, natural environment plan, or plan change.

(3) A delegation may be—

(a) made on the terms and conditions that the regional council thinks fit; and

(b) revoked at any time by notice to the delegate.

Compare: 1991 No 69 s 34(1), (3A), (3B), (7)

234 Presumptions applying to delegations

(1) ~~Unless the instrument of delegation provides otherwise, a~~ A person to whom a function, power, or~~ responsibility~~ duty has been delegated under ~~this~~ **section 233** may exercise or perform the function, power, or~~ responsibility~~ duty in the same way and to the same effect as the regional council ~~itself~~ could have exercised or performed the function, power, or~~ responsibility~~ duty.

(1A) **Subsection (1)** applies unless the instrument of delegation provides otherwise.

(2) A person authorised under ~~this~~ **section 233** to act under a delegation is presumed to act in accordance with the terms of the delegation, unless there is proof to the contrary.

(3) A delegation under ~~this~~ **section 233** does not affect the performance or exercise of any function, power, or~~ responsibility~~ duty by the regional council.

Compare: 1991 No 69 s 34(8)–(10)

235 Delegation to employees and others

(1) A regional council may delegate to an employee or a hearings commissioner appointed by the regional council any function, power, or~~ responsibility~~ duty under this Act except—

(a) the power to approve a ~~plan~~ regional spatial plan, natural environment plan, or plan change under ~~**clause 43 of**~~ **Schedule 2 or 3 of the Planning Act 2025**; or

(b) this power of delegation.

~~(2) If a regional council is considering appointing hearings commissioners to exercise a delegated power to conduct a hearing under **Schedule 3 of the Planning Act 2025**, the council must—~~

~~(a) consult tangata whenua through the relevant iwi authorities on—~~

~~(i) the perspective of local iwi and hapū; and~~

~~(ii) whether it is appropriate to appoint a commissioner with an understanding of tikanga Māori; and~~

~~(b) if the council considers it appropriate, appoint at least 1 commissioner with an understanding of tikanga Māori and the perspectives of local iwi and hapū, in consultation with the relevant iwi authorities.~~

(3) A regional council may delegate <u>to any other person</u> any function, power, or ~~responsibility to any other person~~ <u>duty</u> except—

(a) the powers referred to in **subsection (1)(a) and (b)**; or

(b) a decision on an application for a <u>natural resource</u> permit ~~or consent~~.

(4) ~~**Subsections (1) and (2)** do~~ <u>**Subsection (1)** does</u> not prevent a regional council delegating to any person the power to do anything referred to in ~~those subsections~~ <u>that subsection</u> before a final decision has been made on those actions.

Compare: 1991 No 69 s

Joint management agreements

236 ~~Power to make~~ <u>Regional council may enter</u> joint management agreement

(1) A regional council ~~that wants to~~ <u>may</u> enter into a joint management agreement ~~must~~ <u>if it</u>—

(a) ~~notify~~ <u>notifies</u> the Minister ~~of its wish~~; and

(b) ~~satisfy itself~~<u>is satisfied that</u>—

(i) ~~that for the purposes of this Act a~~ <u>the</u> public authority that is a party to the joint management agreement—

(A) represents the relevant community of interest; and

(B) has the technical or special capability or expertise to perform or exercise the function, power, or ~~responsibility~~ <u>duty</u> jointly with the regional council; and

(ii) ~~that~~ a joint management agreement is an efficient method of performing or exercising the function, power, or ~~responsibility~~ <u>duty</u>; and

(c) ~~include~~ <u>includes</u> in the joint management agreement details of—

(i) the resources that will be required for the administration of the agreement; and

(ii) how the administrative costs of the joint management agreement will be met.

~~(2) A regional council that complies with **subsection (1)** may enter into a joint management agreement.~~

<u>(2) A decision made under a joint management agreement has legal effect as a decision of the regional council.</u>

<u>(3) A party to a joint management agreement may terminate the agreement by giving the other parties 20 working days' notice.</u>

Compare: 1991 No 69 s 36B

237 Regional council may act alone

(1) This section applies if a joint management agreement requires the parties to perform or exercise a specified function, power, or ~~responsibility~~ duty together.

(2) The regional council may perform or exercise the specified function, power, or ~~responsibility~~ duty by itself if a decision is required before the parties to the joint management agreement can perform or exercise the function, power, or ~~responsibility~~ duty and the joint management agreement does not provide a method for making that kind of decision.

Compare: 1991 No 69 ~~s~~ ss 36C, 36D, 36E

~~**238 Effect of joint management agreement**~~

~~A decision made under a joint management agreement has legal effect as the decision of the regional council.~~

~~Compare: 1991 No 69 s 36D~~

~~**239 Termination of joint management agreement**~~

~~Any party to a joint management agreement may terminate the agreement by giving the other parties 20 working days' notice.~~

~~Compare: 1991 No 69 s 36E~~

Subpart 4—System performance

240 System performance

Subpart 3 of Part 5 of the Planning Act 2025 applies in relation to the performance of the system under this Act with all necessary modifications.

Subpart 5—Environment Court and Planning Tribunal

240A Provisions applying to Environment Court

Schedule 9 of the Planning Act 2025 applies in relation to the Environment Court and its proceedings.

241 Provisions applying to Planning Tribunal

Schedule 10 of the Planning Act 2025 applies in relation to the Planning Tribunal, its establishment, and its proceedings.

~~**242 Provisions applying to Environment Court**~~

~~**Schedule 9 of the Planning Act 2025** applies to the Environment Court and its proceedings.~~

Part 6
Enforcement and other matters

Subpart 1—Enforcement

243 Duty to give certain information

(1) This section applies if an enforcement officer has reasonable grounds to believe that a person (**person A**) is breaching, or has breached, an obligation under or a provision of this Act, a national rule, a regulation, a ~~plan~~ rule in a plan, or a natural resource permit.

(2) The enforcement officer may direct person A to give—

(a) their full name, address, ~~and~~ date of birth, and evidence of their identity (if that person is a natural person); or

(b) their full name and address (if that person is not a natural person).

(3) If person A is breaching, or has breached, the obligation or provision on behalf of another person (**person B**), the enforcement officer may also direct person A to give the officer the following information about person B:

(a) their full name, address, and date of birth (if that person is a natural person); or

(b) their full name and address (if that person is not a natural person).

(4) In the situation described in **subsection (3)**, the enforcement officer may also direct person B to give the officer the following information about person A:

(a) their full name, address, and date of birth (if that person is a natural person); or

(b) their full name and address (if that person is not a natural person).

Compare: 2023 No 46 s 726

Enforcement officers

244 Authorisation and responsibilities of enforcement officers

(1) A local authority may authorise the following to carry out all or any of the functions and powers as an enforcement officer under this Act:

(a) any of its officers; or

(b) any of the officers of any other local authority, the Ministry for Primary Industries, the Department of Conservation, or Maritime New Zealand.

(1A) A person may be authorised as an enforcement officer under this section if the person has appropriate experience, technical competence, and qualifications relevant to the area of responsibilities proposed to be allocated to the person.

(2) The local authority or Minister must supply every enforcement officer authorised under this section with a warrant, and that warrant must clearly state the

functions and powers that the person concerned has been authorised to exercise and carry out under this Act.

(3) ~~Every~~ An enforcement officer authorised under this section who exercises or purports to exercise any power conferred on them by this Act must have with them, and must produce if required to do so, their warrant and evidence of identity.

(4) ~~Every~~ An enforcement officer who holds a warrant issued under this section must, on the termination of their appointment as such, surrender the warrant to the local authority or Minister, as the case may be.

Compare: 1991 No 69 s 38; 2023 No 46 s 725

Enforcement functions of EPA

245 Terms used in this section and sections 246 to 252

(1) In this section and **sections 246 to 252**,—

~~**enforceable undertaking** means an undertaking accepted by a local authority or the EPA under **clause 24 of Schedule 8 of the Planning Act 2025**~~

enforcement action means,—

(a) subject to **section 246(a)**, an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of determining whether there is or has been—

(i) a contravention of an obligation under or a provision of this Act, any regulations, a rule in a plan, a rule in a proposed plan that has legal effect, a national rule, or a natural resource permit; or

(ii) a failure to comply with a requirement of an enforcement order or abatement notice; or

(b) an application for an enforcement order under **section 260**; or

(c) an application for an interim enforcement order ~~under **section 260**~~; or

(d) the service of an abatement notice under **section 266**; or

(e) the filing of a charging document relating to an offence described in **section 278**; or

(f) the issuing of an infringement notice under **section ~~289~~ 291**; or

(g) a monetary benefit order made under **clause 29 of Schedule 8 of the Planning Act 2025**; or

(h) an enforceable undertaking ~~accepted under **clause 24 of Schedule 8 of the Planning Act 2025**~~; or

(i) an application for a pecuniary penalty order ~~under **clause 30 of Schedule 8 of the Planning Act 2025**~~; or

(j) an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of an enforcement action described in **paragraphs (b) to (f)**

enforcement function means a function of the EPA described in **section 246**

incident means an occurrence that may, directly or indirectly, be linked to—

(a) a contravention or possible contravention of a provision of this Act, any regulations, a rule in a plan, a national rule, or a natural resource permit; or

(b) a failure or possible failure to comply with a requirement of an enforcement order or an abatement notice

interim enforcement order means an order imposed under **section 264**

pecuniary penalty means a penalty imposed under **clause 30 of Schedule 8 of the Planning Act 2025**

subsequent action—

(a) means a prosecution, proceeding, application, or other activity that the EPA or a local authority may carry out under this Act in relation to an enforcement action that has been executed; and

(b) includes an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of an activity described in **paragraph (a)**.

(2) In **paragraph (a)** of the definition of enforcement action in **subsection (1)**, other activity includes, without limitation, an application for a declaration under **section 255**.

(3) In this section and **sections 246 to 252**, an enforcement action is **executed** when, as the case may be, the application for the enforcement order, monetary benefit order, or interim enforcement order is made, the abatement notice is served, the charge is laid, the pecuniary penalty order is applied for, the enforceable undertaking is accepted, or the infringement notice is issued.

Compare: 1991 No 69 s 343E; 2023 No 46 s ~~733~~ 732

246 Enforcement functions of EPA

The EPA may perform any of the following enforcement functions if satisfied that the performance of the function is necessary or desirable to promote the purpose of this Act:

(a) the EPA may take any enforcement action under this Act, subject to confirming that the local authority is not taking an enforcement action of the type set out in **paragraphs (b) to (f)** of the definition of enforcement action in **section 245(1)** for the same incident~~.~~:

(b) the EPA may, with the agreement of a local authority, assist the local authority with an enforcement action in relation to an incident and any subsequent action:

(c) the EPA may intervene in an enforcement action of a local authority in relation to an incident by taking over the enforcement action and taking any subsequent action:

(d) the EPA may take enforcement action against a regional council.

Compare: 1991 No 69 s 343F; 2023 No 46 s 733

247 Intervention by EPA

(1) If the EPA intervenes in an enforcement action of a local authority in relation to an incident,—

(a) the EPA must notify the chief executive of the local authority in writing of the incident to which the intervention relates and the date on which the intervention takes effect; and

(b) the local authority must,—

(i) on receipt of the notice, cease any enforcement action in relation to the incident, except for an enforcement action described in **paragraph (a) or (g)** of the definition of enforcement action in **section 245**; and

(ii) from the date specified in the notice, cease all enforcement action in relation to the incident; and

(c) the EPA takes over all enforcement action in relation to the incident from the date specified in the notice; and

(d) only the EPA may take any enforcement action or subsequent action in relation to the incident unless **subsection (3)** applies.

(2) When intervening in an enforcement action of a local authority, the EPA must not intervene in relation to an enforcement action that the local authority has already executed in respect of a person.

(3) If the EPA decides to cease its intervention,—

(a) it must notify the chief executive of the local authority in writing of its decision and the date on which it takes effect; and

(b) it must specify in the notice the date on which the intervention will cease; and

(c) the local authority may, from the date referred to in **paragraph (b)**,—

(i) take an enforcement action or subsequent action in relation to the incident; or

(ii) resume any enforcement action that it had commenced before the intervention.

(4) To avoid doubt, **subsection (2)** does not prevent the EPA from taking an enforcement action in relation to another incident in respect of the same person.

Compare: 1991 No 69 s 343G; 2023 No 46 s 734

248 EPA may change enforcement functions

(1) The EPA may change its enforcement function in relation to an incident to another function described in **section 246** if the EPA considers that the circumstances require it.

(2) If the EPA decides to change to an intervention function described in **section 246(c)**, it must include its reasons for the change in the notice required under **section ~~249(1)~~ 247(1)(a)**.

Compare: 1991 No 69 s 343H; 2023 No 46 s 735

249 EPA enforcement officers

(1) The EPA may authorise a person described in **subsection (2)** to be an enforcement officer for the purpose of carrying out its enforcement functions under this Act.

(2) A person may be authorised as an enforcement officer if the person—

(a) has appropriate experience, technical competence, and qualifications relevant to the area of responsibilities proposed to be allocated to the person; or

(b) is an employee of the EPA who is suitably qualified and trained.

(3) The EPA must supply each enforcement officer with a warrant that—

(a) states the full name of the person; and

(b) includes a summary of the powers conferred on the person under this Act.

(4) An enforcement officer may exercise the powers under this Act, in accordance with ~~his or her~~ their warrant, only for the purposes for which they were appointed.

(5) An enforcement officer exercising a power under this Act must have with them, and must produce if required to do so, their warrant and evidence of their identity.

(6) An enforcement officer who holds a warrant issued under this section must, on the termination of the officer's appointment, surrender the warrant to the EPA.

Compare: 1991 No 69 s 343I; 2023 No 46 s 736

250 EPA may require information from local authority

(1) The EPA may require a local authority to provide information that the EPA requires for taking an enforcement action in relation to an incident.

(2) The EPA must notify the chief executive of the local authority in writing and specify the incident for which information is required.

(3) A local authority must provide the required information to the EPA as soon as is reasonably practicable, but no later than 10 working days after the chief executive is notified.

Compare: 1991 No 69 s 343J; 2023 No 46 s 737

251 Additional reporting requirements

(1) The annual report of the EPA under section 150 of the Crown Entities Act 2004 must include information about the performance of the EPA's enforcement functions, including the number and type of enforcement actions executed by the EPA.

(2) The EPA is not required to provide information under **subsection (1)** that would prejudice the maintenance of law, including the prevention, investigation, or detection of offences, or the right to a fair trial.

Compare: 1991 No 69 s 343K; 2023 No 46 s 738

252 Order for payment of EPA's costs in bringing ~~a~~ prosecution

(1) On the application of the EPA, the court may order a person convicted of an offence under this Act to pay to the EPA a sum that the court thinks just and reasonable towards the costs of the prosecution (including the costs of investigating the offence and any associated costs).

(2) If the court makes an order under **subsection (1)**, it must not make an order under section 4 of the Costs in Criminal Cases Act 1967.

(3) If the court makes an order under **subsection (1)** in respect of a Crown organisation, any costs and fees awarded must be paid from the funds of that organisation.

Compare: 1991 No 69 s 343L; 2023 No 46 s 739

Proceedings under this subpart

253 Proceedings to be heard by Environment Judge

(1) All proceedings under this subpart must be heard by an Environment Judge sitting alone or by the Environment Court, except as provided in **subsections (2) and (3)**.

(2) Proceedings under **section 264** (which relates to interim enforcement orders) must be heard either by an Environment Judge sitting alone or—

(a) in the District Court; and

(b) except where otherwise directed by the Chief District Court Judge, by a District Court Judge who is an Environment Judge.

(3) Proceedings under **section 269 or 270** (which relate to appeals against abatement notices and the power to stay an order) that may be heard by an Environment Judge may also be heard by an Environment Commissioner.

(4) All proceedings under **section 278** (which relates to offences) and **section 289** (which relates to infringement offences) must be heard—

(a) in the District Court; and

(b) except where otherwise directed by the Chief District Court Judge, by a District Court Judge who is also an Environment Judge.

(5) An Environment Judge may transfer to the District Court any proceedings under this Part for enforcement action if the action is associated with proceedings under **section 278** for an offence and the Judge considers that the proceedings for enforcement action should be heard together with the proceedings in the District Court for the offence.

(6) This subpart does not apply to a protected customary right.

(7) However, **sections 254 to 257** (which relate to the Court making declarations) and **sections 302 to 304** (which enable emergency works) apply to the exercise of a protected customary right.

Compare: 2023 No 46 s 636

Declarations

254 Scope and effect of declaration

(1) A declaration may declare—

(a) the existence or extent of any function, power, right, or duty under this Act, including (without limitation) any duty imposed by a national instrument; or

(b) whether a provision or proposed provision of a natural environment plan,—

(i) contrary to **section 97(2)(a)**, does not, or is not likely to, implement a provision~~ or proposed provision~~ of a national instrument or the regional spatial plan; or

(ii) contrary to **section 97(2)**, is, or is likely to be, inconsistent with a water conservation order~~, any other natural environment plan for the region,~~ or a determination or reservation of the chief executive of the Ministry~~ of Fisheries~~ for Primary Industries made under section 186E of the Fisheries Act 1996; or

(c) whether or not an act or omission, or a proposed act or omission, contravenes or is likely to contravene this Act, regulations, a rule in a plan or proposed plan, or a natural resource permit; or

(d) whether or not an act or omission, or a proposed act or omission,—

(i) is a permitted activity, restricted discretionary activity, discretionary activity, or prohibited activity; or

(ii) breaches **section 25**; or

(e) the point at which the landward boundary of the coastal marine area crosses any river; or

(f) any other issue or matter relating to the interpretation, administration, and enforcement of this Act, except for an issue as to whether any of **sections 144 to 151** have been, or will be, contravened.

(2) In the course of any proceedings, the Environment Court may make a declaration referred to in **subsection (1)** on its own initiative without an application from any party to the proceedings.

Compare: 1991 No 69 s 310

255 Application for declaration

(1) Subject to **subsections (2) and (3)**, any person may at any time apply to the Environment Court in the prescribed form for a declaration.

(2) No person (other than the permit authority, the EPA, or the Minister) may apply to the Environment Court for a declaration that a permit holder or any other person is contravening any condition of a natural resource permit or a rule in a plan or proposed plan that requires the holder to adopt the best practicable option to avoid or minimise any adverse effect of the discharge to which the permit or rule relates.

(3) No person (other than a local authority, permit authority, or the Minister of Conservation) may apply to the Environment Court for a declaration under **section 254(1)(e)**.

Compare: 1991 No 69 s 311

256 Notification of application

(1) The applicant for a declaration must serve notice of the application in the prescribed form on every person directly affected by the application.

(2) The notice must be served within 5 working days after the application is made to the court.

Compare: 1991 No 69 s 312

257 Decision on application

After hearing the applicant, and any person served with notice of the application, and any other person who has the right to be represented at proceedings under **clauses 53 and 54 of Schedule 9 of the Planning Act 2025**~~,~~ who wishes to be heard, the court may—

(a) make the declaration sought by an application under **section 255**, with or without modification; or

(b) make any other declaration that it considers necessary or desirable; or

(c) decline to make a declaration.

Compare: 1991 No 69 s 313

Enforcement orders

258 Scope of enforcement order

(1) An enforcement order is an order made under **section 263** by the Environment Court or an Environment Judge sitting in the District Court that may do any 1 or more of the following:

(a) require a person to cease, or prohibit a person from commencing, anything done or to be done by or on behalf of that person, that, in the opinion of the court,—

(i) contravenes or is likely to contravene this Act, regulations, a rule in a plan, a rule in a proposed plan, ~~or~~ a natural resource permit, or a wildlife approval; or

(ii) is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on natural resources or people:

(b) require a person to do something that, in the opinion of the court, is necessary in order to—

(i) ensure compliance by or on behalf of that person with this Act, any regulations, a rule in a plan, a rule in a proposed plan, ~~or~~ a natural resource permit, or a wildlife approval; or

(ii) avoid~~, minimise, or~~ remedy, or mitigate any actual or likely adverse effect on natural resources or people caused by or on behalf of that person:

~~(c) require a person to minimise or remedy any adverse effect on natural resources or people caused by or on behalf of that person:~~

(d) require a person to pay money to or reimburse any other person for any actual and reasonable costs and expenses~~ which~~ that the other person has incurred or is likely to incur in avoiding, minimising, or remedying any adverse effect on natural resources or people~~, where~~ if the person against whom the order is sought fails to comply with—

(i) an order under any other paragraph of this subsection; or

(ii) an abatement notice; or

(iii) a rule in a plan or a proposed plan or a natural resource permit; or

(iv) any of that person's other obligations under this Act:

~~(e) require a polluter of contaminated land to pay money to or reimburse the local authority or EPA for any actual and reasonable costs it has incurred for actions taken under this Act to prevent or remedy any adverse effects to the environment or to carry out remediation:~~

(f) require a person to do something that, in the opinion of the court, is necessary in order to avoid, minimise, or remedy any actual or likely adverse effect on natural resources or people relating to any land of which the person is the owner or occupier:

(g) change or cancel a natural resource permit if, in the opinion of the court, the information made available to the permit authority by the applicant contained inaccuracies relevant to the enforcement order sought ~~which~~ that materially influenced the decision to grant the permit:

(h) revoke a natural resource permit (in whole or in part) or suspend a natural resource permit (for a specified period in whole or in part) if, in the opinion of the court, there has been significant non-compliance with this Act—

(i) that is ongoing or repeated; and

(ii) that, if the permit holder is not a natural person, has been or is the subject of an enforcement order or a conviction under this Act or, if the permit holder is a natural person, has been or is the subject of an enforcement order or a conviction under this Act within the previous 7 years:

(i) ~~where~~ if the court determines that any 1 or more of the requirements of ~~**Parts**~~ **Part 1 or 2 of Schedule 3 of the Planning Act 2025** have not been observed in respect of a plan, do ~~any~~ 1 or more of the following:

(i) grant a dispensation from the need to comply with those requirements:

(ii) direct compliance with any of those requirements:

(iii) suspend the whole or any part of the plan from a particular date (which may be on or after the date of the order, but no such suspension affects any court order made before the date of the suspension order)~~.~~:

(j) make an adverse publicity order, a monetary benefit order, or a pecuniary penalty order (see **clauses 20, 29, and 30 of Schedule 8 of the Planning Act 2025**).

(2) For the purposes of **subsection (1)(d)**, **actual and reasonable costs** include the costs of investigation, supervision, and monitoring of the adverse effect on natural resources or people, and the costs of any actions required to avoid, minimise, or remedy the adverse effect.

(3) Except as provided in **section 263(3)**, an enforcement order may be made on such terms and conditions as the Environment Court thinks fit (including the payment of any administrative ~~charge under **section 229**~~ fees under **section 317A or 317B**, the provision of security, or the entry into a bond for performance).

(4) Without limiting ~~the provisions of~~ **subsections (1) to (3)**, an order may require the restoration of any natural and physical resource to the state it was in

before the adverse effect occurred (including the planting or replanting of any tree or other vegetation).

(5) When making an enforcement order under **subsection (4)**, the court may order that the restrictions set out in any or all of **sections 17 to 24** do not apply to the restoration activities, provided that the court is satisfied that the conditions of the order are adequate to avoid, ~~minimise, or~~ remedy, or mitigate any adverse effects on ~~the environment~~ natural resources and people arising from those activities.

(6) When making an enforcement order under **subsection (1)(h)**, the court may, having regard to the nature of the non-compliance,—

(a) revoke the natural resource permit, and any natural resource permits associated with that permit that enable the same activity, in whole or in part, with effect on a specified date; or

(b) suspend the natural resource permit, and any natural resource permits associated with that permit that enable the same activity, in whole or in part, for a specified period without conditions or subject to any conditions that the court thinks fit.

(7) An enforcement order applies, if the court so states, to the personal representatives, successors, and assigns of a person to the same extent as it applies to that person.

Compare: 1991 No 69 s 314

259 Compliance with enforcement order

(1) ~~Where~~ If an enforcement order is made against a person, and that enforcement order is served on that person, that person must—

(a) comply with the order; and

(b) unless the order directs otherwise, pay all the costs and expenses of complying with the order.

(2) If a person against whom an enforcement order is made fails to comply with the order, any person may, with the consent of the Environment Court,—

(a) comply with the order on behalf of the person who fails to comply with the order, and for this purpose, enter upon any land or enter any structure (with a constable if the structure is a dwellinghouse); and

(b) sell or otherwise dispose of any structure or materials salvaged in complying with the order; and

(c) after allowing for any moneys received under **paragraph (b)**, if any, recover the costs and expenses of doing so as a debt due from that person.

(3) Any costs or expenses ~~which~~ that remain unpaid under **subsection (2)(c)** may be registered under subpart 5 of Part 3 of the Land Transfer Act 2017 as a charge on any land in respect of which an enforcement order is made.

(4) Failure to comply with an enforcement order is an offence under **section 278**.

Compare: 1991 No 69 s 315

260 Application for enforcement order

(1) Any person may at any time apply to the Environment Court in the prescribed form for an enforcement order of a kind specified in **paragraphs (a) to (d) of section 258(1)**, or in **section 258(2)**.

(2) An application may at any time be made in the prescribed form to the Environment Court by—

(a) a local authority, a permit authority, or the EPA for an enforcement order of the kind specified in **section 258(1)~~(e)~~(f)**; and

(b) a local authority, a permit authority, or the EPA for an enforcement order ~~under~~ of the kind specified in **section 258(1)~~(g)~~(h)**; and

(c) a local authority or permit authority for an enforcement order of the kind specified in **section 258(1)~~(f)~~(g)**.

(3) An application for an enforcement order under **section 258(1)~~(h)~~(i)** may be lodged—

(a) by a local authority ~~(or the Minister of Conservation in regard to a regional coastal plan)~~ at any time; or

(b) by any other person, no later than 3 months after the date on which the ~~policy statement or~~ plan becomes operative.

(4) Any person who applies for an enforcement order under any provision of this section may request that the enforcement order be made on any terms and conditions permitted by **section 258(3) or (4)**.

(5) No person (other than the permit authority, the EPA, or the Minister) may apply to the Environment Court for an enforcement order to enforce any condition of a natural resource permit or a rule in a plan or proposed plan that requires the holder to adopt the best practicable option to avoid or minimise any adverse effect of the discharge to which the permit or rule relates.

Compare: 1991 No 69 s 316

261 Notification of application

(1) Except as provided in **section 264** (which relates to interim enforcement orders), ~~where~~ if an application for an enforcement order is made, the applicant must serve notice of the application in the prescribed form on every person directly affected by the application.

(2) The notice must be served within 5 working days after the application is made to the Environment Court.

Compare: 1991 No 69 s 317

262 Right to be heard

Except as provided in **section 264** (which relates to interim enforcement orders), before deciding an application for an enforcement order, the Environment Court must—

(a) hear the applicant; and

(b) hear any person against whom the order is sought who wishes to be heard, but only if that person notifies the Registrar that they wish to be heard within 15 working days after the date on which they were notified of the application.

Compare: 1991 No 69 s 318

263 Decision on application

(1) After considering an application for an enforcement order, the Environment Court may,—

(a) except as provided in **subsection (2)**, make any appropriate order under **section 258**; or

(b) refuse the application.

(2) No court may order that compensation or redress be paid or provided to any person for any loss or damage arising from the revocation or suspension of the person's natural resource permit under **section 258(1)(g)**.

(3) Except as provided in **subsection (4)**, the Environment Court must not make an enforcement order under **section 258(1)(a)(ii), (b)(ii), (c), (d)(iv), or (e)** against a person if—

(a) that person is acting in accordance with—

~~(i) a rule in a plan; or~~

~~(ii) a natural resource permit; or~~

~~(iii) a designation; and~~

(i) regulations; or

(ii) a national rule; or

(iii) a rule in a natural environment plan; or

(iv) a designation; or

(v) a natural resource permit; and

(b) the adverse effects in respect of which the order is sought were expressly recognised by the person who recommended the making of the regulations, approved the national rule, natural environment plan, or designation, or granted the natural resource permit, ~~or approved the designation,~~ at the time of the recommendation, approval or granting~~, as the case may be~~.

(4) The Environment Court may make an enforcement order if—

(a) the court considers it appropriate after having regard to the time that has elapsed and any change in circumstances since the recommendation, approval or granting~~, as the case may be~~; or

(b) the person was acting in accordance with a natural resource permit that has been changed or cancelled under **section 258(1)~~(h)~~(g)**.

Compare: 1991 No 69 s 319

264 Interim enforcement order

(1) Except as provided in this section, the provisions of **sections 258 to 263** apply to the application for, and determination of, an interim enforcement order.

(2) Despite **subsection (1)**, no person may apply for an interim enforcement order under **section 258(1)(g)**.

(3) If an Environment Judge or a District Court Judge considers it necessary to do so, the Judge may make an interim enforcement order—

(a) without requiring service of notice in accordance with **section 261**; and

(b) without holding a hearing.

(4) Before making an interim enforcement order, the Environment Judge or the District Court Judge must consider—

(a) what the effect of not making the order would be on natural resources or people; and

(b) whether the applicant has given an appropriate undertaking as to damages; and

(c) whether the Judge should hear the applicant or any person against whom the interim order is sought; and

(d) such other matters as the Judge thinks fit.

(5) The Judge must direct the applicant or another person to serve a copy of the interim enforcement order on the person against whom the order is made; and the order must take effect from when it is served or such later date as the order directs.

(6) A person against whom an interim enforcement order has been made, and who was not heard by a Judge before the order was made, may apply, as soon as practicable after the service of the order, to an Environment Judge or a District Court Judge to change or cancel the order~~;~~ and, after hearing from the person against whom the interim enforcement order was made, the applicant, and any other person the Judge thinks fit, the Environment Judge or the District Court Judge may confirm, change, or cancel the interim enforcement order.

(7) An interim enforcement order stays in force until an application for an enforcement order under **section 260** is determined, or until it is cancelled by an

Environment Judge or a District Court Judge under **subsection (6)**, or it is cancelled by the Environment Court under **section 265**.

Compare: 1991 No 69 s 320

265 Change or cancellation of enforcement order

(1) Without limiting **section 264(6)**, any person directly affected by an enforcement order may at any time apply to the Environment Court in the prescribed form to change or cancel the order.

(2) **Sections 261 to 263** (which relate to notification, hearing, and decision-making) apply to every application under **subsection (1)** as if it were an application for an enforcement order.

(3) No person may apply to change or cancel an order that revokes a natural resource permit on the grounds set out in **section 258(1)~~(g)~~(h)**.

Compare: 1991 No 69 s 321

Abatement notices

265A Relevant authority defined

In **sections 266 to 271**, **relevant authority** means whichever of the following authorises an enforcement officer to issue an abatement notice:

(a) the local authority:

(b) the EPA.

266 Scope of abatement notice

(1) An abatement notice may be served on any person by an enforcement officer—

(a) requiring the person to cease, or prohibiting that person from starting, anything done or to be done by or on behalf of that person that, in the opinion of the enforcement officer,—

(i) contravenes or is likely to contravene this Act, a national rule, a regulation, a rule in a plan or a proposed plan, ~~or~~ a natural resource permit, or a wildlife approval; or

(ii) is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on natural resources or people:

(b) requiring that person to do something that, in the opinion of the enforcement officer, is necessary—

(i) to ensure compliance by or on behalf of that person with this Act, a national rule, a regulation, a rule in a plan or a proposed plan, ~~or~~ a natural resource permit, or a wildlife approval; or

(ii) to avoid, minimise, or remedy any actual or likely adverse effect on natural resources or people—

(A) caused by or on behalf of the person; or

(B) relating to any land of which the person is the owner or occupier:

(c) requiring the person to take or refrain from taking any specified action so as to comply with~~ any permit notice or~~ a covenant~~ issued or~~ entered into under a condition of a natural resource permit.

(2) If any person is under a duty not to contravene a rule in a proposed plan under **section 17, 18(4), 20(3), or 21(3)**, an abatement notice may be issued to require a person—

(a) to cease, or prohibit that person from starting, anything done or to be done by or on behalf of that person that, in the opinion of the enforcement officer, contravenes or is likely to contravene a rule in a proposed plan; or

(b) to do something that, in the opinion of the enforcement officer, is necessary in order to ensure compliance by or on behalf of that person with a rule in a proposed plan.

(3) An abatement notice may be made subject to such conditions as the enforcement officer serving it thinks fit.

(4) An abatement notice must not be served unless the enforcement officer has reasonable grounds for believing that any of the circumstances in **subsection (1) or (2)** exist.

(5) The power to make an abatement notice under this section is not limited by **section 15**.

Compare: 1991 No 69 s 322; 2023 No 46 s 649

267 Compliance with abatement notice

(1) A person on whom an abatement notice is served must—

(a) comply with the notice within the period specified in the notice; and

(b) unless the notice directs otherwise, pay all the costs and expenses of complying with the notice.

(2) This section is subject to the rights of appeal in **section 269**.

Compare: 1991 No 69 s 323; 2023 No 46 s 650

268 Form and content of abatement notice

(1) An abatement notice must be in the prescribed form and must state—

(a) the name of the person to whom it is addressed; and

(b) the reasons for the notice; and

(c) the action required to be taken or ceased or not undertaken; and

(d) the period within which the action must be taken or cease, which must be a reasonable period informed by the circumstances giving rise to the abatement notice; and

(e) the consequences of not complying with the notice or lodging a notice of appeal; and

(f) the rights of appeal under **section 269**; and

(g) in the case of a notice under **section 266(1)(c)**, the rights of an enforcement officer under **section 267** on failure of the recipient to comply with the notice within the time specified in the notice; and

(h) the name and address of the ~~local authority or permit authority whose enforcement officer issued the notice or the address of the EPA, if the notice is issued by an enforcement officer appointed by the EPA~~ relevant authority.

~~(2) For the purposes of **subsection (1)(d)**, the period within which the action must be taken or cease—~~

~~(a) must be reasonable period informed by the circumstances giving rise to the abatement notice; and~~

~~(b) must not be less than 7 days after the date on which the abatement notice is served if—~~

~~(i) the abatement notice is within the scope of **section 266(1)(a)(ii)**; and~~

~~(ii) the person on whom the notice is served is complying with this Act, regulations, a rule in a plan, or a natural resource permit.~~

Compare: 1991 No 69 s 324; 2023 No 46 s 651

269 Appeals

(1) Any person on whom an abatement notice is served may appeal to the Environment Court against the whole or any part of the notice.

(2) Notice of an appeal must be in the prescribed form and must—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required by regulations made under **section 281 of the Planning Act 2025**; and

(c) be lodged with the Environment Court and served on the ~~local authority or the EPA (whose abatement notice is appealed against)~~ relevant authority whose abatement notice is appealed against within 15 working days after service of the abatement notice on the appellant.

(3) Any powers ~~which~~ that may be exercised by an Environment Judge under this section or **section 270** may be exercised by an Environment Commissioner.

(4) The Environment Court must not confirm an abatement notice that is the subject of an appeal if—

(a) the person served with the abatement notice was acting in accordance with—
   (i) a rule in a plan; or
   (ii) a natural resource permit; or
   (iii) a designation; and
(b) the adverse effects in respect of which the notice was served were expressly recognised by the person who approved the plan, notified the proposed plan, granted the natural resource permit, or approved the designation at the time of the approval, notification, or granting, as the case may be.

(5) However, the Environment Court may confirm an abatement notice under appeal in any case if the court considers it appropriate after having regard to the time that has elapsed and any change in circumstances since the approval, notification, or granting, as the case may be.

Compare: 1991 No 69 s 325; 2023 No 46 s 652

270 Environment Court may order stay of abatement notice

(1) An appeal against an abatement notice does not operate as a stay of the notice unless—
(a) the abatement notice is within the scope of **section 266(1)(a)(ii)** and the person against whom the notice is served is complying with this Act, regulations, any national rule, a rule in a plan, or a natural resource permit; or
(b) a stay is granted by an Environment Judge under **subsection (6)**.

(2) Any person who appeals under **section 269(1)** may also apply to an Environment Judge for a stay of the abatement notice pending the Environment Court's decision on the appeal.

(3) An application for a stay must be in the prescribed form and must—
(a) state the reasons why the person considers it is unreasonable for the person to comply with the abatement notice; and
(b) state the likely effect on ~~the environment~~ natural resources and people if the stay is granted; and
(c) be lodged with the Environment Court and served immediately on the relevant authority whose abatement notice is appealed against.

(4) If a person applies for a stay, an Environment Judge must consider the application for a stay as soon as practicable after the application has been lodged.

(5) Before granting a stay, an Environment Judge must consider—
(a) what the likely effect of granting a stay would be on ~~the environment~~ natural resources and people; and

(b) whether it is unreasonable for the person to comply with the abatement notice pending the decision on the appeal; and

(c) whether to hear—

(i) the applicant:

(ii) the relevant authority whose abatement notice is appealed against; and

(d) such other matters as the Judge thinks fit.

(6) An Environment Judge may grant or refuse a stay and may impose any terms and conditions the Judge thinks fit.

(7) Any person to whom a stay is granted must serve a copy of it on the ~~local authority or the EPA~~ relevant authority whose abatement notice is appealed against, and the stay has no legal effect until served.

(8) Any stay remains in force until an order is made otherwise by the Environment Court.

Compare: 2023 No 46 s 653

271 Cancellation of abatement notice

~~(1) In this section, **relevant authority** means whichever of the following authorised the enforcement officer who issued the abatement notice:~~

~~(a) the local authority:~~

~~(b) the EPA.~~

(2) If a relevant authority considers that an abatement notice is no longer required, the relevant authority may cancel the abatement notice at any time.

(3) The relevant authority must give written notice of its decision under **subsection (2)** to cancel an abatement notice to any person subject to that abatement notice.

(4) Any person who is directly affected by an abatement notice may apply in writing to the relevant authority to change or cancel the abatement notice.

(5) The relevant authority must, as soon as practicable, consider the application, having regard to the purpose for which the abatement notice was given, the effect of a change or cancellation on that purpose, and any other matter the relevant authority thinks fit~~;~~, and the relevant authority may confirm, change, or cancel the abatement notice.

(6) The relevant authority must give written notice of its decision to the person who applied under **subsection (4)**.

(7) If the relevant authority, after considering an application made under **subsection (4)** by a person who is directly affected by an abatement notice, confirms that abatement notice or changes it in a way other than that sought by that per-

son, that person may appeal to the Environment Court in accordance with **section 269(2)** against the whole or any part of the abatement notice.

Compare: 1991 No 69 s 325A; 2023 No 46 s 654

Water shortage direction

272 Water shortage direction

(1) If a regional council considers that at any time there is a serious temporary shortage of water in its region or any part of its region, the regional council may issue a direction for either or both of the following:

(a) that the taking, use, damming, or diversion of water is to be apportioned, restricted, or suspended to the extent and in the manner set out in the direction:

(b) that the discharge of any contaminant into water is to be apportioned, restricted, or suspended to the extent and in the manner set out in the direction.

(2) A direction may relate to any specified water, to water in any specified area, or to water in any specified water body.

(3) A direction must not last for more than 14 days but may be amended, revoked, or renewed by the regional council by a subsequent direction.

(4) A direction comes into force on its issue and continues in force until it expires or is revoked.

(5) A direction may be issued by any means the regional council thinks appropriate, but notice of the particulars of the direction must be given to all persons required to apportion, restrict, or suspend—

(a) the taking, use, damming, or diversion of water as far as they can be ascertained, as soon as practicable after the direction is issued; or

(b) the discharge of any contaminant into water as far as it can be ascertained, as soon as practicable after the direction is issued.

(6) For the purpose of this section, notice may be given to a person by serving it on the person or by publishing the notice in 1 or more daily newspapers circulating in the area where the person takes, uses, dams, or diverts the water, or discharges a contaminant into water.

Compare: 1991 No 69 s 329; 2023 No 46 s 658

Restrictions relating to enforcement orders and abatement ~~orders~~ notices

273 Restrictions on certain applications for enforcement orders and abatement notices

(1) No person may apply to the Environment Court for an enforcement order under any of **section 258(1)(a) to (d)**, and no abatement notice may be served on any person, in respect of anything done or to be done,—

(a) by or on behalf of the Director of Maritime New Zealand under section 248 or 249 of the Maritime Transport Act 1994; or

(b) by or on behalf of any person in accordance with any instructions issued under either of those sections of that Act; or

(c) by or on behalf of any on-scene commander under section 305 or 311 of that Act or in accordance with a direction given under section 310 of that Act; or

(d) by or on behalf of the master or owner of any ship, or the owner or operator of any oil transfer site or offshore installation, or any other person, in accordance with a direction given under section 305 or 311 of that Act.

(2) No person (other than the Minister, the Director of Maritime New Zealand, a local authority, a permit authority, or the EPA) may apply to the Environment Court for an enforcement order to require any person to comply with or cease contravening **section 23**.

(3) No person may apply for an enforcement order under **section 258(1)(d)** in respect of any actual or reasonable costs and expenses~~, where~~ if the costs and expenses ~~which~~ that a person has incurred or is likely to incur constitute pollution damage in respect of which the owner of a CLC ship is liable in damages under Part 25 of the Maritime Transport Act 1994. No order relating to such damage may be made by the Environment Court or any other court in any proceedings (including prosecutions for offences) under this Act.

(4) In **subsection (3)**, **CLC ship** and **pollution damage** ~~and **CLC ship**~~ have the meanings given in section 342 of the Maritime Transport Act 1994.

Compare: 1991 No 69 s 325B; 2023 No 46 s 659

Powers of entry and search

274 Power of entry for inspection

(1) ~~Any~~ An enforcement officer, ~~specifically authorised in writing by a local authority or the EPA~~ who is authorised under **section 244 or 249** to do so, may at all reasonable times go on, into, under, or over any place or structure, except a dwellinghouse or marae, for the purpose of inspection to determine whether—

(a) this Act, any regulations, a national rule, or a rule ~~of~~ in a plan, ~~or~~ a natural resource permit, or a wildlife approval is being complied with; or

(b) an enforcement order, interim enforcement order, abatement notice, enforceable undertaking, or water shortage direction is being complied with; or

(c) ~~any~~ a person is contravening a rule in a proposed plan in a manner prohibited by any of **sections 17, 18(4), 20(1), and 21(4)**.

(2) For the purposes of **subsection (1)**, an enforcement officer may—

(a) collect records of their inspection (including measurements, notes, sketches, drawings, photographs, and video recordings); and

(b) take samples of water, air, soil, or organic matter.

(3) If a sample is taken under **subsection (2)(b)**, an enforcement officer may also take a sample of any substance that the enforcement officer has reasonable cause to suspect is a contaminant of any water, air, soil, or organic matter.

(4) ~~Every~~ An enforcement officer who exercises ~~any~~ a power of entry under this section must produce for inspection their warrant of appointment ~~and written authorisation~~ upon initial entry and in response to any later reasonable request.

(5) If the owner or occupier of a place subject to inspection is not present at the time of the inspection, the enforcement officer must leave, in a prominent position at the place or attached to the structure, a written notice showing the date and time of the inspection and the name of the officer carrying out the inspection.

(6) An enforcement officer must not enter land without the permission of the landowner if permission to enter the land is required by any other Act.

(7) An enforcement officer exercising ~~any~~ a power under this section may use any assistance that is reasonably necessary.

Compare: 1991 No 69 s 332; 2023 No 46 s 727~~; 1991 No 69 s 332~~

275 Power of entry for survey

(1) For the purposes of this Act, ~~any~~ an enforcement officer, ~~specifically authorised in writing by any local authority or permit authority~~ who is authorised under **section 244 or 249** to do so, may enter any place or structure to do all or any of the following:

(a) carry out surveys, investigations, tests, or measurements:

(b) collect records of their inspection (including the records referred to in **section 274(2)(a)**:

(c) take samples of any water, air, soil, or vegetation:

(d) enter or re-enter land (except a dwellinghouse or marae).

(2) The powers conferred by **subsection (1)** are exercisable at any reasonable time, with or without such assistance (including expert or technical assistance on the matter concerned), vehicles, appliances, machinery, and equipment as is reasonably necessary for that purpose.

(3) Reasonable written notice must be given to the occupier of ~~land~~ the place or structure to be entered under **subsection (1)**—

(a) that entry on to the ~~land~~ place or structure is authorised under this section:

(b) of the purpose for which entry is required:

(c) of how and when entry is to be made.

(4) ~~Every~~ An enforcement officer who exercises ~~any~~ a power of entry under this section must produce for inspection their warrant of appointment ~~and written authorisation~~ upon initial entry and in response to any later reasonable request.

Compare: 1991 No 69 s 333; 2023 No 46 s 728~~; 1991 No 69 s 333~~

276 Warrant for entry for search

(1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012)~~ who~~, on an application made by a constable or an enforcement officer in the manner provided in subpart 3 of Part 4 of that Act, may issue a warrant authorising the entry and search of any place or vehicle if satisfied that there ~~is~~ are reasonable ~~ground~~ grounds for believing that there is in, on, under, or over any place or vehicle anything—~~—~~

(a) in respect of which an offence has been or is suspected of having been committed against this Act or regulations that is punishable by imprisonment; or

(b) that ~~there is reasonable ground to believe~~ will be evidence of an offence against this Act or regulations that is punishable by imprisonment; or

(c) that ~~there is reasonable ground to believe~~ is intended to be used for the purpose of committing an offence against this Act or regulations that is punishable by imprisonment.

(2) ~~The provisions of~~ Part 4 of the Search and Surveillance Act 2012 ~~apply~~ applies for the purposes of this section.

(3) Despite **subsection (2)**, sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.

Compare: 1991 No 69 s 334; 2023 No 46 ss 729, 730~~; 1991 No 69 s 334~~

277 Direction and execution of warrant for entry for search

(1) If a warrant authorises the entry and search of a dwellinghouse or marae, it must be directed to and executed by ~~any police~~ a constable ~~generally~~.

(2) Except as provided in **subsection (1)**, every search warrant issued under **section 276** must be directed to ~~any~~ a constable ~~generally~~ or an enforcement officer ~~generally~~.

(3) An enforcement officer must be accompanied by a constable during the initial entry of the place or vehicle to be searched.

(4) Subject to the agreement of the enforcement officer, the constable may leave the place or vehicle at any time after the initial execution of the search warrant.

Compare: 1991 No 69 s 335; 2023 No 46 s 731~~; 1991 No 69 s 335~~

Offences

278 Offences against this Act

(1) A person commits an offence against this Act if the person contravenes, or permits a contravention of, any of the following:

(a) **sections 17, 18, 19, 20, and 21** (which impose duties and restrictions in relation to land use, the coastal marine area, the beds of ~~certain~~ rivers and lakes, water, and discharges of contaminants):

(b) any enforcement order:

~~(c) any condition of a natural resource permit:~~

(d) any abatement notice:

(e) any monetary benefit order made under **clause 29 of Schedule 8 of the Planning Act 2025**:

(f) any water shortage direction under **section 272**:

(g) ~~an enforceable undertaking under~~ **clause ~~24~~ 25 of Schedule 8 of the Planning Act 2025** (which imposes a duty to comply with an enforceable undertaking):

(h) any adverse publicity order made by a court under **clause 20 of Schedule 8 of the Planning Act 2025**:

(i) any requirement or duty in regulations made under **section 279 of the Planning Act 2025** (emergency response regulations) that the person must comply with.

(2) A person commits an offence against this Act if the person contravenes, or permits a contravention of, **section 22 or 24** (which impose restrictions in relation to waste or other matter).

(3) If any harmful substance or contaminant or water is discharged in the coastal marine area in breach of **section 23**, the following persons each commit an offence:

(a) if the discharge is from a ship, the master and the owner of the ship:

(b) if the discharge is from an offshore installation, the owner of the installation.

(4) A person commits an offence against this Act if the person contravenes, or permits a contravention of, any of the following:

(a) **section 243**, which relates to failure to provide certain information to an enforcement officer:

(b) **clause 17 of Schedule 9 or clause 30 of Schedule 10 of the Planning Act 2025** ~~**or clause 30 of schedule 10 of that Act**~~, which relates to the protection of sensitive information in relation to a proceeding or matter under this Act:

(c) any order (other than an order referred to in ~~section 278(1)~~ **subsection (1)**) made by the Environment Court.

(5) A person commits an offence against this Act if the person—

(a) wilfully obstructs, hinders, resists, or deceives any person in the execution of any powers conferred on that person by or under this Act:

(b) without sufficient cause, contravenes, or permits a contravention of, any summons or order to give evidence issued or made under or **clause 69 of Schedule 9 of the Planning Act 2025** in relation to a proceeding or matter under this Act.

Compare: 1991 No 69 s 338; 2023 No 46 s 701~~; 1991 No 69 s 338~~

Limitation periods

279 Limitation period for offences or pecuniary penalties under this Act

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of—

(a) an offence against this Act ends on the date that is 12 months after the date on which the contravention giving rise to the charge first became known, or should have become known, to the person on whose behalf the charging document is filed:

(b) an application for a pecuniary penalty order is 12 months after the date on which the contravention giving rise to the application first became known, or should have become known, to the person on whose behalf the application is made.

Compare: 2023 No 46 s 700; 1991 No 69 s 338(4)

Penalties

280 Penalties

(1) A person who commits an offence against **section 278(1), (2), or (3)** is liable on conviction,—

(a) in the case of a natural person, to imprisonment for a term not exceeding 18 months or a fine not exceeding $1,000,000:

(b) in the case of a person other than a natural person, to a fine not exceeding $10,000,000.

(2) A person who commits an offence against **section 278(1), (2), or (3)** is also liable on conviction, if the offence is a continuing one,—

(a) in the case of a natural person, to a fine not exceeding $10,000 for every day or part of a day during which the offence continues:

(b) in any other case, to a fine not exceeding $50,000 for every day or part of a day during which the offence continues.

(3) A person who commits an offence against **section 278(4)** is liable on conviction to a fine not exceeding $15,000, and, if the offence is a continuing one, to a further fine not exceeding $1,500 for every day or part of a day during which the offence continues.

(4) A person who commits an offence against **section 278(5)** is liable on conviction to a fine not exceeding $5,000.

(5) A court may sentence any person who commits an offence against this Act to a sentence of community work, and the provisions of Part 2 of the Sentencing Act 2002, with all necessary modifications, apply accordingly.

(6) If a person is convicted of an offence against **section 278**, the court may, instead of or in addition to imposing a ~~fine or a term of imprisonment~~ penalty under this section, make 1 or more of the following orders:

(a) the orders specified in **section 258**:

(b) an order requiring a permit authority to serve notice, under **section 186**, of the review of a natural resource permit held by the person, but only if the offence involves an act or omission that contravenes the permit.

(7) A court discharging an offender without conviction under section 106 of the Sentencing Act 2002 may make an enforcement order under **section 263** of this Act.

(8) The continued existence of anything, or the intermittent repetition of any actions, contrary to any provision of this Act is to be treated as a continuing offence.

Compare: 1991 No 69 s 339; 2023 No 46 s 706~~; 1991 No 69 s 339~~

280A Protection against imprisonment for dumping and discharge offences involving foreign ships

(1) An order of imprisonment must not be made against a person for any offence of contravening or permitting a contravention of **section 22 or 23** involving a foreign ship unless the court is satisfied that—

(a) either—

(i) the person intended to commit the offence; or

(ii) the offence occurred as a consequence of a reckless act or omission by that person with the knowledge that the act or omission would, or would be likely to, cause a significant or irreversible adverse effect on the coastal marine area; and

(b) the commission of the offence has had, or is likely to have, a significant or irreversible adverse effect on the coastal marine area.

(2) In this section, **foreign ship** has the same meaning as in section 2(1) of the Maritime Transport Act 1994.

280B Amount of fine or other monetary penalty recoverable by distress and sale of ship or from agent

(1) The court may order that the amount of an unpaid fine be levied by distress and sale of a ship and its equipment if—

(a) the master or owner of the ship is convicted of an offence against **section 278** in respect of any contravention of **section 22, 23, or 24**; and

(b) any fine or other monetary penalty imposed by a court under **section 280 or clause 29 or 30 of Schedule 8 of the Planning Act 2025**, in respect of that offence is not paid on time.

(2) Without limiting **subsection (1)**, **subsection (3)** applies if a master or an owner of a ship—

(a) is convicted of an offence against **section 278** in respect of any contravention of **section 22, 23, or 24**; and

(b) fails to pay the full amount of any fine or other monetary penalty imposed by the court under **section 280 or clause 29 or 30 of Schedule 8 of the Planning Act 2025**.

(3) The agent of the ship is civilly liable to pay to the Crown or, if the proceedings in relation to the offence were commenced by or on behalf of a local authority, to that local authority, any amount of that fine or monetary penalty that remains unpaid and the Crown or that local authority may recover that amount from that agent as a debt.

(4) For the purpose of **subsection (2)**, any proceedings in relation to the offence that were commenced by or on behalf of a local authority include any proceedings in which the EPA was assisting the local authority (*see* **section 246(b)**).

(5) An agent of a ship who, under this section, pays the whole or part of any fine or other monetary penalty imposed on the master or owner of the ship is entitled—

(a) to recover the amount paid from that master or owner as a debt or

(b) to deduct that amount out of, or from, any money that is or becomes payable by that agent to that master or owner.

(6) An amount paid by the agent under this section is deemed to be a disbursement made on account of the ship for the purposes of section 4(1)(p) of the Admiralty Act 1973.

(7) The District Court has jurisdiction to hear and determine proceedings for the recovery, in accordance with this section, of any money from any agent or master or owner of a ship whatever the amount of money involved.

(8) This section applies despite any legislation or rule of law to the contrary.

281 Liability of principal for acts of agents

(1) ~~**Subsection (2)** applies if~~ If an offence is committed against this Act by a person (**person A**) acting as the agent or employee of another person (**person B**), person B is liable for the offence as if person B had personally committed it.

~~(2) Person B is liable for the offence as if person B had personally committed it, if it is proved that person B—~~

~~(a) authorised or consented to the act constituting the offence; or~~

~~(b) knew the offence was, or was to be, committed and failed to take all reasonable steps to prevent or stop it.~~

(3) **Subsection ~~(2)~~ (1)** does not prejudice the liability of person A.

(4) If proceedings are brought against person B under **subsection ~~(2)~~ (1)**, person B has a good defence if—

(a) person B proves,—

(i) in the case of a natural person (including a partner in a firm),—

(A) that person B did not know, and could not reasonably be expected to have known, that the offence was to be or was being committed; or

(B) that person B took all reasonable steps to prevent the commission of the offence; or

(ii) in the case of a person other than a natural person,—

(A) that neither the directors (if any) nor any person involved in the management of person B knew, or could reasonably be expected to have known, that the offence was to be or was being committed; or

(B) that person B took all reasonable steps to prevent the commission of the offence; and

(b) person B proves that they took all reasonable steps to remedy any effects of the act or omission giving rise to the offence.

(5) If a person other than a natural person is convicted of an offence against this Act, a director of the defendant (if any), or a person involved in the management of the defendant, is guilty of the same offence if it is proved—

(a) that the act or omission that constituted the offence took place with the person's authority, permission, or consent; and

(b) that the person knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

Compare: 1991 No 69 s 340; 2023 No 46 s 702~~; 1991 No 69 s 340~~

282 Strict liability and defences

(1) In any prosecution for an offence set out in **section 278(1)**<u>,</u> it is not necessary to prove that the defendant intended to commit the offence.

(2) It is a defence to prosecution of the kind referred to in **subsection (1)** if the defendant proves—

(a) that—

(i) the action or event to which the prosecution relates was necessary for the purposes of saving or protecting life or health, preventing serious damage to property, or avoiding an actual or likely adverse effect on natural resources or people; and

(ii) the conduct of the defendant was reasonable in the circumstances; and

(iii) the effects of the action or event were adequately mitigated or remedied by the defendant after it occurred; or

(b) that the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage~~;~~ and<u>,</u> in each case<u>,</u>—

(i) the action or event could not reasonably have been foreseen or been provided against by the defendant; and

(ii) the effects of the action or event were adequately mitigated or remedied by the defendant after it occurred.

(3) Except with the leave of the court, **subsection (2)** does not apply unless, ~~within 7 days after the service of the summons or within such further time as the court may allow~~ <u>at any time before pleas are entered or within such further time as the court may allow</u>, the defendant delivers to the prosecutor a written notice—

(a) stating that the defendant intends to rely on **subsection (2)**; and

(b) specifying the facts that support the defendant's reliance on **subsection (2)**.

Compare: <u>1991 No 69 s 341;</u> 2023 No 46 s 703~~; 1991 No 69 s 341~~

283 Liability and defences in relation to dumping and incineration of waste or other matter in coastal marine area

(1) In any prosecution for an offence set out in **section 278(2)** it is not necessary to prove that the defendant intended to commit the offence.

(2) It is a defence to prosecution for an offence of contravening or permitting a contravention of **section 278(2)** if the defendant proves that the act or omission ~~which~~ <u>that</u> is alleged to constitute the offence—

(a) was necessary—

(i) to save or prevent danger to human life; or

(ii) to avert a serious threat to any ship, aircraft, or offshore installation; or

(iii) in the case of force majeure caused by stress of weather, to secure the safety of any ship, aircraft, or offshore installation; and

(b) was a reasonable step to take in all the circumstances; and

(c) was likely to result in less damage than would otherwise have occurred; and

(d) was taken or omitted in such a way that the likelihood of damage to human or marine life was minimised.

Compare: 1991 No 69 s 341A

284 Liability and defences for discharging harmful substances

(1) In any prosecution for an offence against **section 278(3)** (which relates to the discharge of harmful substances, contaminants, or water, in breach of **section 23**), it is not necessary to prove that the defendant intended to commit the offence.

(2) It is a defence to prosecution for an offence against **section 278(3)** if the defendant proves that—

(a) the harmful substance, ~~or~~ contaminant, or water was discharged for the purpose of securing the safety of a ship or an offshore installation, or for the purpose of saving life, and that the discharge was a reasonable step to effect that purpose; or

(b) the harmful substance, ~~or~~ contaminant, or water escaped as a consequence of damage to a ship or its equipment or to an offshore installation or its equipment~~;~~ and—

(i) such damage occurred without the negligence or deliberate act of the defendant; and

(ii) as soon as practicable after that damage occurred, all reasonable steps were taken to prevent the escape of the harmful substance, ~~or~~ contaminant, or water or, if any such escape could not be prevented, to minimise any escape.

Compare: 1991 No 69 s 341B; 2023 No 46 s 704~~; 1991 No 69 s 341B~~

285 Burden of proving defences

Despite anything to the contrary in the Criminal Procedure Act 2011, the burden of proving that a defence in **section 283 or 284** applies lies on the defendant.

Compare: 2023 No 46 s 705

286 Fines to be paid to local authority or EPA instituting prosecution

(1) If a person is convicted of an offence under **section 278** and the court imposes a fine, the court must, if the proceedings in relation to the offence

were commenced by or on behalf of a local authority or the EPA, order that the fine be paid to ~~them~~ the local authority or the EPA.

(2) There must be deducted from every amount payable to a local authority or the EPA under **subsection (1)** a sum equal to 10% of that amount, and that sum must be credited to a Crown Bank Account.

(3) Despite anything in **subsection (2)**, if any money awarded by a court in respect of any loss or damage is recovered as a fine, and that fine is ordered to be paid to a local authority or the EPA under **subsection (1)**, no deduction may be made under **subsection (2)** in respect of that money.

(4) Subject to **subsection (2)**, an order of the court made under **subsection (1)** is sufficient authority for the Registrar receiving the fine to pay that fine to the local authority or the EPA entitled to it under the order.

(5) Nothing in section 73 of the Public Finance Act 1989 applies to any fine ordered to be paid to a local authority or the EPA under **subsection (1)**.

Compare: 1991 No 69 s 342; 2023 No 46 s 707~~; 1991 No 69 s 342~~

Insurance against fines unlawful

287 Insurance against fines unlawful

(1) To the extent that a contract of insurance indemnifies or purports to indemnify a person for the person's liability to pay a fine or an infringement fee under this Act,—

(a) the contract is of no effect; and

(b) no court or tribunal has jurisdiction to grant relief in respect of the contract, whether under sections 75 to 82 of the Contract and Commercial Law Act 2017 or otherwise.

(2) A person must not—

(a) enter into, or offer to enter into, a contract described in **subsection (1)**; or

(b) through a contract of insurance,—

(i) indemnify, or offer to indemnify, another person for the other person's liability to pay a fine or an infringement fee under this Act; or

(ii) be indemnified, or agree to be indemnified, by another person for that person's liability to pay a fine or an infringement fee under this Act; or

(iii) pay to another person, or receive from another person, an indemnity for a fine or an infringement fee under this Act.

(3) The prohibition in this section against insurance does not apply to legal or remediation costs connected with an activity under this Act.

(4) A person who contravenes **subsection (2)** commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding $50,000:

(b) for any other person, to a fine not exceeding $250,000.

(5) In this section, **contract of insurance** has the meaning given in section 7(1) of the Insurance (Prudential Supervision) Act 2010.

Compare: 1991 No 69 s 342A; 2023 No 46 s 708~~; 1991 No 69 s 342A~~

Infringement offences

288 ~~Infringement offences~~ Interpretation

In **sections 289 to 295**,—

infringement fee, in relation to an infringement offence, means the amount fixed by regulations made under **section 307** ~~**section 281 of the Planning Act 2025**~~ as the infringement fee for the offence

infringement offence means an offence specified as such in regulations made under **section 307** ~~**section 281 of the Planning Act 2025**~~.

289 Infringement offences

(1) A person who is alleged to have committed an infringement offence may—

(a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) be issued with an infringement notice under **section 291**.

(2) Proceedings commenced in the way described in **subsection (1)(a)** do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.

(3) *See* section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued.

Compare: 1991 No 69 s 343B; 2023 No 46 s 709~~; 1991 No 69 s 343B~~

290 Who may issue infringement notices

An enforcement officer may issue infringement notices under this Act.

Compare: 1991 No 69 s 343C(1); 2023 No 46 s 710~~; 1991 No 69 s 343C(1)~~

291 When infringement notice may be issued

An enforcement officer may issue an infringement notice to a person if the enforcement officer believes on reasonable grounds that the person is committing, or has committed, an infringement offence.

Compare: 1991 No 69 s 343C(1); 2023 No 46 s 711~~; 1991 No 69 s 343C(1)~~

292 Revocation of infringement notice before payment made

(1) The enforcement officer may revoke an infringement notice before—

(a) the infringement fee is paid; or

(b) an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.

(2) The enforcement officer must take reasonable steps to ensure that the person to whom the notice was issued is made aware of the revocation of the notice.

(3) The revocation of an infringement notice before the infringement fee is paid is not a bar to any further action as described in **section 289(1)(a) or (b)** against the person to whom the notice was issued in respect of the same matter.

Compare: 2023 No 46 s 712

293 What infringement notice must contain

An infringement notice must be in the form prescribed in regulations made under **section 281 of the Planning Act 2025** and must contain the following particulars:

(a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence:

(b) the amount of the infringement fee:

(c) the address of the relevant authority:

(d) how the infringement fee may be paid:

(e) the time within which the infringement fee must be paid:

(f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:

(g) a statement that the person served with the notice has a right to request a hearing:

(h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing:

(i) any other matters prescribed in regulations made under **section 281 of the Planning Act 2025**.

Compare: 1991 No 69 s 343C(3); 2023 No 46 s 713~~; 1991 No 69 s 343C(3)~~

294 How infringement notice may be served

(1) An infringement notice may be served on the person who the enforcement officer believes is committing or has committed the infringement offence by—

(a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or

(b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 14 years; or

(c) leaving it for the person at the person's place of working or work with another person; or

(d) sending it to the person by prepaid post addressed to the person's last known place of residence or place of business or work; or

(e) sending it to an electronic address of the person.

(2) Unless the contrary is shown,—

(a) an infringement notice (or a copy of it) sent by prepaid post to a person under **subsection (1)** is to be treated as having been served on that person on the fifth working day after the date on which it was posted; and

(b) an infringement notice sent to a valid electronic address is to be treated as having been served at the time the electronic communication first entered an information system that is outside the control of the enforcement authority.

Compare: 1991 No 69 s 343C(2); 2023 No 46 s 714~~; 1991 No 69 s 343C(2)~~

295 Payment of infringement fees

(1) A local authority is entitled to retain all infringement fees received by it in respect of infringement offences where the infringement notice was issued by an enforcement officer of that authority.

(2) However, any infringement fee relating to an infringement notice issued by an enforcement officer appointed by the EPA may be retained by the EPA.

Compare: 1991 No 69 s 343D; 2023 No 46 s 715~~; 1991 No 69 s 343D~~

296 Reminder notices

A reminder notice must be in the form prescribed in regulations made under **section 281 of the Planning Act 2025** and must include the same particulars, or substantially the same particulars, as the infringement notice.

Compare: 1991 No 69 s 343C(4); 2023 No 46 s 716~~; 1991 No 69 s 343C(4)~~

297 Further provisions on specified topics in Schedule 8 of Planning Act 2025

Schedule 8 of the Planning Act 2025 applies for the purposes of this Act. ~~**Schedule 8**~~ That schedule sets out provisions relating to—

(a) financial assurances:

(b) adverse publicity orders:

(c) enforceable undertakings:

(d) monetary benefit orders:

(e) pecuniary penalty orders.

Local authorities to have compliance and enforcement strategy

298 Local authorities to prepare compliance and enforcement strategy

(1) A local authority must prepare and publish a compliance and enforcement strategy, in the prescribed manner and setting out the prescribed criteria, that

takes into account relevant Treaty settlements, and voluntary or statutory agreements with local iwi, hapū, or Māori (including Mana Whakahono ā Rohe agreements).

~~(2) When developing a compliance and enforcement strategy, local authorities must work with iwi authorities and groups that represent hapū within the region.~~

Compare: 2023 No 46 s 56

Providing information and guidance

299 Local authority or EPA to publish information about their functions, duties, and powers

The local authority or the EPA must publish on an internet site maintained by them or on their behalf that is accessible to the public free of charge—

(a) information about their functions, duties, and powers; and

(b) a register of all their enforcement activities that result in a conviction or court order, subject to any suppression order made by a court; and

(c) all decisions to accept enforceable undertakings, including the content of each enforceable undertaking and a summary of the reasons for the decision to accept it.

Compare: 2023 No 46 s 723

300 Functions, duties, and powers of Ministry

The chief executive must ensure that the Ministry prepares and issues guidance to assist local authorities and the EPA in the exercise of their enforcement functions, duties, and powers under this Act.

Compare: 2023 No 46 s 724

Enforcement powers for unlawful reclamation

300A Enforcement powers for unlawful reclamation occurring on or after commencement of this section

(1) This section applies if, at any time on or after the commencement of this section, land has been unlawfully reclaimed from the coastal marine area or the bed of a lake or river.

(2) The powers of the regional council and the EPA under this subpart apply to that reclaimed land, as if the land were still part of the coastal marine area or part of the bed of a lake or river (as the case requires).

Compare: 1991 No 69 s 355B(1)

300B Enforcement powers for unlawful reclamation that occurred before commencement of this section

(1) This section applies if, at any time before the commencement of this section, land was unlawfully reclaimed from the coastal marine area or the bed of a lake or river.

(2) The regional council or the EPA may apply to the Environment Court for an enforcement order against the person who reclaimed the land or the occupier of that land, requiring that person to take any action that (in the opinion of the Environment Court) is necessary to avoid, remedy, or mitigate any actual or likely adverse effect of the reclamation or reclaimed land.

(3) This subpart applies to the application with all necessary modifications.

(4) The regional council or the EPA may, jointly or separately, take any necessary action to remove the unlawfully reclaimed land from the coastal marine area or bed of the lake or river, whether or not they apply for an enforcement order under this section.

(5) **Subsection (4)** does not remove the need for the regional council or EPA to obtain a natural resource permit for action undertaken under that subsection, if a permit is required for that action under **subpart 2 of Part 2** of this Act.

Compare: 1991 No 69 s 355B(2)–(4)

Subpart 2—Emergency works

301 Emergency works and power to take preventive or remedial action

~~(1) Where—~~

~~(a) any public work for which any person has financial responsibility; or~~

~~(b) any natural and physical resource or area for which a local authority or permit authority has jurisdiction under this Act; or~~

~~(c) any project or work or core infrastructure operation for which any core infrastructure operator is approved as a designating authority under **clause 10 of Schedule 5 of the Planning Act 2025**; or~~

~~(d) any service or system that any lifeline utility operates or provides—~~

~~is, in the opinion of the person, authority, network utility operator, or lifeline utility, affected by or likely to be affected by—~~

~~(e) an adverse effect on the natural environment which requires immediate preventive measures; or~~

~~(f) an adverse effect on the natural environment which requires immediate remedial measures; or~~

~~(g) any sudden event causing or likely to cause loss of life, injury, or serious damage to property—~~

~~the provisions of **sections 17, 18, 19, 12, and 20** do not apply to any activity undertaken by or on behalf of that person, authority, network utility operator, or lifeline utility to remove the cause of, or minimise any actual or likely adverse effect of, the emergency.~~

(1) **Subsection (1A)** applies if, in the opinion of the relevant authority, a relevant matter is affected by or likely to be affected by—

(a) an adverse effect on the environment that requires immediate preventive measures; or

(b) an adverse effect on the environment that requires immediate remedial measures; or

(c) a sudden event causing or likely to cause loss of life, injury, or serious damage to property.

(1A) **Sections 17, 18, 19, 20, and 21** do not apply to any activity undertaken by or on behalf of the relevant authority to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency.

(2) ~~**Subsection (1)** applies~~ **Subsections (1) and (1A)** apply whether or not the adverse effect or sudden event was foreseeable.

~~(3) Where a local authority or permit authority—~~

~~(a) has financial responsibility for any public work; or~~

~~(b) has jurisdiction under this Act in respect of any natural and physical resource or area—~~

~~which is, in the reasonable opinion of that local authority or permit authority, likely to be affected by any of the conditions described in **paragraphs (d) to (f) of subsection (1)**, the local authority or permit authority by its employees or agents may, without prior notice, enter any place (including a dwellinghouse when accompanied by a constable) and may take such action, or direct the occupier to take such action, as is immediately necessary and sufficient to remove the cause of, or minimise any actual or likely adverse effect of, the emergency.~~

~~(4) However, if the occupier cannot be found in the place, **subsection (3)** is satisfied, and the local authority or permit authority is not required to take further action to contact the occupier, if—~~

~~(a) there is displayed in a prominent place on the land a notice that gives the date of entry, the time of entry, the reasons for entry, and the contact details of a person who can provide further information; and~~

~~(b) as soon as practicable after entering the land, the local authority or permit authority serves written notice (containing the same information as in **paragraph (a)**) on the person who is the ratepayer for the land for the purposes of the Local Government (Rating) Act 2002.~~

~~(5) **Sections 17, 18, 19, 12, and 20** do not apply to any action taken under **subsection (2)**.~~

~~(6) As soon as practicable after entering any place under this section, every person must identify himself or herself and inform the occupier of the place of the entry and the reasons for it.~~

(7) Nothing in this section authorises any person to do anything in relation to an emergency involving a marine oil spill or suspected marine oil spill within the meaning of section 281 of the Maritime Transport Act 1994.

~~(8) In this section and **section 302**, **lifeline utility** means a lifeline utility within the meaning of section 4 of the Civil Defence Emergency Management Act 2002 other than a lifeline utility that is a network utility operator to which **subsection (1)(c)** applies.~~

(8) In this section and **section 302**,—

lifeline utility means a lifeline utility as defined in section 4 of the Civil Defence Emergency Management Act 2002

relevant authority, in relation to a relevant matter, means the person referred to in the applicable paragraph of the definition of relevant matter

relevant matter means—

(a) a public work for which any person has financial responsibility; or

(b) a natural and physical resource, or an area, for which a local authority or permit authority has jurisdiction under this Act; or

(c) a project or core infrastructure operation for which a core infrastructure operator is approved as a designating authority under **clause 10 of Schedule 5 of the Planning Act 2025**; or

(d) a service or system that a lifeline utility operates or provides.

Compare: 1991 No 69 s 330(1), (1A), (4), (5)

301A Power to enter places and direct action in emergency

(1) **Subsections (2) and (3)** apply if,—

(a) in the reasonable opinion of a local authority, a public work that the local authority is financially responsible for is likely to be affected by any of the conditions described in **section 301(1)**; or

(b) in the reasonable opinion of a local authority or permit authority, a natural and physical resource or an area for which the local authority or permit authority has jurisdiction under this Act is likely to be affected by any of the conditions described in **section 301(1)**.

(2) The local authority or permit authority (by its employees or agents) may, without prior notice,—

(a) enter any place (including a dwellinghouse if accompanied by a constable); and

(b) take any action, or direct the occupier to take any action, that is immediately necessary and sufficient to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency.

(3) **Sections 17, 18, 19, 20, and 21** do not apply to any action taken under **subsection (2)**.

(4) As soon as is practicable after a person enters a place under this section, the person must—

(a) identify themselves to any occupier of the place; and

(b) inform the occupier of their entry and the reasons for it.

(5) However, if the occupier of the place cannot be found, the person (and the local authority or permit authority) is not required to take further action to contact the occupier if—

(a) a notice is displayed in a prominent location on the land that the place is on that gives—

(i) the date, time, and reasons for the entry; and

(ii) contact details for a person who can provide further information; and

(b) as soon as practicable after entering the place, the local authority or permit authority serves written notice (containing the information described in **paragraph (a)**) to the person who is the ratepayer (within the meaning of section 10 of the Local Government (Rating) Act 2002) for the land that the place is on.

(6) Nothing in this section authorises any person to do anything in relation to an emergency involving a marine oil spill or suspected marine oil spill within the meaning of section 281 of the Maritime Transport Act 1994.

Compare: 1991 No 69 s 330(2)–(4)

302 Natural resource permits for emergency works

(1) ~~Where~~ If an activity is undertaken under **section 301 or 301A**, the ~~person (other than the occupier), authority, network utility operator, or lifeline utility who or which undertook~~ relevant authority that authorised the activity must ~~advise~~ notify the appropriate permit authority, within 7 working days, that the activity has been undertaken.

(2) ~~Where such an~~ If the activity, but for **section 301 or 301A**, ~~contravenes any of **sections 17, 18, 19, 12, and 20**~~ would contravene **section 17, 18, 19, 20, or 21** and the adverse effects of the activity continue, then the ~~person (other than the occupier), authority, network utility operator, or lifeline utility who or which undertook~~ relevant authority that authorised the activity must, within 30 working days of the notification under **subsection (1)**, apply ~~in writing~~ to the appropriate permit authority for any necessary natural resource

permits required~~ in respect of~~ for the activity~~ within 30 working days of the notification under **subsection (1)**~~.

(3) If the application is made within the time stated in **subsection (2)**, the activity may continue until the application~~ for a natural resource permit~~ is decided and any appeals have been finally determined.

Compare: 1991 No 69 s 330A

303 Emergency works under Civil Defence Emergency Management Act 2002

~~(1) If any activity is undertaken by any person exercising emergency powers during a state of emergency declared, or transition period notified, under the Civil Defence Emergency Management Act 2002, the provisions of **sections 17, 18, 19, 12, and 20** do not apply to any activity undertaken by or on behalf of that person to remove the cause of, or minimise any actual or adverse effect of, the emergency.~~

(1) **Sections 17, 18, 19, 20 and 21** do not apply to an activity that is—

(a) undertaken by or on behalf of a person exercising emergency powers during a state of emergency declared, or a transition period notified, under the Civil Defence Emergency Management Act 2002; and

(b) undertaken to remove the cause of, or mitigate any actual or adverse effect of, the emergency.

(2) If an activity is undertaken to which **subsection (1)** applies, the person who authorised the activity must~~ advise~~ notify the appropriate permit authority, within 7 working days, that the activity has been undertaken.

(3) If such an activity, but for this section, would contravene~~ any of **sections 17, 18, 19, 12, and 20**~~ **section 17, 18, 19, 20, or 21** and the adverse effects of the activity continue, the person who authorised the activity must, within 60 working days of the notification under **subsection (2),** apply~~ in writing~~ to the appropriate permit authority for any necessary natural resource permits required~~ in respect of~~ for the activity~~, within 60 working days of the notification under **subsection (2)**~~.

(4) If the application is made within the time stated in **subsection (3)**, the activity may continue until the application~~ for a natural resource permit~~ is decided and any appeals have been finally determined.

(5) A person does not commit an offence under **section 278(1)(a)** by acting in accordance with this section.

Compare: 1991 No 69 s 330B

304 Reimbursement or compensation for emergency works

(1) ~~Where~~ If the local authority or ~~consent~~ permit authority takes action under **section~~ 301(3)~~ 301A(2)** because of the default of any person, the authority may require reimbursement from that person of its actual and reasonable costs (as defined in **section 258(2)**).

(2) ~~Where~~ If the costs ~~required to be paid under **subsection (1)**~~ are not ~~duly~~ paid within 20 working days of being required under **subsection (1)**, the authority may seek an enforcement order under **section 258(1)(d)**.

(3) The following persons are entitled to compensation from the authority ~~in respect of~~ for any damage ~~which~~ that did not arise from any failure ~~of that person to abide by his or her~~ by that person to comply with their duties under ~~the~~ this Act:

(a) every person having an estate or interest in land that is injuriously affected by the exercise of any power under **section ~~301(3)~~ 301A(2)**:

(b) every other person suffering any damage as a result of the exercise of that power.

(4) Any compensation under **subsection ~~(2)~~ (3)** must be claimed and determined in accordance with Part 5 of the Public Works Act 1981 and the provisions of that Act, so far as they apply and with all necessary modifications, apply accordingly.

Compare: 1991 No 69 s 331

305 Emergency response regulations

(1) The Governor-General may, by Order in Council ~~made on the recommendation of the Minister~~, make regulations ~~(**emergency response regulations**)~~ for the purpose of—

(a) responding to a natural hazard event or other emergency in an area; and

(b) enabling recovery efforts in the affected area (including any work required to improve the resilience or standard of assets).

~~(2) Before recommending emergency response regulations, the Minister must—~~

~~(a) be satisfied that the proposed regulations are necessary or desirable for the purpose of this Act:~~

~~(b) be satisfied that the proposed regulations are not broader than is reasonably necessary:~~

~~(c) consider the effects on natural resources or people that could occur as a result of the proposed regulations and whether any adverse effects can be avoided, remedied, or minimised:~~

~~(d) consult the Minister for Emergency Management and Recovery:~~

~~(e) consult the Minister of Conservation if the regulations affect the coastal marine area:~~

~~(f) consult any affected councils and the relevant following groups and invite them to provide written comments about the proposed regulations:~~

~~(i) iwi authorities:~~

~~(ii) post-settlement governance entities:~~

(iii) ~~ngā hapū o Ngāti Porou, as defined in section 10 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019:~~

(iv) ~~iwi or hapū who are party to a Mana Whakahono a Rohe or joint management agreement that applies in the region:~~

(v) ~~customary marine title groups (within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011):~~

(vi) ~~protected customary rights groups (within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011):~~

(vii) ~~applicant groups (within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011):~~

(g) ~~have regard to any comments from affected councils and the groups referred to in **paragraph (f)**:~~

(h) ~~provide a draft of the proposed regulations to the committee of the House of Representatives that is responsible for the review of secondary legislation:~~

(i) ~~have regard to comments, if any, from the committee of the House of Representatives that is responsible for the review of secondary legislation.~~

(3) ~~Before recommending emergency response regulations, the Minister may invite any other persons or representatives of persons that the Minister considers appropriate (including local community groups), or the public generally, to provide written comments about the proposed regulations.~~

(4) ~~Comments referred to in **subsection (2)(i)** or written comments provided in response to an invitation from the Minister under **subsection (3)** must be provided within 5 working days after the draft is provided to the committee or the invitation is received, respectively, unless the Minister extends that period.~~

(5) ~~Written comments provided in response to an invitation from the Minister under **subsection (2)(f)** must be provided within 10 working days after the invitation is received, unless the Minister extends that period.~~

(6) ~~Emergency response regulations—~~Regulations made under this section—

(a) may apply only to an area where, under the Civil Defence Emergency Management Act 2002, a state of national or local emergency has been declared or notice given of a local or national transition period; and

(b) may be made, or continue to apply to that area, after the declaration ceases to have effect or the transition period ends; and

(c) ~~expire~~ are revoked on the date that is 3 years after the first declaration is made or notice is given, or any earlier date specified in the regulations.

(7) ~~Emergency response regulations~~ Regulations made under this section may—

(a) permit, authorise, or prohibit specific activities~~, while noting that this will not give long-term existing use rights to those activities~~:

(b) modify or alter the plan development processes:

(c) apply a temporary stay to the processing or granting of certain types or categories of ~~permit~~ applications for natural resource permits ~~(processing and granting of permits)~~:

(d) limit or exclude rights of appeal (other than judicial review) in relation to decisions on natural resource permits, plan changes, or variations:

(e) extend the time frames under **sections 302 and 303** for lodging retrospective applications for natural resource permits for emergency works ~~under **section 301**~~:

(f) extend or shorten natural resource permit processing time frames.

(7A) An activity that is permitted or authorised by regulations made under this section must not, for that reason, be treated as—

(a) a permitted activity, or an activity that can be lawfully carried out without a natural resource permit, for the purposes of **section 25(1)(a)(i) or (2)(a)(i)**; or

(b) an activity that is lawfully established for the purposes of **section 25(1)(a)(ii) or (2)(a)(ii)**.

(8) ~~Emergency response regulations~~ Regulations made under this section may incorporate material by reference. **Section ~~75~~ 90A** applies as if ~~references~~ a reference in that section to ~~a~~ national ~~instrument~~ standards were ~~references~~ a reference to regulations made under this section.

(9) ~~Emergency response regulations~~ Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 331AA(1), (6)–(9)

305A Requirements for making emergency response regulations

(1) Regulations must not be made under **section 305** except on the recommendation of the Minister.

(2) Before recommending regulations under **section 305**, the Minister must—

(a) be satisfied that the proposed regulations are necessary or desirable for the purpose of this Act:

(b) be satisfied that the proposed regulations are not broader than is reasonably necessary:

(c) consider the effects on the environment that could occur as a result of the proposed regulations and whether any adverse effects can be avoided, remedied, or mitigated:

(d) consult the Minister responsible for administering the Civil Defence Emergency Management Act 2002:

(e) consult the Minister of Conservation if the regulations would affect the coastal marine area:

(f) consult any affected local authorities and the following groups, as relevant, and invite them to provide written comments about the proposed regulations:

(i) iwi authorities:

(ii) post-settlement governance entities:

(iii) ngā hapū o Ngāti Porou (as defined in section 10 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019):

(iv) iwi or hapū who are party to a Mana Whakahono ā Rohe or joint management agreement that applies in the region:

(v) customary marine title groups:

(vi) protected customary rights groups:

(vii) applicant groups (as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011):

(g) have regard to any comments that are provided by the affected local authorities or groups referred to in **paragraph (f)** within—

(i) 10 working days of the date on which the Minister invites comments; or

(ii) any longer period specified by the Minister in writing:

(h) provide a draft of the proposed regulations to the committee of the House of Representatives that is responsible for the review of secondary legislation (the **committee**):

(i) have regard to any comments that are provided by the committee within—

(i) 5 working days of the date on which the Minister provided the draft; or

(ii) any longer period specified by the Minister in writing.

(3) Before recommending regulations under **section 305**, the Minister may—

(a) invite any other persons that the Minister considers appropriate (including local community groups), or the public generally, to provide written comments about the proposed regulations; and

(b) have regard to any comments that are provided by them within—

(i) 5 working days of the date on which the Minister invites comments; or

(ii) any longer period specified by the Minister in writing.

Compare: 1991 No 69 s 331AA(2)–(4)

306 Annual review of emergency response regulations

The Minister must, within 12 months after any ~~regulation~~ regulations made under **section ~~324~~ 305** comes into force, and once in every 12 months after that while the ~~regulation remains~~ regulations remain in force,—

(a) ~~carry out a~~ review ~~of~~ the operation and effectiveness of the ~~regulation~~ regulations; and

(b) prepare a report on the review; and

(c) present the report to the House of Representatives as soon as practicable after it has been completed; and

(d) make public the outcomes of the review.

Compare: 1991 No 69 s 331AB

Subpart 3—Regulations

307 Regulations

(1) The Governor-General may ~~from time to time~~, by Order in Council, make regulations for all or any of the following purposes:

(a) providing for anything this Act ~~or provisions in the **Planning Act 2025** that are applied to this Act say~~ says may or must be provided for by regulations:

(aa) prescribing, for the purposes of any provision of this Act that requires a thing to be done in the manner prescribed by regulations, the manner in which the thing must be done, including prescribing—

(i) by whom, where, and how the thing must be done:

(ii) by when the thing must be done, including by setting a deadline:

(iii) the form that must be used for doing the thing:

(iv) information or other evidence that must be provided in connection with the thing, including requirements that the information or evidence must comply with:

(v) requirements for serving notice in connection with the thing:

(b) prescribing the manner or content of applications, notices, or any other documentation or information required under this Act, including service of notices:

(c) requiring the payment of fees or charges in connection with—

(i) an application, notice, or request provided for under this Act:

(ii) the performance or exercise of any function, power, or duty under this Act:

(d) prescribing any of the following in relation to fees or charges required under **paragraph (c)**:

(i) the fee or charge payable or the methods for calculating fees or charges:

(ii) the persons liable to pay the fees or charges:

(iii) the persons to whom the fees or charges must be paid:

(iv) when the fees or charges must be paid:

(v) the circumstances in which the fees or charges may be refunded, remitted, or waived (wholly or partly):

(da) prescribing the amount, the methods for calculating the amount, and the circumstances and manner in which holders of natural resource permits are liable to pay for the following:

(i) the occupation of the coastal marine area that is within the common marine and coastal area:

(ii) the occupation of the bed of any river or lake that is land of the Crown:

(iii) the extraction of any sand, shingle, shell, and other natural materials from an area described in **subparagraph (i) or (ii)**:

(iv) the use of geothermal energy:

~~(e) prescribing, for the purpose of the Registrar deciding whether to waive, reduce, or postpone the payment of a fee under **clause 88 of Schedule 9 of the Planning Act 2025**, the criteria that the Registrar must apply to—~~

~~(i) assess a person's ability to pay a fee; and~~

~~(ii) identify proceedings that concern matters of public interest:~~

(f) ~~prescribing those~~ specifying the offences under this Act (including offences prescribed under **paragraph ~~(y)~~ (x)**) that constitute infringement offences ~~against this Act:~~ and prescribing infringement fees for those offences—

(i) not exceeding $2,000, in the case of a natural person:

(ii) not exceeding $4,000, in the case of a person other than a natural person:

~~(g) prescribing infringement fees (which may be different fees for different offences)—~~

~~(i) not exceeding $2,000, in the case of a natural person, for an infringement offence prescribed under this subsection:~~

~~(ii) not exceeding $4,000, in the case of a person other than a natural person, for an infringement offence prescribed under this subsection:~~

~~(h) prescribing, in relation to infringement offences against this Act, the form and content of infringement notices and reminder notices:~~

(i) requiring the holders of water permits, discharge permits, or coastal permits granted for any activity that would otherwise contravene **section 19**~~,~~ to keep records for any purpose under this Act, and prescribing the nature of records, information, and returns, and the form, manner, and times in or at which they shall be kept or furnished:

(j) prescribing the form and content (including conditions) of water permits and discharge permits:

~~(k) prescribing the practice and procedure of the Environment Court and the form of proceedings, both under this Act and in relation to the exercise of any jurisdiction conferred on the court by any other Act:~~

~~(l) prescribing transitional and savings provisions relating to the coming into force of this Act, which may be in addition to or in place of any of the provisions of **Schedule 1**:~~

(m) prescribing exemptions from any provision of **section 21**, either absolutely or subject to any prescribed conditions, and either generally or specifically or in relation to particular descriptions of contaminants or to the discharge of contaminants in particular circumstances or from particular sources, or in relation to any area of land, air, or water specified in ~~the~~ regulations:

(ma) prescribing standards, methods, and other requirements for the use of data or digital technology in the processes under this Act:

~~(n) classifying activities and other functions of a national rule under **subpart 3 of Part 2**:~~

(n) doing anything that a national rule may do under **subpart 3 of Part 2** (for example, classifying activities):

(o) deeming to be included in any natural environment plan or proposed natural environment plan rules that ~~may apply generally or specifically and that may~~ do ~~all or~~ any of the following:

~~(i) specify, as restricted discretionary activities, discretionary activities, or prohibited activities, any activities to which **section 22** applies:~~

(i) classify activities to which **section 22** applies as controlled activities, restricted discretionary activities, discretionary activities, or prohibited activities:

(ii) specify criteria ~~to~~ that must be considered ~~in~~ when a permit authority is considering ~~any~~ an application ~~under **section 130**~~ for a coastal permit to do something that ~~otherwise~~ would otherwise contravene **section 22**, ~~or any~~ an application ~~under **section 185**~~ to change or cancel ~~any~~ a condition of such a coastal permit, or ~~on~~ a review of the conditions of such a coastal permit ~~under **section 186**~~:

(p) prescribing any substance to be a harmful substance for the purposes of **section 3**:

(q) prescribing any waste or other matter to be toxic or hazardous waste for the purposes of **section 24**:

(r) without limiting **paragraph (i)**, in relation to any coastal permit to do something that otherwise would contravene **section 22**,—

(i) requiring the holder of the coastal permit to keep records; and

(ii) requiring the holder of the coastal permit to ~~furnish~~ provide to ~~the relevant prescribed~~ any specified agency or local authority information ~~and returns as to any matters~~ in relation to any activity carried out under the coastal permit; and

(iii) prescribing the nature of the records~~,~~ or information~~, and returns,~~ and the form, manner, and times in or at which they must be kept or ~~furnished~~ provided:

(s) in relation to a discharge to which **section 23** applies (which regulations may describe by referring to the circumstances, quantities, components, or sources of the discharge),—

(i) prohibiting or permitting the discharge; or

(ii) controlling the discharge by prescribing conditions or limitations, or by other means; or

(iii) prohibiting or permitting, with or without conditions, the making of a rule; or

(iv) prohibiting or permitting, with or without conditions, the granting of a natural resource permit:

(sa) prescribing any operations of a ship, aircraft, or offshore installation as a normal operation for the purposes of the definition of dumping in **section 3**:

(t) providing for discounts on administrative ~~charges~~ fees imposed under **section ~~229~~ 317A** when local authorities do not meet time limits set under this Act:

(u) prescribing, for the purposes of **section ~~227~~ 224**,—

(i) indicators or other matters by reference to which a local authority is required to monitor the state of the natural environment of its region or district:

(ii) matters by reference to which monitoring must be carried out:

(iii) standards, methods, or requirements applying to the monitoring, which may differ depending on what is being monitored:

(v) requiring local authorities to provide information gathered under **sections ~~227 and 228~~ 224 and 224A** to the Minister, and prescribing the content of the information to be provided and the manner in which, and time limits by which, it must be provided:

(w) prescribing measures for the purpose of excluding stock from water bodies, estuaries, coastal lakes and lagoons, and the margins of those water bodies, estuaries, and coastal lakes and lagoons, including regulations that—

(i) apply generally in relation to stock or to specified kinds of stock (for example, dairy cattle):

(ii) apply generally in relation to water bodies, estuaries, coastal lakes and lagoons, and their margins, or to specified kinds of water bodies, estuaries, coastal lakes and lagoons, and their margins:

(iii) apply different measures to different kinds of stock or to different kinds of water bodies, estuaries, coastal lakes and lagoons, and their margins:

(iv) prescribe technical requirements for the purposes of the regulations~~ (for example, the minimum height and other specifications with which any required means of exclusion must comply, such as requirements for fencing or riparian planting)~~:

(x) prescribing infringement offences for the contravention of, or non-compliance with, any regulations made under **paragraph (w)**:

(y) prescribing requirements that apply to the use of models (being simplified representations of systems, for example, farms, catchments, and regions) under this Act by—

(i) local authorities:

(ii) the holders of natural resource permits:

(iii) other persons:

~~(z) prescribing infrastructure as long-lived infrastructure for the purpose of **paragraph (f)** of the definition of long-lived infrastructure in **section 3**:~~

~~(za) providing methodologies to support the preparation and implementation of relief frameworks under **section 111**:~~

(zb) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.

(2) Regulations made under~~ this section~~ **subsection (1)**—

(a) may apply generally; or

(b) may apply or be applied from time to time by the Minister by notice~~,~~—

(i) within any specified district or region of any local authority~~;~~ or within any specified part of New Zealand:

~~(ii) within any specified part of New Zealand; or~~

(iii) to any specified class or classes of persons.

(2A) Regulations may be made under **subsection (1)(n)** only on the Minister's recommendation after being satisfied that the regulations are necessary or desirable for either or both of the following:

(a) to implement New Zealand's obligations under any international convention, protocol, or agreement to which New Zealand is a party:

(b) to enable New Zealand to become a party to any international convention, protocol, or agreement.

~~(3) No regulation may be made under any of **paragraphs (o) to (r) of subsection (1)** except on the recommendation of the Minister after consultation with the Minister of Transport and the Minister of Conservation.~~

(4) The Minister must not recommend the making of~~ any regulation~~ regulations under~~ any of~~ ~~**paragraphs (o) to (q) of subsection (1)**~~ **subsection (1)(o), (p), (q), or (r)** unless, after having consulted the Minister of Transport and the Minister of Conservation, the Minister is of the opinion that—

(a) it is necessary or desirable to do so for~~ all or any~~ 1 or more of the following purposes:

(i) to implement New Zealand's obligations under any international convention, protocol, or agreement~~,~~ relating to the protection of the marine environment and to which New Zealand is a party:

(ii) to enable New Zealand to become a party to any international convention, protocol, or agreement relating to the protection of the marine environment:

(iii) to implement~~ such~~ international practices or standards relating to the protection of the marine environment~~ as~~ that may, from time to time, be recommended by the International Maritime Organization; or

(b) it is not inconsistent with any such purpose to do so.

(5) The Minister may amend any schedule of any regulations made under **subsection (1)(p) or (q)** by omitting or inserting the names or a description of waste or other matter or harmful substance to make that schedule comply with the provisions of an international convention relating to the pollution of the marine environment.

(6) Regulations made under **subsection (1)(s)** may apply~~—~~ generally to rules or natural resource permits, or to rules or natural resource permits made by the permit authorities specified in regulations.

~~(a) generally within New Zealand or to those areas of New Zealand specified in the regulations:~~

~~(b) generally to rules or natural resource permits, or to rules or natural resource permits made by the permit authorities specified in the regulations.~~

(7) Regulations made under **subsection (1)(w) or (x)** may specify—

(a) that rules inconsistent with those regulations be withdrawn or amended—

(i) to the extent necessary to remove the inconsistency; and

(ii) as soon as practicable after the date on which the regulations come into force; but

(iii) without using any of the processes under **Schedule 3 of the Planning Act 2025** for changing a plan or proposed plan; and

(b) in relation to a rule made before the commencement of the regulations,—

(i) the extent to which a matter that the regulations apply to continues to have effect; or

(ii) the period for which a matter that the regulations apply to continues to have effect.

(8) If regulations specify a matter under **subsection (7)**, the local authorities concerned must publicly notify that the rules have been withdrawn or amended not later than 5 working days after they are withdrawn or amended.

(9) Regulations may be made under ~~**subsection (1)(z)**~~ **subsection (1)(a)** that prescribe infrastructure as long-lived infrastructure for the purposes of **paragraph (g)** of the definition of long-lived infrastructure in **section 3**, only on the Minister's recommendation after being satisfied that the infrastructure—

(a) has an expected life span of 50 years; and

(b) is suitable for a ~~consent~~ permit duration of 35 years; and

(c) benefits the public.

~~(10) If regulations specify a matter under **subsection (7)**, the local authorities concerned must publicly notify that the rules have been withdrawn or amended not later than 5 working days after they are withdrawn or amended.~~

~~(11) All regulations made under **subsection (1)(l)** that are still in force on the day that is 5 years after the date of commencement of this Act shall expire at the close of that day.~~

(12) Regulations made under ~~this section~~ **subsection (1)** may incorporate material by reference. **Section ~~75~~ 90A** applies as if ~~its references~~ a reference to ~~a~~ national ~~instrument~~ standards in that section were ~~references~~ a reference to regulations made under ~~this section~~ **subsection (1)**.

(13) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) regulations made under **subsection (1)**:

(b) a notice made under **subsection (2)(b)**:

(c) an amendment made under **subsection (5)**.

Compare: 1991 No 69 s 360

308 Regulations relating to ~~permit processing~~ permit-processing time frames and procedures

(1) The Governor-General may, by Order in Council, make regulations that provide for time frames and other procedural matters relating to the processing ~~an application for a natural resource permit.~~ of applications for—

(a) a natural resource permit:

(b) a certificate of compliance:

(c) an existing use certificate.

(2) Regulations under **subsection (1)** may—

(a) prescribe maximum processing time frames for applications ~~for natural resource permits~~ that are shorter than the maximum processing time frames specified in **section 138**:

(b) prescribe time frames for any step involved in the processing of an application (including in relation to submissions, hearings, and decision making), if a time frame for that step has not been specified in the Act:

(c) prescribe matters and time periods that must be excluded from the calculation of the maximum processing time frame under **section 138 or paragraph (a)**:

(d) prescribe requirements that apply to a request for an extension to a specified time period:

(e) provide for any other procedural matter that relates to the processing of an application.

(3) Regulations under **subsection (1)** may apply—

(a) generally throughout New Zealand~~,~~ or specifically to 1 or more districts or regions:

(b) to all types of natural resource permit~~,~~ or ~~only~~ to a particular class of natural resource permits ~~of a particular type or relating to a particular activity~~.

(4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

308A Regulations relating to hearings processes and hearings authorities

(1) The Governor-General may, by Order in Council, make regulations prescribing—

(a) requirements relating to the efficient control of any hearing or class of hearings held under this Act by a hearings authority:

(b) eligibility requirements for persons to be appointed as hearings commissioners under this Act, including requirements that those persons must be accredited:

(c) other procedural requirements relating to hearings or hearings authorities.

(2) Without limiting **subsection (1)**, regulations under this section may prescribe—

(a) requirements relating to—

(i) the provision of evidence or other information within time limits:

(ii) the order of business at a hearing:

(iii) cross-examination (including by prohibiting cross-examination or limiting the conduct of it):

(iv) the term of an independent hearings panel and of individual members:

(b) requirements that evidence or submissions be—

(i) recorded:

(ii) taken as read:

(iii) limited to matters in dispute:

(iv) presented within a time limit:

(c) powers and duties of the chairperson of an independent hearings panel:

(d) powers to remove members of an independent hearings panel or hearings commissioners for just cause.

(3) Regulations under this section may prescribe different requirements for—

(a) different hearings authorities:

(b) different hearings or classes of hearings.

(4) In this section, **hearings authority** has the meaning given in **section 320B**.

(5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Regulations relating to allocation of ~~the~~ use of natural resources

309 Regulations relating to certain review processes

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations to prescribe a process by which a regional council may carry out a review of the conditions of a ~~coastal, water, discharge, or land use~~ natural resource permit that ~~relates to the allocation of a natural~~

~~resource use activity in the circumstances where a review is authorised or required to be carried out by a national instrument or a rule in a plan.~~—

(a) is required by **section 186(1)(c), (d), or (e)**; and

(b) relates to a the allocation of a natural resource use activity.

~~(2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).~~

(3) Before recommending the making of regulations under this section, the Minister must comply with **section 313**, as if the recommendation for regulations were for a proposed national instrument.

(4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 128(1)

310 Regulations amending natural environment plans in relation to aquaculture activities and allocation processes

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister responsible for aquaculture,—

(a) amend provisions in a natural environment plan that relate to the management of aquaculture activities in the coastal marine area; and

(b) amend a natural environment plan to establish rules for the allocation of ~~specified aquaculture-related~~ authorisations for aquaculture activities.

(2) Regulations made under **subsection (1)** may amend more than 1 natural environment plan at the same time, including natural environment plans that relate to different regions.

(3) An amendment made under **subsection (1)**—

(a) becomes part of the operative natural environment plan as if it had been made under **Schedule 3 of the Planning Act 2025** (as applied by **section 94** of this Act); and

(b) must not be inconsistent with, and is subject to, the other provisions of this Act; and

(c) may be amended—

(i) under this section; or

(ii) in accordance with **Schedule 3 of the Planning Act 2025** (as applied by **section 94** of this Act); or

(iii) under any other provision of this Act.

(4) Regulations establishing a process for the allocation of ~~specified aquaculture-related~~ authorisations for aquaculture activities—

(a) must provide for how allocation offers for those authorisations are to be decided; and

(b) must specify the ~~aquaculture-related~~ authorisations (or class of authorisations) to which the process applies; and

(c) may specify—

(i) that the Minister responsible for aquaculture is the decision maker for allocation offers made under the process; and

(ii) the circumstances in which, and the criteria by which, the Minister must make those decisions; and

(d) must specify the unit of measurement for a specified aquaculture-related resource or class of resource (for example, based on volume, meterage, or percentage); and

(e) may provide for any other matter necessary for establishing or giving effect to the process.

(5) If a regional council makes changes to the natural environment plan or develops a new natural environment plan, the ~~committee~~ regional council may specify that the Minister responsible for aquaculture is the decision maker for allocation offers made under an allocation process, but only if—

(a) the natural environment plan has been amended by regulations establishing an allocation process and specifying the matters referred to in **subsection (4)(c)**; and

(b) either—

(i) the allocation process proposed in the changes or the new natural environment plan is the same as that made under the regulations; or

(ii) the Minister responsible for aquaculture agrees to the changes to the natural environment plan or the new natural environment plan before it is notified.

(6) In this section and **sections 311 and 312**,—

amend provisions includes—

(a) omitting provisions (whether other provisions are substituted or not):

(b) adding provisions

~~**aquaculture-related authorisation** means the exclusive right to apply for a resource consent for an aquaculture-related resource, within the meaning of the definition of right to apply in **section 204(2)** and the definition of authorisation in **clause 1 of Schedule 3**~~

authorisation has the meaning given in **clause 1 of Schedule 3**

aquaculture-related resource means—

(a) the occupation of space in a common marine and coastal area for aquaculture activities:

(b) the capacity of coastal water (including estuaries) to assimilate a discharge of a contaminant from an aquaculture activity:

~~(c) any other resource related to aquaculture identified in national standards or regulations under **section 87**:~~

(d) any other resource related to aquaculture.

(7) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 360A; 2023 No 46 s 793

311 Conditions to be satisfied before regulations made under section 310

Ministerial considerations

(1) The Minister responsible for aquaculture must not recommend the making of regulations under **section 310**~~,~~ unless the Minister—

(a) has first had regard to the provisions of the natural environment plan that will be affected by the proposed regulations; and

(b) has carried out consultation on the proposed regulations in accordance with this section; and

(c) is satisfied that—

(i) the proposed regulations are necessary or desirable for the management of aquaculture activities in accordance with the Government's policy for aquaculture in the coastal marine area; and

(ii) the matters to be addressed by the proposed regulations are of regional or national significance; and

(iii) the proposed regulations do not result in a rule in the natural environment plan that contravenes **section 101**; and

(iv) the natural environment plan (as amended by the proposed regulations) meets the requirements in **subsection (2)**; and

(d) has prepared an evaluation report under ~~section 110~~ **clause 10 of Schedule 3 of the Planning Act 2025** for the proposed regulations and had particular regard to that report when deciding whether to recommend the making of the regulations.

(2) The natural environment plan (as amended by the proposed regulations)~~—~~ must comply with **section 97(2) and (3)**.

~~(a) must not cause environmental limits to be breached; and~~

~~(b) must continue to give effect to the following, without conflicting with or duplicating them:~~

~~(i) any national policy direction:~~

~~(ii) any national standard:~~

~~(iii) relevant provisions in a regional spatial plan:~~

~~(iv) relevant provisions in an action plan; and~~

~~(c) must be consistent with the regional spatial strategy.~~

(3) When deciding whether to recommend the making of regulations that directly affect a customary marine title area, the Minister responsible for aquaculture must consider any content in a relevant planning document—

(a) that has been lodged with the Minister under section 91A of the Marine and Coastal Area (Takutai Moana) Act 2011 or lodged with the regional council under section 86 of that Act; and

(b) that the Minister considers relevant to their decision.

(4) When deciding whether to recommend the making of regulations that relate to the allocation of coastal space, the Minister responsible for aquaculture must consider how the proposed regulations affect any preferential rights described in **clause 22 of Schedule 3**.

~~(5) When deciding whether to recommend the making of regulations that relate to **paragraphs (b) to (d)** of the definition of aquaculture-related resource in **section 310(6)**, the Minister must have particular regard to the allocation principles.~~

Consultation requirements

(6) The Minister responsible for aquaculture must consult on the proposed regulations with—

(a) the Minister of Conservation; and

(b) other Ministers that the Minister responsible for aquaculture considers relevant to the proposed regulations; and

(c) any customary marine title group in the area covered by the natural environment plan; and

(d) any applicant group (within the meaning of section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011) in the area covered by the natural environment plan; and

(e) the public, ~~the~~ relevant iwi authorities, and groups that represent hapū within the relevant region.

(7) When consulting organisations, people, and groups under **subsection (6)(c) to (e)**, the Minister responsible for aquaculture—

(a) must notify them of the proposed regulations; and

(b) must establish a process that—

(i) the Minister responsible for aquaculture considers gives them adequate time and opportunity to comment on the proposed regulations; and

(ii) requires a report and recommendation to be made to the Minister on those comments and the proposed regulations; and

(c) must publicly notify the report and recommendation; and

(d) is not required to consult on matters that have already been the subject of consultation if the Minister is satisfied that the previous consultation related to subject matter that is in substance the same as that proposed in the regulations.

(8) A single consultation process may be used if—

(a) the proposed regulations amend 2 or more natural environment plans at the same time; and

(b) the requirements of **subsections (6) and (7)** are met in respect of each natural environment plan.

Compare: 1991 No 69 s 360B; 2023 No 46 s 794

312 Regional council obligations

(1) As soon as practicable after regulations are made under **section 310**, the regional council whose natural environment plan is or will be amended by the regulations must—

(a) give a public notice that sets out— ~~the regulations have been made, of the date on which the regulations come into force, and that provides a general description of the nature and effect of the regulations; and~~

(i) that the regulations have been made; and

(ii) the date on which the regulations come into force; and

(iii) a general description of the nature and effect of the regulations; and

(b) amend the natural environment plan in accordance with the regulations—

(i) without using the process in **Schedule 3 of the Planning Act 2025** (as applied by **section 94** of this Act); and

(ii) by any date specified in the regulations for that purpose or, if no date is specified, as soon as practicable after the regulations come into force.

(2) To avoid doubt, **clause 6 of Schedule 3** of this Act does not apply to any amendments to a natural environment plan that have been made in accordance with regulations made under **section 310**.

Compare: 1991 No 69 s 360B; 2023 No 46 s 795

Natural resource levies

313 Regulations relating to natural resource levies

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations prescribing a levy for a natural resource use activity ~~the taking or use of natural resources specified in **section 223**~~.

(2) The Minister may recommend the making of regulations under this section for the following purposes:

(a) to, in relation to the activities specified in **section 314(2)**,—

(i) fund the resolution of issues ~~resulting from over-allocation~~ related to over-allocation of a natural resource in a management unit; or

(ii) provide for efficient use of natural resources:

(b) to fund ~~central Government and regional councils to undertake their functions and duties, and exercise their powers under this Act~~ the activities listed in **section 314(3)**, to the extent that the costs of those activities are not recovered through other mechanisms ~~under this Act~~.

(3) Regulations made under this section may—

(a) identify the ~~taking or use of~~ natural resource use activity to which the levy applies; and

(b) set different levy rates for different natural resources and different locations; and

~~(c) prescribe the amount of the levy or a method for calculating the amount; and~~

(c) to the extent that the levy is required to fund the cost of the activities specified in **section 314**, prescribe—

(i) the amount of the levy; or

(ii) the method for calculating the amount; and

(d) specify who is liable to pay the levy; and

(e) provide for refunds or exemptions from or waivers of a levy, in whole or in part, in any class of case, including prescribing any criteria that must be met for a refund, an exemption, or a waiver to apply; and

(f) identify any proportion of the levy that may be retained or transferred to persons specified in ~~the~~ regulations; and

(g) specify how any proportion of the levy retained or transferred under **paragraph (f)** may be used ~~by the specified person~~, including any conditions that must be satisfied before the ~~transferred~~ portion of the levy is used; and

(ga) in relation to levies,—

(i) provide for matters relating to the non-payment of levies:

(ii) set the prescribed rate of interest payable on any unpaid amount of levy:

(iii) specify the department, regional council, or other agency responsible for enforcing levies; and

(h) set out reporting obligations of central government and regional councils in relation to levies set under ~~**paragraph (h)**~~ this section; and

(i) empower or direct 1 or more regional councils to undertake 1 or more of the matters specified in **paragraphs (a) to (d)** in accordance with prescribed procedures and subject to prescribed conditions.

(4) The following are exempt from any ~~charges~~ levies prescribed by regulations made under this section:

(a) a protected customary rights group—

(i) when exercising a protected customary right for which they are not liable under section 52(2) of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(ii) when exercising any other protected customary right under that Act:

(b) a customary marine title group—

(i) when exercising a customary right for which they are not liable under section 60(2) of that Act; and

(ii) when undertaking an activity in relation to their customary marine title area.

(5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

314 Conditions to be satisfied before regulations made under section 313

(1) Before recommending the making of regulations under **section 313**, the Minister must—

(a) follow the process set out in **section 70** (other than **section 70(2)(a)(ii) to (iv)**) as if the recommendation for regulations were for a proposed national ~~direction~~ instrument; and

(b) comply with **subsection (2) or (3)** as applicable; and~~.~~

(c) for a recommendation for regulations under **section 313(2)(b)**, identify the domain (as defined in **section 45**) to which the levy applies.

(2) For regulations recommended under **section 313(2)(a)**, the Minister must ensure that the rates are set so that the levy does not exceed the anticipated costs of any of the following activities that have been included in a natural environment plan and are undertaken for the purposes set out in **section 313(2)(a)**~~—~~:

(a) restoring ecosystems:

(b) reducing the environmental impact of the use of the resource:

(c) providing solutions (including research and development) to—

(i) manage increased demand for the resource; and

(ii) enable more efficient use of the resource~~.~~; and

(d) activities that increase the availability of the resource.

(3) For regulations recommended under **section 313(2)(b)**, the Minister must, after considering information provided by local authorities or relevant central government agencies relating to the costs of the following activities, ensure that the rate does not exceed the costs of those activities:

(a) system performance monitoring~~ and~~, including associated data collection:

(b) environmental monitoring and associated data collection:

~~(c) investigations whose costs are not covered by litigation costs:~~

~~(d) public information, education, and advice:~~

(e) development and review of national standards~~ that are not voluntarily funded or directly cost recoverable~~:

(f) research, including modelling and tool development, to support any of the activities in this subsection~~ **paragraphs (a) to (e)**~~:

~~(g) enabling new allocation methods to be operationalised, including the activities in **paragraphs (a) to (e)** for that purpose:~~

~~(h) administering this Act at the national and regional level, to the extent that costs for this activity are not recovered through other mechanisms under this Act.~~

(g) enabling the trade and transfer of natural resource permits to be operationalised:

(h) spatial and regulatory planning in the coastal marine area.

(4) A regional council that is directed or empowered to set levies under regulations made under **section 313(3)(i)** must do so in accordance with **subsection (2) or (3)** as applicable, as if it were the Minister.

(5) In determining the amount of the levy or a method for calculating the amount under regulations recommended under **section 313(2)(b)**, the Minister or regional council must have regard to the extent that the benefit of the activities is obtained by those persons paying the levy compared to the wider community.

~~315 Regulations relating to moneys collected from market based allocation mechanisms~~

~~(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations identifying any proportion of the revenue collected from market-based allocation mechanisms that may be transferred to persons specified in the regulations for the purpose of spending on the costs described in **sections 333(4) and 334(3)**.~~

~~(2) Before recommending the making of regulations under **subsection (1)**, the Minister must comply with **section 70** as if the recommendation for regulations were for a proposed national direction.~~

Subpart 4—Miscellaneous

Collection and spending of levy and other money

314A Collection and spending of levy

(1) This section applies to any money liable to be paid from any levy imposed by regulations made for the purposes set out in **section 313(2)(a) and (b)**.

(2) Regional councils must collect the money.

(3) The money collected for the purposes described in **section 313(2)(a)** may only be used to meet the costs of any 1 or more of the activities listed in **section 314(2)** and only to benefit the management unit from which it was collected.

(4) The money collected for the purposes described in **section 313(2)(b)** may only be used to meet the costs of any 1 or more of the activities listed in **section 314(3)** and only in the domain (as defined in **section 45**) of the resource that the levy is charged on.

(5) The person liable to pay the levy must pay interest on any unpaid amount of levy at the prescribed rate in accordance with the regulations.

(6) The money, including any interest due under **subsection (5)**, is a debt due to the entity owed the levy from the person liable to pay the levy and may be recovered in a court of competent jurisdiction.

~~*Allocation methods*~~

~~**316 Restrictions on use of market allocation method**~~

~~(1) If a relevant gazette notice is force in respect of an activity, a regional council must not use a market based allocation method that relates to—~~

~~(a) the same space or location specified in the notice; or~~

~~(b) the same activity within that space or location; or~~

~~(c) the same time period in respect of that space and activity.~~

~~(2) In this section, **relevant Gazette notice** means a gazette notice under—~~

~~(a) **clause 13(1)(c) of Schedule 3** including any extension under **clause 15(3) of Schedule 3**:~~

~~(b) **clause 28(3) of Schedule 3**:~~

~~(c) **clause 31(1)(c) of Schedule 3**:~~

~~(d) **clause 32(1) of Schedule 3**:~~

~~(e) **clause 52 of Schedule 3**.~~

~~(3) The use of a market allocation method in Part 7 subject to **clause 3(3) of Schedule 3**.~~

~~**317 Minister may make grants and loans**~~

~~(1) The Minister may make grants and loans on such conditions as he or she thinks fit to any person to assist in achieving the purpose of this Act.~~

~~(2) All money spent or advanced by the Minister under this section must be paid out of money appropriated by Parliament for the purpose.~~

~~(3) All money received by the Minister under this Act must be paid into a Crown Bank Account or such other account as may be approved by the Minister of Finance.~~

~~Compare: 1991 No 69 s 26~~

Administrative fees

317A Administrative fees

(1) A regional council may fix fees payable for all or any of the following:

(a) fees payable by a requester for a change request under **clause 49 or 49A of Schedule 3 of the Planning Act 2025** (as applied by **section 94** of this Act) for the regional council carrying out its functions under **Part 2 of Schedule 3 of the Planning Act 2025** in relation to that change request (including the preparation of any plan change):

(b) fees payable by an applicant for a natural resource permit (including an applicant for a certificate of compliance, an existing use certificate, or an application made jointly with an application to exchange reserve land) for the regional council carrying out its functions as permit authority for that application:

(c) fees payable by an applicant for a natural resource permit who requests under **section 136 of the Planning Act 2025** (as applied by **section 153(c)** of this Act) that the application be heard by 1 or more hearings commissioners, for the cost of the application being heard and decided in accordance with that request:

(d) fees payable by an applicant for a wildlife approval under **section 128** for the regional council carrying out its functions as permit authority for that application:

(e) fees payable by the holder of a natural resource permit for the regional council carrying out its functions as permit authority in reviewing the conditions of that permit if the review of the conditions is carried out—

(i) at the request of the permit holder; or

(ii) under **section 186(1)(a), (b), (c), (f), or (2)**.

(f) fees payable by a person seeking an authorisation under **Schedule 3** for the regional council carrying out its functions relating to the allocation of authorisations (whether by tender or any other method):

(g) fees payable by holder of a natural resource permit (including a holder of a certificate of compliance or an existing use certificate) for either or both of the following:

  (i) the regional council carrying out its monitoring, enforcement, and compliance functions in relation to natural resource permits, certificates of compliance, and existing use certificates:

  (ii) the performance by the regional council of its obligations under **section 224** (which relates to monitoring and information gathering):

(h) fees payable by a person carrying out a permitted activity for the regional council carrying out its monitoring, enforcement, and compliance functions relating to the person's compliance with a rule in a natural environment plan (or a rule in proposed natural environment plan that has legal effect) that relates to the permitted activity, but this paragraph does not apply to a rule that permits the same activity as is permitted by a national rule:

(i) fees payable by a person who, in the opinion of an enforcement officer, has contravened this Act, for the regional council carrying out any function necessary to determine whether the contravention has occurred:

(j) fees payable by a person who is the subject of an abatement notice or an enforcement order for the regional council carrying out its compliance and enforcement functions relating to the notice or order:

(k) fees payable by the farm operator of a farm that is required to have a freshwater farm plan for the regional council carrying out its functions under **clause 10 of Schedule 5**:

(l) fees payable by persons liable to pay a natural resource levy for the cost of the regional council collecting that levy:

(m) fees payable by persons requesting information about natural environment plans, proposed natural environment plans, or natural resource permits for the regional council providing that information:

(n) fees payable by persons requesting documents for the regional council providing those documents:

(o) any other fee authorised by regulations made for the purposes of this subsection.

(2) Fees fixed under this section must be—

  (a) prescribed as a specific amount in the instrument setting the fee; or

  (b) ascertained in a manner prescribed by that instrument.

(3) A regional council may fix different fees for different costs it incurs in the performance of its various functions, powers, and duties under this Act—

  (a) in relation to different areas or different classes of person; or

(b) if any activity undertaken by the person liable to pay the fee reduces the costs to the local authority.

(4) Fees fixed under this section must be made—

(a) in the manner set out in section 150 of the Local Government Act 2002 (which, among other matters, requires the fees to be set by a bylaw); and

(b) after—

(i) considering the criteria in **section 317C(2) and (3)**; and

(ii) using the special consultative procedure set out in section 83 of the Local Government Act 2002.

(5) However, **subsection (4)(a) and (b)(ii)** does not apply in relation to a fee set by the Minister of Conservation when exercising the functions, powers, or duties of a regional council conferred on them by **section 215A** in relation to certain offshore islands.

(6) A fee set under this section by the Minister of Conservation exercising the functions, powers, or duties of a regional council conferred on them by **section 215A** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(7) *See also* section 161A(1) of the Local Government Act 2002, which provides that a bylaw that is made by a local authority is secondary legislation.

Compare: 1991 No 69 ss 36(1)–(4), 36AAA(4)

317B Additional administrative fees

(1) If a fee fixed under **section 317A** is, in any particular case, inadequate to enable a regional council to recover its actual and reasonable costs for the matter concerned, the regional council may (after considering the criteria in **section 317C(2) and (3)**) require the person who is liable to pay the fee to also pay an additional fee to the regional council.

(2) A regional council must, on request by any person liable to pay a fee fixed under **section 317A**, provide an estimate of any additional fee likely to be imposed under this section.

(3) A person may apply to the Planning Tribunal to review a decision to require an additional fee under this section.

Compare: 1991 No 69 s 36(5)–(7)

317C Considerations for fixing administrative fees

(1) This section sets out the matters that a regional council must have regard to before fixing a fee under **section 317A** or requiring an additional fee under **section 317B**.

(2) The sole purpose of a fee or additional fee is to recover the reasonable costs incurred by the local authority in respect of the activity to which the fee relates.

(3) A person should be required to pay a fee or additional fee only—

(a) to the extent that the benefit of the regional council's actions to which the fee relates is obtained by those persons as distinct from the community of the regional council as a whole; or

(b) where the need for the regional council's actions to which the fee relates results from the actions of that person; or

(c) in the case of a fee relating to the regional council's monitoring functions under **section 224(2)(a)** (which relates to monitoring the state of the natural environment and human health in relation to the whole or any part of its region),—

(i) to the extent that the monitoring relates to the likely effects on the natural environment or human health of that person's activities; or

(ii) to the extent that the likely benefit to those persons of the monitoring exceeds the likely benefit of the monitoring to the community of the local authority as a whole.

Compare: 1991 No 69 s 36AAA(1)–(3)

317D Other matters relating to administrative fees

(1) A regional council may, in any particular case and in its absolute discretion, refund or waive the whole or any part of—

(a) a fee fixed under **section 317A** that would otherwise be payable; or

(b) an additional fee required under **section 317B**.

(2) If a fee fixed under **section 317A** or additional fee required under **section 317B** is payable to a regional council, the regional council need not perform the action to which the fee relates until the fee has been paid in full.

(3) However, **subsection (2)** does not apply to a fee or additional fee to which **section 317A(1)(d)(iii)** applies (which relates to a review of the conditions of a natural resource permit required by an order of the Environment Court).

(4) A local authority must, in the manner prescribed by regulations, make publicly available an up-to-date list of fees fixed under **section 317A**.

Compare: 1991 No 69 s 36AAB

317E Discounts on administrative fees

(1) A regional council may, after following the special consultative procedure set out in section 83 of the Local Government Act 2002, adopt a policy for discounting fees imposed under **section 317A** in circumstances where—

(a) an application for a natural resource permit or a wildlife approval, or an application to change or cancel the conditions of a natural resource permit or wildlife approval, is not processed within the time frames set out in this Act; and

(b) responsibility for the failure sits with the regional council.

(2) The policy must specify—

(a) the discount, or the method for ascertaining the discount, that would be given for any fees paid or owing; and

(b) the procedure an applicant must follow to obtain the discount.

(3) A regional council must provide a discount on an administrative fee imposed under **section 317A** as follows:

(a) if the regional council has not adopted a policy for discounts under **subsection (1)**, if regulations made under **section 307(1)(t)** require the regional council to provide a discount:

(b) if the regional council has adopted a policy under **subsection (1)**, it must provide a discount under whichever of the policy or regulations under **section 307(1)(t)** are more generous in the particular case.

Compare: 1991 No 69 s 36AA

~~*Waiver and extension of time limits*~~ *Extensions and waivers*

318 Power ~~of waiver and extension of time limits~~ to extend time periods or waive requirements

(1) A permit authority or a ~~local authority~~ regional council may—

(a) extend a time period specified in this Act or in regulations~~, whether or not the time period has expired~~ up to a period not exceeding twice the maximum time period specified in this Act or regulations:

(b) waive a failure to comply with a requirement under this Act, regulations, or a natural environment plan for the time or method of service of documents.

~~(2) If a person is required to provide information under this Act, regulations, or a plan and the information is inaccurate or omitted, or a procedural requirement is omitted, the permit authority or local authority may—~~

~~(a) waive compliance with the requirement; or~~

~~(b) direct that the omission or inaccuracy be rectified on such terms as the permit authority or local authority thinks fit.~~

~~(3) This section is subject to **sections 319 and 320**.~~

(2) A permit authority or regional council must not extend a time limit or waive a requirement under this section unless it has first taken into account—

(a) the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and

(c) its obligations under **section 13(1)(b)**; and

(d) in the case of an extension or a waiver relating to an application for a natural resource permit, an application to change or cancel the condition of a permit, or a review of a permit, whether the extension or waiver will assist the permit authority in its consideration of the application under **subpart 4 of Part 4**.

(3) In addition to the requirements in **subsection (2)**, a permit authority must not extend a time period relating to an application for a natural resource permit, an application to change or cancel a condition of a permit, or a review of a permit, unless—

(a) the applicant agrees; or

(b) special circumstances apply (including special circumstances existing by reason of the scale or complexity of the matter, but excluding any circumstances relating to lack of staff capacity or lack of availability of experts).

(4) A time period may be extended under this section whether or not the period has expired.

(5) A permit authority or regional council must ensure that every person who, in its opinion, is directly affected by an extension or waiver under this section is notified of the extension or waiver.

(6) A person that has applied for a natural resource permit may apply to the Planning Tribunal to review a decision of a permit authority to extend a time period on the basis of special circumstances.

Compare: 1991 No 69 ss 37(1), 37A

~~319 Requirements for waivers and extensions~~

~~(1) A permit authority or local authority must not extend a time limit or waive compliance with a time limit, a method of service, or the service of a document under **section 324** unless it has taken into account—~~

~~(a) the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and~~

~~(b) its duty under **section 13** to act in a timely and cost-effective manner; and~~

~~(c) if the extension or waiver relates to an application for a natural resource permit, whether the extension or waiver will assist the permit authority in its consideration of the application under **subpart 4 of Part 4**.~~

~~(2) A time period that is extended under **section 318** must not exceed twice the maximum time period specified in this Act.~~

~~(3) **Subsection (4)** applies to an extension of a time limit imposed on a permit authority in respect of—~~

~~(a) an application for natural resource permit; or~~

~~(b) an application to change or cancel a condition of a natural resource permit; or~~

~~(c) a review of a natural resource permit.~~

~~(4) In addition to the requirements specified in **subsections (1) and (2)**, a permit authority may extend a time period under **section 318** only if—~~

~~(a) special circumstances apply (including special circumstances existing by reason of the scale or complexity of the matter); or~~

~~(b) the applicant agrees to the extension.~~

~~(5) A permit authority or a local authority must ensure that every person who, in its opinion, is directly affected by the extension of a time limit or the waiver of compliance with a time limit, a method of service, or the service of a document is notified of the extension or waiver.~~

~~(6) For the purposes of **subsection (4)(a)**, **special circumstances** do not include—~~

~~(a) lack of staffing capacity; or~~

~~(b) lack of availability of, or access to, experts.~~

320 Matters for which time period must not be extended or waived

A permit authority or regional council must not, under **section 318**,—

(a) waive or extend a time period for the purpose of providing more time for a pre-request aquaculture agreement to be negotiated under section 186ZM of the Fisheries Act 1996; or

(b) extend the time period for processing and deciding an application for a natural resource permit for a ~~wood processing~~ wood-processing activity or specified energy activity (*see* **section 139**).

Compare: 1991 No 69 s 37(1A), (1B)

320A Waiver or direction relating to information

(1) This section applies if—

(a) a person is required to provide information under this Act; and

(b) the information is not provided, or is inaccurate, or an associated procedural requirement is not complied with.

(2) The permit authority or regional council may—

(a) waive compliance with the requirement; or

(b) direct that the omission or inaccuracy be rectified on terms that the permit authority or regional council thinks fit.

Compare: 1991 No 69 s 37(2)

Provisions relating to decisions and hearings

320B Meaning of hearings authority

In **sections 320C and 320D**, **hearings authority** means—

(a) an independent hearings panel, in relation to—

(i) a proposed natural environment plan (including a plan change or variation); or

(ii) a private plan change; and

(b) a permit authority or independent hearings commissioner, in relation to any of the following:

(i) an application for a natural resource permit or wildlife approval:

(ii) an application to change or cancel a condition of a natural resource permit or wildlife approval:

(iii) a review of the conditions of a natural resource permit or wildlife approval:

(c) a special tribunal in relation to an application for a water conservation order (including an application to amend or revoke a water conservation order).

320C Hearings report

(1) This section and **section 320D** apply to the following:

(a) an independent hearings panel making recommendations on a proposed natural environment plan (including a plan change or variation) or a private plan change:

(b) a permit authority or independent hearings commissioner making a decision on any of the following:

(i) an application for a natural resource permit or wildlife approval:

(ii) an application to change or cancel a condition of a natural resource permit or wildlife approval:

(iii) a review of the conditions of a natural resource permit or wildlife approval:

(c) a special tribunal preparing a report on an application for a water conservation order (including an application to amend or revoke a water conservation order).

(2) At any reasonable time before a hearing (or, if no hearing is to be held, before the relevant decision or recommendation is made), a hearings authority may require the preparation of a report on any information provided by—

(a) a submitter (in the case of a proposed natural environment plan); or

(b) the requester or a submitter (in the case of a private plan change); or

(c) the applicant or a submitter (in the case of an application for a natural resource permit, wildlife approval, or water conservation order); or

(d) the permit holder, approval holder, or a submitter (in the case of an application to change or cancel a condition of a natural resource permit or wildlife approval, or a review of the conditions of a natural resource permit or wildlife approval).

(3) The hearings authority may—

(a) require an officer of the local authority to prepare the report; or

(b) commission a consultant or any other person employed for that purpose to prepare the report.

(4) A report does not need to repeat information included in any application or submission in relation to the matter under consideration, but may instead adopt all or part of that information by referring to it.

(5) The hearings authority may consider a report—

(a) at any hearing; or

(b) when making the decision or recommendation if no hearing is held.

(6) The hearings authority must, within the time frame prescribed by regulations, provide an electronic copy of a report to—

(a) the applicant, requester, permit holder, or approval holder (as the case requires); and

(b) every submitter on the matter under consideration.

(7) The hearings authority may waive compliance with **subsection (6)** if it is satisfied that there is no material prejudice, or is not aware of any material prejudice, to any person who should have been provided with a copy of the report under that subsection.

Compare: 1991 No 69 s 42A

320D Hearing to be held in public and orders protecting sensitive information

(1) A hearing held under this Act by a relevant authority must be held in public.

(2) A hearings authority may, at their own initiative or on the application of any party to a proceedings, make an order protecting sensitive information if satisfied that—

(a) the order is necessary to avoid—

(i) serious offence to tikanga Māori or to avoid the disclosure of the location of any wāhi tapu; or

(ii) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and

(b) in the circumstances, the importance of avoiding such offence, disclosure, or prejudice outweighs the public interest in making that information available; and

(c) any prescribed requirements are met.

(3) An order protecting sensitive information may—

(a) require that all or part of any hearing at which the information is likely to be referred to must be held with the public excluded:

(b) prohibit or restrict the publication or communication of any information supplied to or obtained by the relevant authority in the course of any proceedings, whether or not the information is material to those proceedings.

(4) A relevant authority may make an order under **subsection (3)(b)** that applies—

(a) indefinitely or until a date fixed by the hearings authority as appropriate in the circumstances, if the order relates to a matter described in **subsection (2)(a)(i)**; or

(b) until the close of the relevant proceedings but no longer, in any other case.

(5) If an order made under **subsection (3)(b)** ends, the provisions of the Local Government Official Information and Meetings Act 1987 apply to the information that was subject to the order.

(6) A party to any proceedings may apply to the Environment Court under **clause 17(1)(a) of Schedule 9 of the Planning Act 2025**—

(a) for an order cancelling or varying any order made under this section; or

(b) for an order protecting sensitive information, if a relevant authority has declined to make an order under this section.

Compare: 1991 No 69 s 42

~~Coastal occupation charges and rents~~ Rents and royalties

~~321 Coastal occupation charges~~

~~(1) A regional council must consider whether a coastal occupation charging regime applying to persons who occupy any part of the common marine and coastal area should be included in a plan (if it is not already included), after having regard to—~~

~~(a) the extent to which public benefits from the coastal marine area are lost or gained; and~~

~~(b) the extent to which private benefit is obtained from the occupation of the coastal marine area.~~

~~(2) If the regional council considers that a coastal occupation charging regime should not be included, a statement to that effect must be included in the plan.~~

~~(3) If the regional council considers that a coastal occupation charging regime should be included, the council must specify in the plan—~~

~~(a) the circumstances when a coastal occupation charge will be imposed; and~~

~~(b) the circumstances when the regional council will consider waiving (in whole or in part) a coastal occupation charge; and~~

~~(c) the level of charges to be paid or the manner in which the charge will be determined; and~~

~~(d) in accordance with **subsection (6)**, the way the money received will be used.~~

~~(4) No coastal occupation charge may be imposed on any person occupying the coastal marine area unless the charge is provided for in the plan.~~

~~(5) A coastal occupation charge must not be imposed on—~~

~~(a) a protected customary rights group exercising a protected customary right; or~~

~~(b) a customary marine title group in relation to a customary marine title area.~~

~~(6) Any money collected by the regional council from a coastal occupation charge must be used only by the regional council to perform its functions and responsibilities under this Act in the coastal marine area in its region.~~

~~Compare: 1991 No 69 s 64A~~

322 Regional councils to pay rents, royalties, and other money received into Crown Bank Account

All rents, royalties, and other sums of money ~~which~~ that the holders of land use permits or natural resource permits are, by virtue of any authorisation granted under **clause 61 of Schedule 3** or any regulations made under **section 307(1)(c)**, required to pay, are the property of the Crown and every regional council must—

(a) collect and receive from the holders of the permits in its region, all such rents, royalties, and other sums of money on behalf of the Crown; and

(b) pay that money into a Crown Bank Account in accordance with the Public Finance Act 1989.

Compare: 1991 No 69 s 359

323 Obligation to pay rent and royalties deemed condition of permit

(1) It is a condition of every natural resource permit authorising the holder to remove any sand, shingle, shell, or other natural material from any land that the holder must, at all times throughout the period of the permit, pay to the relevant regional council, on behalf of the Crown,—

(a) if the permit was permitted to be granted by virtue of an authorisation granted under **clause 61 of Schedule 3**, the ~~rent~~ rents and royalties (if any) specified in the authorisation held by the permit holder; and

(b) any sum of money required to be paid by any regulation made under **section 307(1)(c)**.

(2) It is a condition of every water permit granted to do something that would otherwise contravene **section 20(3)(c)** (relating to the taking or use of geo-

thermal energy) that the holder must at all times throughout the period of the permit pay to the relevant regional council, on behalf of the Crown, any sum of money required to be paid by any regulation made under **section 307(1)(c)**.

(3) If an activity specified in **subsection (1) or (2)** is a permitted activity in a plan, it is a condition of the plan that the person undertaking the activity must, at all times throughout the period during which the activity is undertaken, pay to the relevant regional council, on behalf of the Crown, any sum of money required to be paid by any regulations made under **section 307(1)(c)**.

Compare: 1991 No 69 s 112

Contaminated land

323A Purpose of contaminated land framework

The purpose of **sections 323B and 323C** is to provide a framework—

(a) for the management, under this Act and the **Planning Act 2025**, of contaminated land; and

(b) based on the principle that those who produce pollution should bear the costs of managing it to prevent damage to human health and the environment.

Compare: 2023 No 46 s 403

323B Obligations when land contaminated or used for hazardous activity or industry

(1) A person who owns contaminated land, or land in relation to which a hazardous activity or industrial use has occurred, must—

(a) notify the regional council of the contamination or the nature and duration of the activity or use; and

(b) provide the regional council, at its request, with any reports of any environmental investigations undertaken on that land or other information that the person has about the contamination, activity, or use.

(2) A regional council must use the information provided under **subsection (1)** to—

(a) identify contaminated land, and land associated with hazardous activity or industry, in its region in accordance with **section 224(2)(c)**; and

(b) keep a record that is available to the public in relation to those matters, in accordance with **section 224(2)(d)**.

(3) The regional council's record kept under **section 224(2)(d)** must include any information relating to—

(a) the nature, extent, and severity of contamination found in contaminated land within its region; and

(b) the management and remediation of contaminated land within its region.

Compare: 2023 No 46 s 405

323C Polluter may be liable for cost recovery

(1) A polluter of contaminated land subject to an enforcement order under **section 263** of this Act or **section 237 of the Planning Act 2025** may be required to pay money or reimburse any person for any actual and reasonable costs the person has incurred to avoid, minimise, or remedy any adverse effect on natural resources or people, or the built environment, resulting from the discharge of a contaminant into the environment.

(2) In this section, **polluter** means a person who, without lawful authorisation, causes or allows a discharge of a contaminant into the environment, whether directly or indirectly, or through neglect or wilful inactivity.

Service of documents

324 Service of documents

(1) A notice or any other document required or authorised to be served on or given to a person for the purposes of this Act may be served or given by—

- (a) delivering it to the person (other than a Minister of the Crown); or
- (b) leaving it at the person's usual or last known place of residence or business or at the address specified by the person in any notice, application, or other document given under this Act; or
- (c) sending it by post to the person's usual or last known place of residence or business or to the address specified by the person in any notice, application, or other document given under this Act; or
- (d) ~~emailing~~ sending it to the person at an ~~email~~ electronic address that is used by the person; or
- (e) complying with a means of service prescribed ~~in~~ by regulations ~~made under **section 307**.~~; or
- (f) in the case of a notice or other document to be served on a Crown organisation, by—
  - (i) delivering it at the organisation's head office or principal place of operation; or
  - (ii) sending it to an electronic address that the organisation has specified for its head office or principal place of operation; or
  - (iii) a method agreed between the organisation and the person serving the notice or document.

~~(2) However, if the document is to be served on a person to commence, or in the course of, court proceedings, **subsection (1)** does not apply if the court,~~

~~whether expressly or in its rules or practices, requires a different method of service.~~

(2) However, **subsection (1)** does not apply if—

(a) the notice or other document is to be served on a person to commence, or in the course of, court proceedings; and

(b) the court, either expressly or in its rules or practices, requires a different method of service.

(3) Nothing in **subsection (1)** overrides ~~the provisions of~~ the Electronic Courts and Tribunals Act 2016.

(4) ~~Where~~ If a notice or other document is to be served on or given to a Minister of the Crown for the purposes of this Act, service on the chief executive of the appropriate department of the public service in accordance with **subsection (1)** is treated as service on the Minister.

(5) ~~Where~~ If a notice or other document is to be served on or given to a body (whether incorporated or not) for the purposes of this Act, service on an officer of the body, or on the registered office of the body, in accordance with **subsection (1)** is treated as service on the body.

(6) ~~Where~~ If a notice or other document is to be served on or given to a partnership for the purposes of this Act, service on any one of the partners in accordance with **subsections (1) and (5)** is treated as service on the partnership.

~~(7) Despite **subsection (1)**, if a notice or other document is to be served on a Crown organisation for the purposes of this Act, it may be served—~~

~~(a) by delivering it at the organisation's head office or principal place of business; or~~

~~(b) by sending it to the fax number or electronic address that the organisation has specified for its head office or principal place of business; or~~

~~(c) by a method agreed between the organisation and the person serving the notice or document.~~

(8) ~~Where~~ If a notice or other document is sent by post to a person in accordance with **subsection** ~~**(1)(b)(iii) or (iv)**~~ **(1)(c)**, it is treated as, in the absence of proof to the contrary, being received by the person at the time at which the letter would have been delivered in the ordinary course of the post.

Compare: 1991 No 69 s 352

325 Mode of service of summons on master or owner of ship

(1) If the master or owner of a ship is a defendant in a prosecution for an offence against **section 278** for contravening **sections 21, 22, or 23**, service on the defendant of a summons or other document is effected for the purposes of the Criminal Procedure Act 2011—

(a) if it is delivered personally to the agent of the ship on behalf of the defendant or is brought to the notice of the agent if the agent refuses to accept it on behalf of the defendant; or

(b) if it is sent to the agent of the ship by registered letter addressed to that agent on behalf of the defendant at the agent's last known or usual place of residence or the agent's place of business.

(2) **Subsection (1)** applies despite any other enactment.

(3) However, a District Court Judge ~~or~~, Justice, ~~or~~ Community Magistrate, or the Registrar may direct that the summons or other document be served on the defendant in accordance with rules made under the Criminal Procedure Act 2011~~,~~ if they are satisfied that it would not be impracticable to do so in the particular circumstances.

(4) Unless the contrary is shown, the time at which service is treated as having been effected on the defendant is,—

(a) ~~where~~ for service ~~is~~ effected ~~in accordance with~~ under **subsection (1)(a)**, the time when the summons or other document is personally delivered to the agent of the ship or brought to that agent's attention, as the case may be; or

(b) ~~where~~ for service ~~is~~ effected ~~in accordance with~~ under **subsection (1)(b)**, the time when the letter would have been delivered to the agent of the ship in the ordinary course of post.

(5) In this section,—

District Court Judge and **Community Magistrate** ~~means a District Court Judge appointed under the District Court Act 2016~~ have the meanings given in section 4 of the District Court Act 2016

Justice has the meaning given in section 2 of the Justice of the Peace Act 1957

Registrar has the meaning given in section 5 of the Criminal Procedure Act 2011.

Compare: 1991 No 69 s 352A

Existing rights

326 Crown's existing rights to resources to continue

~~(1) Without limiting the Interpretation Act 1999 but subject to **subsection (2)**, it is hereby declared that the repeal by this Act or the Crown Minerals Act 1991 of any enactment, including in particular—~~

~~(a) section 3 of the Geothermal Energy Act 1953; and~~

~~(b) section 21 of the Water and Soil Conservation Act 1967; and~~

~~(c) section 261 of the Coal Mines Act 1979,—~~

~~does not affect any right, interest, or title, to any land or water acquired, accrued, established by, or vested in, the Crown before the date on which this~~

~~Act comes into force, and every such right, interest, and title shall continue after that date as if those enactments had not been repealed.~~

(1) The repeal by this Act of any legislation does not affect any right, interest, or title to any land or water acquired, accrued, or established by, or vested in, the Crown before the date on which this section comes into force, and every such right, interest, and title continues after that date as if that legislation had not been repealed.

(2) ~~Any~~ However, a person may take, use, dam, divert, or discharge into~~,~~ any water in which the Crown has an interest~~,~~ without obtaining the consent of the Crown, if the taking, use, damming, diversion, or discharge by that person does not contravene this Act or regulations.

(3) ~~Any~~ A person may use or occupy any part of the common marine and coastal area without obtaining consent, unless consent or a permit must be obtained under—

(a) this Act; or

(b) any other ~~enactment~~ legislation; or

(c) any instrument or order made under ~~an enactment~~ legislation.

Compare: 1991 No 69 s 354

327 Rights or interests in freshwater and geothermal resources preserved

~~*Act does not create, transfer, extinguish, or determine rights or interests*~~

(1) This Act, and legislation made under it, does not—

(a) create or transfer any proprietary right or interest in freshwater or geothermal resources:

(b) extinguish or determine any customary right or interest (for example, one founded on, or arising from, aboriginal title or customary law) that may exist in freshwater or geothermal resources.

~~*Nothing in section affects duties, functions, and powers under Act*~~

~~(2) Nothing in this section affects, or affects the lawfulness or validity of the performance or exercise by any person of, any duty, function, or power under this Act.~~

(2) This section does not affect—

(a) any duty, function, or power under this Act:

(b) the lawfulness or validity of the performance or exercise by any person of a duty, function, or power under this Act.

Compare: 2023 No 46 s 750

~~*Vesting of reclaimed land and unlawful reclamation*~~

~~328 Vesting of reclaimed land~~

~~(1) Any person may apply to the Minister for Land Information for any right, title, or interest in any land to be vested in that person—~~

~~(a) which forms part of a riverbed or lakebed which is land of the Crown; and~~

~~(b) which has been reclaimed or is proposed to be reclaimed.~~

~~(2) The Minister for Land Information may, if they think fit, by notice in the *Gazette*, vest in the applicant any right, title, or interest in any area of reclaimed land that forms part of a riverbed or lakebed that is not within the coastal marine area and which is land of the Crown after—~~

~~(a) determining an appropriate price (if any) to be paid by the applicant in respect thereof; and~~

~~(b) ensuring that the regional council has issued a certificate under **clause 72 of Schedule 7 of the Planning Act 2025**.~~

~~(3)~~ Every *Gazette* notice published under ~~**subsection (2)**—~~

~~(a) must state the name of the person or local authority in whom or which the right, title, or interest is vested, and accurately describe the position and extent of the reclaimed land; and~~

~~(b) must describe the right, title, or interest vested; and~~

~~(c) must refer to any encumbrances or restrictions imposed on the applicant's right, title, or interest in the land; and~~

~~(d) must be sent by the relevant Minister to the Registrar-General of Land, with a request that a record of title be issued accordingly; and~~

~~(e) must be registered, without fee, by the Registrar-General of Land as soon as practicable after receipt from the Minister.~~

~~(4) The Registrar-General of Land must, in accordance with a request made under **subsection (3)(c)**, issue an appropriate record of title in respect of the right, title, or interest in the land vested by the *Gazette* notice.~~

~~(5) For the purposes of this section, references to land that forms part of a riverbed or lakebed include land which was part of that bed before it was reclaimed.~~

~~Compare: 1991 No 69 s 355~~

~~329 Application for consent to unlawful reclamation~~

~~(1) If land has at any time (whether before or after the date of commencement of this Act) been reclaimed from the coastal marine area unlawfully, any person may apply under **section 130** to the relevant permit authority for, and the permit authority may grant to that person, a coastal permit authorising that reclamation, as if the land were still situated within the coastal marine area.~~

~~(2) **Part 4** applies in respect of any application made under **subsection (1)**.~~

~~Compare: 1991 No 69 s 355A~~

~~330 Enforcement powers against unlawful reclamations~~

~~(1) If, since the date of commencement of this Act, any land has been unlawfully reclaimed from the coastal marine area, the powers of the Minister of Conservation, a regional council, and the EPA under **Part 6** apply to that reclaimed land as if the land were still situated within the coastal marine area.~~

~~(2) If any land has been unlawfully reclaimed from the coastal marine area before the commencement of this Act, the Minister of Conservation, a regional council, or the EPA may seek an enforcement order against the person who reclaimed the land, or the occupier of the reclaimed land, requiring that person to take such action as, in the opinion of the Environment Court, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect on natural resources or people caused by the carrying out of the reclamation or by the reclaimed land; and, in that case, **Part 6** applies with all necessary modifications.~~

~~(3) Whether or not an enforcement order has been sought or granted under **subsection (2)**, the Minister of Conservation, a regional council, and the EPA, either jointly or severally, may take any necessary action to remove the unlawfully reclaimed land from the coastal marine area.~~

~~(4) To avoid doubt, any action taken under **subsection (3)** to remove any reclaimed land requires a natural resource permit unless expressly allowed by a natural environment plan, proposed national environment plan, or national rule.~~

~~Compare: 1991 No 69 s 355B~~

Matters may be determined by arbitration

331 Matters may be determined by arbitration

~~(1) Except as provided in **subsection (2)**, where—~~

~~(a) any persons are unable to agree about any matter in respect of which any of those persons has a right of appeal under this Act; and~~

~~(b) every person who has such a right of appeal agrees—~~

~~any of those persons may apply to the Environment Court for an order authorising the matter to be determined by arbitration, under the Arbitration Act 1908, on such terms and conditions as the court considers appropriate.~~

~~(2) No person may apply to the Environment Court for an order under **subsection (1)** in relation to any matter relating to a proposed natural environment plan.~~

<u>(1) If any persons are unable to agree about any matter in respect of which any of those persons has a right of appeal under this Act, any of those persons may</u>

apply to the Environment Court for an order that the matter be determined by arbitration under the Arbitration Act 1996 (an **order for arbitration**).

(2) However, a person—

(a) may only apply for an order for arbitration if every person who has the right of appeal, and the person who would be the respondent in any appeal, agree; and

(b) must not apply for an order for arbitration for an appeal relating to a proposed natural environment plan.

(2A) The Environment Court may grant an order for arbitration on terms that the court considers appropriate.

(3) ~~Where~~ If an order ~~under **subsection (1)**~~ for arbitration is made, no person may~~, in relation to the matter to which the order relates,~~ lodge or proceed with any appeal on the matter to which the order relates without the leave of the ~~court~~ Environment Court.

(4) Subject to the terms of ~~any~~ the order ~~made under **subsection (1)**~~ for arbitration, the arbitrator has the same powers, duties, and discretions ~~in respect of any decision to which the order relates~~ as the ~~permit authority~~ person who made ~~that~~ the decision~~;~~ and may, in ~~his or her~~ their award, confirm, amend, or cancel ~~any such~~ the decision ~~accordingly~~.

(5) Except as otherwise expressly provided, ~~nothing in~~ this section ~~limits~~ does not limit the right of any persons to refer to arbitration any disputed matter arising under this Act.

Compare: 1991 No 69 s 356

Defining landward boundary of coastal marine area

332 Defining landward boundary of coastal marine area

(1) For the purposes of defining the landward boundary of the coastal marine area if the line of mean high-water springs crosses a river, the mouth of a river is—

(a) the mouth that is agreed and set by the Minister, the regional council, and the territorial authority in the period between consultation on, and notification of, a proposed natural environment plan or plan change; or

(b) the mouth that is declared by the Environment Court under **section 254** on application by the Minister, the regional council, or the territorial authority before the plan or plan change becomes operative.

(2) The mouth of a river determined under **subsection (1)** must not be changed, varied, or altered unless the Minister, the regional council, and the territorial authority agree.

~~Joint regional and district planning documents~~

~~332 Joint regional and district planning documents~~

~~**Sections 292 and 293 of the Planning Act 2025** (which relate to the joint preparation, implementation, and administration of planning documents by local authorities) apply.~~

~~Compare: 1991 No 69 s 359~~

~~Collection and spending of levy and other money~~

~~333 Collection and spending of levy under section 313(2)(a)~~

~~(1) This section applies to any money liable to be paid from any levy imposed by regulations made for the purposes set out in **section 313(2)(a)**.~~

~~(2) Regional councils must collect the money.~~

~~(3) The money may only be used in the prescribed management units within the regional council that collect the money for the activities in **subsection (4)**.~~

~~(4) The money may only be used to meet the costs of any 1 or more of the following activities that have been included in a natural environment plan and are undertaken for the purposes set out in **section 313(2)(a)**:~~

~~(a) restoration of ecosystems:~~

~~(b) reducing the environmental impact of the use of the resource:~~

~~(c) providing methods (including research and development) to—~~

~~(i) manage increased demand for the resource; and~~

~~(ii) enable more efficient use of the resource.~~

~~334 Collection and spending of levy under section 313(2)(b)~~

~~(1) This section applies to any money liable to be paid from any levy imposed by regulations made for the purposes set out in **section 313(2)(b)**.~~

~~(2) Regional councils must collect the money.~~

~~(3) The money may only be used to meet the costs of any 1 or more of the following activities:~~

~~(a) preparation and maintenance of the system performance framework, including associated data collection:~~

~~(b) environmental monitoring and associated data collection:~~

~~(c) investigations whose costs are not covered by litigation costs:~~

~~(d) public information, education, and advice:~~

~~(e) development and review of national standards that are not voluntarily funded or whose costs are not directly recoverable.~~

~~(f) research, including modelling and tool development, to support any of the activities in **paragraphs (a) to (e)**:~~

~~(g) enabling new allocation methods to be implemented, including the activities in **paragraphs (a) to (e)** for that purpose:~~

~~(h) administering this Act at the national and regional level, if costs for that activity are not recovered elsewhere.~~

~~335 Collection and spending of moneys from market-based allocation mechanisms~~

~~(1) This section applies to any money liable to be paid from any market-based allocation mechanism.~~

~~(2) Regional councils must collect the money.~~

~~(3) The money may be used for any activity set out in **section 333(4) or 334(3)**.~~

~~Amendments to other legislation~~

~~336 Amendments to other legislation~~

~~Amend the legislation specified in **Schedule 7** set out in that schedule.~~

~~Hearings to be held in public and protection of sensitive information~~

~~337 Hearing to be held in public and orders protecting sensitive information~~

~~(1) A hearing held under this Act by a relevant authority must be held in public.~~

~~(2) A relevant authority may, at their own initiative or on the application of any party to a proceedings, make an order protecting sensitive information if satisfied that—~~

~~(a) the order is necessary—~~

~~(i) to avoid serious offence to tikanga Māori or to avoid the disclosure of the location of any wāhi tapu; or~~

~~(ii) to avoid the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and~~

~~(b) in the circumstances, the importance of avoiding such offence, disclosure, or prejudice outweighs the public interest in making that information available; and~~

~~(c) any prescribed requirements are met.~~

~~(3) An order protecting sensitive information may—~~

~~(a) require that all or part of any hearing at which the information is likely to be referred to must be held with the public excluded:~~

~~(b) prohibit or restrict the publication or communication of any information supplied to or obtained by the relevant authority in the course of any proceedings, whether or not the information is material to those proceedings.~~

~~(4) A relevant authority may make an order **subsection (3)(b)** that applies—~~

~~(a) indefinitely or until a date fixed by the hearings authority as appropriate in the circumstances, if the order relates to a matter described in **subsection (2)(a)(i)**; or~~

~~(b) until the close of the relevant proceedings but no longer, in any other case.~~

~~(5) If an order made under **subsection (3)(b)** ends, the provisions of the Local Government Official Information and Meetings Act 1987 apply to the information that was subject to the order.~~

~~(6) A party any proceedings may apply to the Environment Court under **clause 17(1)(a) of Schedule 9**—~~

~~(a) for an order cancelling or varying any order made under this section; or~~

~~(b) for an order protecting sensitive information, if a relevant authority has declined to make an order under this section.~~

~~(7) In this section, **relevant authority**—~~

~~(a) means—~~

~~(i) a local authority; or~~

~~(ii) any other person or body authorised to hold a hearing under this Act; but~~

~~(b) does not include the Planning Tribunal, the Environment Court, or any other court.~~

~~Compare: 1991 No 69 s 42~~

Schedule 1
Transitional, savings, and related provisions

s 5

Part 1
Provisions relating to this Act as enacted

1 Schedule 1 of Planning Act 2025 applies

(1) ~~**Part 1 of**~~ **Schedule 1 of the Planning Act 2025** applies (which sets out transitional, savings, and related provisions for that Act and this Act).

(2) *See also* **Schedule 11 of the Planning Act 2025** which sets out amendments to the Resource Management Act 1991 and other legislation.

Schedule 2
Information required in application for natural resource permit

s 130

Information required in application for natural resource permit

~~1 Information must be specified in sufficient detail~~

~~Information included in an application for a natural resource permit must—~~

~~(a) be sufficiently detailed and adequate to enable the permit authority to undertake its assessment; and~~

~~(b) be proportionate to the scale and significance of the activity.~~

~~Compare: 2023 No 46 Schedule 9 cl 1~~

2 Information required in all applications

(1) An application for a natural resource permit for an activity (the **activity**) must include the following:

(a) the full name and address of the applicant:

(b) the full name and address of each owner or occupier of the site at which the activity is to occur (if different from the applicant):

(c) a description of the activity:

(d) a description of the site at which the activity is to occur:

(e) a description of any other activities that are part of the proposal to which the application relates:

(f) a description of any other natural resource permits or planning consents required for the proposal to which the application relates.

(2) An application must include an assessment of the activity against—

(a) any relevant provisions of the plan or proposed plan or national rule; and

(b) any relevant provisions of other key instruments if, and only to the extent that, the matter is not addressed by the plan or proposed plan or national rule.

(3) An application must include an assessment of the activity's effects on the environment that includes the information required by **clause 5**.

Compare: 2023 No 46 Schedule 9 cl 1

3 Additional information required in some applications

An application must also include any of the following that apply:

(a) if any permitted activity is part of the proposal to which the application relates, a description of the permitted activity that demonstrates that it complies with the requirements, conditions, and permissions for the permitted activity (so that a natural resource permit is not required for that activity under **clause 10(2) of Schedule 5**):

(b) if the application is affected by **section 181(a)** (which relate to existing natural resource permits), an assessment of the value of the investment of the existing permit holder (for the purposes of **section 156(1)(g) or (h)**):

(c) if the activity is to occur in an area within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, an assessment of the activity against any resource management matters set out in that planning document (for the purposes of **section 159**).

Compare: 1991 No 69 Schedule 4 cl 3

4 Additional information required in application for reclamation

An application for a natural resource permit for a reclamation must also include information to show the area to be reclaimed, including the following:

(a) the location of the area:

(b) if practicable, the position of all new boundaries:

(c) any part of the area to be set aside as an esplanade reserve or esplanade strip.

Compare: 1991 No 69 Schedule 4 cl 5

Assessment of environmental effects

5 Information required in assessment of environmental effects

(1) Information included in an assessment of environmental effects under **clause 2(3)**—

(a) need only address a matter to the extent that the information is relevant to the provisions of a natural environment plan or proposed plan or national rule; and

(b) must include detail proportionate to the scale and significance of the activity.

(2) Subject to **subclause (1)**, an assessment of the activity's effects on the environment must include the following information:

(a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity:

(b) an assessment of the actual or potential effect on the environment of the activity:

(c) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use:

(d) a description of how any adverse effects on the environment will be—

(i) avoided, minimised, or remedied, where practicable:

(ii) offset or compensated for, where appropriate:

(e) if the activity includes the discharge of any contaminant, a description of—

(i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and

(ii) any possible alternative methods of discharge, including discharge into any other receiving environment:

(f) a description of how the activity will comply with any relevant environmental limits:

(g) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted:

(h) if the scale and significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved:

(i) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group).

(3) To avoid doubt, **subclause (2)(g)** obliges an applicant to identify the persons affected by the proposal, but does not—

(a) oblige the applicant to consult any person; or

(b) create any ground for expecting that the applicant will consult any person.

Schedule 2A
Process for obtaining wildlife approvals under this Act

s 128

Contents

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Part 1
Applications and process

Subpart 1—Preliminary process

1 Interpretation

In this schedule, unless the context otherwise requires,—

application for a wildlife approval means a wildlife approval sought in an application for a natural resource permit

Department means the Department of Conservation.

2 Permit authority to assess application for wildlife approval alongside permit application

(1) A permit authority must assess an application for a wildlife approval alongside the application for a natural resource permit.

(2) A permit authority must assess an application for a wildlife approval in a way that gives effect to **section 13** and in accordance with this schedule.

3 Information required for application for wildlife approval

An application for a wildlife approval must do the following:

(a) state the purpose of the proposed activity:

(b) identify the actions the applicant wishes to carry out involving protected wildlife and where they will be carried out:

(c) list the protected wildlife species known or predicted to be in the area and, where possible, the number of wildlife present and the number of wildlife likely to be impacted:

(d) outline the impacts on threatened, data-deficient, and at-risk wildlife species (as defined in the New Zealand Threat Classification System):

(e) state how the methods proposed to be used to conduct the actions specified under **paragraph (b)** will ensure that best practice standards are met:

(f) describe the methods to be used to safely, efficiently, and humanely catch, hold, or kill the animals and identify relevant animal ethics processes:

(g) state the location or locations in which the activities will be carried out, including a map (and GPS co-ordinates if available):

(h) state whether authorisation is sought to temporarily hold or relocate wildlife:

(i) list all actual and potential wildlife effects (adverse or positive) of the proposed activity, including effects on the target species, other indigenous species, and the ecosystems at the site:

(j) if adverse effects are identified, state what methods will be used to avoid, minimise, or mitigate those effects, and any offsetting proposed to address unmitigated adverse effects (including steps taken before the project begins, such as surveying, salvaging, and relocating protected wildlife):

(k) state whether the applicant or any company director, trustee, partner, or anyone else involved with the application has been convicted of any offence under the Wildlife Act 1953:

(l) state whether the applicant or any company director, trustee, partner, or anyone else involved with the application has any current criminal charges under the Wildlife Act 1953 pending before a court:

(m) provide any additional written expert views, advice, or opinions the applicant has obtained concerning their application.

4 Permit authority may request advice from Department

(1) A permit authority may request the Department to provide advice on a matter relating to an application for a wildlife approval, including a matter relating to information provided by the applicant in the application or under **section 140**.

(2) The Department is under no obligation to provide advice under this clause.

Subpart 2—Application of this Act generally

5 This Act applies only if provisions expressly say so

The provisions of this Act do not apply to an application for a wildlife approval, or a wildlife approval, except as otherwise expressly provided in this schedule or elsewhere in this Act.

6 Commencement of wildlife approval

A wildlife approval that has been granted commences in the same manner as is set out in the following sections of the **Planning Act 2025**:

(a) **section 158** (commencement):

(b) **section 159** (commencement if no submissions, etc):

(c) **section 160** (commencement if request for review lodged).

7 Duration of wildlife approval

(1) The period for which a wildlife approval is granted is—

(a) a period specified in the approval not exceeding 35 years after the date of the commencement of the approval; or

(b) 5 years from the date of the commencement of the approval if no period is specified.

(2) This clause is subject to **clause 15** (which provides for surrender of an approval).

8 Provisions of Planning Act 2025 that apply to duration

The following provisions of the **Planning Act 2025** apply to the duration of a wildlife approval with the necessary modifications:

(a) **section 165** (lapsing of approval):

(b) **section 166** (cancellation of approval).

9 Change or cancellation of approval condition on application by approval holder

(1) An approval holder may apply to a permit authority for a change or cancellation of a condition of the approval.

(2) However, no approval holder may apply for a change or cancellation of a condition that relates to the duration of the approval.

(3) **Subparts 1 to 5 of Part 4** apply, with the necessary modifications, as if the references to a natural resource permit and to the activity were references only to—

(a) the change or cancellation of a condition; and

(b) the effects of that change or cancellation.

(4) For the purposes of determining who is adversely affected by the change or cancellation, the permit authority must consider, in particular, every person who—

(a) made a submission on the original application; and

(b) may be affected by the change or cancellation.

10 Circumstances when approval conditions can be reviewed

(1) A permit authority may serve notice on a wildlife approval holder of its intention to review the conditions of the approval—

(a) at times specified in the wildlife approval to deal with adverse effects on protected wildlife or any other purpose specified in the approval; and

(b) if the permit authority determines that the approval holder has contravened a condition of the approval.

(2) A permit authority must serve notice on an approval holder of its intention to review the conditions of a wildlife approval if required by an order made by the Environment Court under **section 256(6)(b) of the Planning Act 2025**.

11 Notice of review

(1) A notice of intent to review the conditions of a wildlife approval under **clause 10**—

(a) must advise the approval holder of the conditions of the approval that are the subject of the review; and

(b) must state the reasons for the review; and

(c) must specify the information that the permit authority took into account in making its decision to review the approval; and

(d) must advise an approval holder by whom a charge is payable under the regulations in relation to the review—

(i) of the fact that the charge is payable; and

(ii) of the estimated amount of the charge; and

(e) may propose, and invite the approval holder to propose within 20 working days after service of the notice, new approval conditions.

(2) If notification of the review is required under **clause 12**, the notification must include a summary of the notice served under this section, and the notification must be served within—

(a) 30 working days after the service of the notice (if the approval holder is invited to propose new conditions); or

(b) 10 working days after the service of the notice (if the approval holder is not invited to propose new conditions).

12 Review of conditions and effects of change of conditions

(1) **Sections 144 to 151** apply, with all necessary modifications, as if the references to a natural resource permit and to the activity were references only to the review of the conditions of a wildlife approval and to the effects of the change of conditions respectively.

(2) The review is limited to—

(a) the effect of the changes to conditions of a wildlife approval; and

(b) the effects on any person who made a submission and may be affected by the change; and

(c) matters relevant to the substantive decision-making provisions in this schedule.

13 Decisions on review of approval conditions

A permit authority may change the conditions of a wildlife approval (other than a condition specifying the duration of the approval) on a review under **clause 10** if 1 or more of the circumstances specified in that section apply.

14 Minor corrections of wildlife approvals

A permit authority that grants a wildlife approval may, within 20 working days after the grant, issue an amended approval that corrects minor mistakes or defects in the approval.

15 Surrender of approval

(1) A wildlife approval holder may surrender the approval, either in whole or in part, by giving written notice to the permit authority.

(2) A permit authority may refuse to accept the surrender of part of a wildlife approval if it considers that the surrender of that part would—

(a) affect the integrity of the approval; or

(b) affect the ability of the approval holder to meet other conditions of the approval; or

(c) lead to an adverse effect on protected wildlife.

(3) A person who surrenders a wildlife approval remains liable under this Act—

(a) for any breach of conditions of the approval that occurred before the surrender of the approval; and

(b) to complete any work to give effect to the approval unless the permit authority directs otherwise in its notice of acceptance of the surrender.

(4) A surrender of a wildlife approval takes effect on receipt by the approval holder of a notice of acceptance of the surrender from the permit authority.

Part 2
Decision-making framework

16 Notification of relevant iwi authority or post-settlement governance entity

(1) A permit authority must notify any relevant iwi authority or post-settlement governance entity about an application for a wildlife approval if it considers that notification is required to give effect to Treaty settlement redress.

(2) The permit authority must notify the applicant in the manner prescribed in regulations if it decides to do so.

(3) A person notified under this clause may make a submission about the application to the permit authority in the manner described in **section 132 of the Planning Act 2025**.

17 Application of sections 9 and 10

Sections 9 and 10 apply to persons exercising or performing functions, duties, or powers under this schedule.

18 Consideration of applications

When considering an application for a wildlife approval, a permit authority must—

(a) have regard to—

(i) any adverse effects on protected wildlife:

(ii) any cumulative effects, recognising that effects on protected wildlife may arise incrementally over time or in combination with other activities:

(iii) the relationship of Māori with protected wildlife affected by the proposed activity, where necessary to give effect to Treaty settlement obligations; and

(b) be satisfied that the applicant will take reasonable steps to avoid, minimise, and mitigate adverse effects on individual wildlife, in that order; and

(c) take into account—

(i) any relevant guidance, protocols, or standards issued by the Department; and

(ii) any advice received from the Department under **clause 4**.

19 Protection settings for wildlife

(1) If a wildlife approval is sought for an activity that would affect a population or species of wildlife, the permit authority must decline the application if satisfied that the effects of the activity would either—

(a) reduce the viability of the species affected by the activity; or

(b) reduce the viability of a local population of threatened or at-risk wildlife affected by the activity.

(2) If the permit authority considers that either of the outcomes in **subclause (1)(a) or (b)** may occur if the approval were granted, it may grant approval subject to any conditions (except compensation) that it considers appropriate that, if complied with, would allow it to be satisfied that those outcomes would not occur.

20 Conditions on wildlife approvals

(1) When granting a wildlife approval, a permit authority—

(a) may include conditions relating to positive effects or enhancement measures, but only with the applicant's agreement:

(b) may include any other condition it considers appropriate, except a condition containing measures to provide compensation for any adverse effects.

(2) A wildlife approval may include, but is not limited to, any 1 or more of the following conditions:

(a) conditions requiring bonds, where appropriate to meet obligations relating to protected wildlife:

(b) conditions requiring works or measures to protect, restore, or enhance outcomes for affected protected wildlife, including measures such as pest management or habitat enhancement:

(c) conditions requiring covenants, where necessary, to secure ongoing measures to manage effects on protected wildlife:

(d) conditions to address the risk of non-compliance with the approval:

(e) conditions requiring monitoring, reporting, and the provision of information relating to the exercise of the approval.

(3) A contravention of a condition included in a wildlife approval under this clause does not constitute loss of the lawful authority described in **section 128**.

21 Transferability of wildlife approval

(1) Unless the wildlife approval expressly provides otherwise, a holder of a wildlife approval—

(a) may transfer the holder's interest in the approval to any other person:

(b) may transfer the holder's interest in the approval to any other person when the associated natural environment permit is being transferred:

(c) may not transfer the holder's interest in the approval to a site other than the site to which the approval relates.

(2) The transfer of the holder's interest in a wildlife approval has no effect until written notice of the transfer is given to the permit authority that granted the approval.

22 Application of section 71 of Wildlife Act 1953

The requirement for joint ministerial consent under section 71 of the Wildlife Act 1953 does not apply if a wildlife approval has been granted under this Act.

23 Obligations of Department and regional councils

(1) A regional council must provide to the Department a copy of any wildlife approval it grants, including any conditions that are included in the approval.

(2) A regional council must notify the Department of—

(a) any abatement notice issued under **section 266(1)(a)(i) or (b)(i)** that refers to a wildlife approval:

(b) any application for an enforcement order under **section 260** of a kind specified in **section 258(1)(a)(i) or (b)(i)** that refers to a wildlife approval:

(c) any activity that it identifies, while monitoring compliance with a natural resource permit, as harmful to wildlife and that is occurring without lawful authority.

(3) A regional council has the functions set out in **section 222(1)(bc)** in relation to wildlife approvals in its region.

24 Regulations relating to wildlife approvals

(1) Regulations made under **section 307** may—

(a) prescribe or provide for matters relating to the implementation and administration of wildlife approvals, including requirements relating to giving and serving notices, processing applications, time frames for taking specified actions, and other administrative requirements:

(b) require the payment of fees or charges in connection with—

(i) an application for a wildlife approval or related notice or request provided for under this Act:

(ii) the performance or exercise of any function, power, or duty in relation to an application for a wildlife approval, or a wildlife approval, under this Act.

(2) Before recommending the making of regulations providing for any of those matters, the Minister must consult the Minister of Conservation in relation to the development of the regulations.

(3) Any costs incurred by a permit authority in obtaining advice from the Department in relation to a wildlife approval must be treated as costs incurred in the performance of the permit authority's functions.

(4) Any fees or charges payable in relation to functions performed by the Department in relation to a wildlife approval are recoverable only under this Act.

Schedule 3
Coastal matters

s 123

Contents

Part 2
Order in which applications by existing consent holders are to be processed

Part 1
Occupation of common marine and coastal area

1 Interpretation and relationship of this Part with rest of this Act

(1) In this Part, unless the context otherwise requires,—

authorisation means the right to apply for a coastal permit to occupy space in a common marine and coastal area

~~**Minister** means the Minister of the Crown who, under any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act~~

tender means any form of tender (whether public or otherwise)

trustee has the same meaning as in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004.

(2) The provisions of this Act that relate to applications for, and the granting of, natural resource permits apply to applications for, and the granting of, coastal permits to occupy space in the common marine and coastal area subject to the provisions of this Part.

Compare: 2023 No 46 s 442

Managing occupation in common marine and coastal area

2 Power of consent authorities to refuse to receive applications for coastal permits

For the purposes of this Part, a consent authority may refuse to receive an application for a coastal permit to occupy space in the common marine and coastal area for the purposes of an activity if, within 1 year before the application is made, the consent authority has refused to grant an application for a permit for an activity of the same or a similar type for the same space or for space in close proximity to that space.

Compare: 2023 No 46 s 443

3 Applications in relation to aquaculture settlement areas

(1) No person may apply for a coastal permit authorising occupation of space in an aquaculture settlement area for the purposes of aquaculture activities, unless the person is a holder of an authorisation that—

(a) relates to that space and activity; and

(b) was provided to the trustee under section 13 of the Maori Commercial Aquaculture Claims Settlement Act 2004.

(2) A consent authority may grant a coastal permit authorising any other activity in an aquaculture settlement area, but only—

(a) to the extent that that activity is compatible with aquaculture activities; and

(b) after consultation with the trustee and iwi in the region.

(3) **Subclause (1)** does not affect any application received by a consent authority before the space became an aquaculture settlement area.

(4) In **subclause (2)(b)**, **iwi** has the same meaning as in the Maori Fisheries Act 2004.

Compare: 2023 No 46 s 444

Provisions in natural environment plan relating to occupation of common marine and coastal area

4 Provisions about occupation of common marine and coastal area

(1) A natural environment plan may include provisions to address the effects of occupation of a common marine and coastal area and to manage competition for the occupation of space, including rules specifying~~—~~ any of the following:

(a) that no application can be made for a coastal permit to occupy space before a date to be specified in a public notice given by the regional council:

(b) that the consent authority may process and hear together applications for coastal permits for the occupation of—

(i) the same space in a common marine and coastal area; or

(ii) different spaces in a common marine and coastal area that are in close proximity to each other:

(c) that the consent authority may process and hear together with the applications referred to in **paragraph (b)** any applications for coastal permits related to the coastal permits referred to in that paragraph:

(d) limits on—

(i) the character, intensity, or scale of activities associated with the occupation of space:

(ii) the size of space that may be the subject of a coastal permit and the proportion of any space that may be occupied for the purposes of specified activities.

(2) However, a rule made for the purposes of **subclause (1)(a)** does not apply to an application made for a coastal permit under an authorisation.

Compare: 2023 No 46 s 445

5 Natural environment plan may specify allocation methods

A natural environment plan may provide for a rule ~~in relation to~~ that specifies a method of allocating space in the common marine and coastal area for the purposes of an activity, including a rule ~~in relation to~~ for the public tender of authorisations or any other method of allocating authorisations.

Compare: 2023 No 46 s 446

6 Matters to be considered before including allocation rule in natural environment plan

(1) Before including a rule in a natural environment plan ~~in relation to the allocation of~~ for allocating space in a common marine and coastal area for the purposes of an activity, a regional council must—

(a) have regard to—

(i) the reasons for and against including the proposed rule; and

(ii) if the proposed rule provides for a method of allocation of space other than by a method of allocating authorisations,—

(A) the reasons why allocation other than by a method of allocating authorisations is justified; and

(B) how that may affect the preferential rights provided for in **clause 22**; and

(iii) if the proposed rule provides for a method of allocating authorisations other than by public tender,—

(A) the reasons why allocation other than by public tender is justified; and

(B) how ~~this~~ that may affect the preferential rights provided for in **clause 22**; and

(b) be satisfied that—

(i) a rule ~~in relation to the allocation of~~ for allocating space is necessary or desirable in the circumstances of the region; and

(ii) if the proposed method of allocating space is not allocation of authorisations, or the proposed allocation of authorisations is not by public tender, the proposed method is the most appropriate for allocation of space in the circumstances of the region, having regard to its efficiency and effectiveness compared with other methods of allocating space.

(2) The regional council must—

(a) prepare a report summarising the matters required by **subclause (1)**; and

(b) make the report available for public inspection at the same time, or as soon as practicable after, the rule is included in the natural environment plan or proposed natural environment plan.

(3) ~~**Section 106**~~ ~~does~~ **Clauses 10 and 11 of Schedule 3 of the Planning Act 2025** do not apply to the inclusion of a rule ~~in accordance with~~ under **subclause (1)**.

(4) **Subclause (1)** applies subject to an Order in Council made under **clause 10**.

(5) A challenge to a rule on the ground that this clause has not been complied with may be made only in a submission under **Schedule 3 of the Planning Act 2025** (as applied to this Act by **section 94**).

(6) **Subclause (5)** does not preclude a person who is hearing a submission or an appeal on a proposed natural environment plan from taking into account the matters stated in **subclause (1)**.

Compare: 2023 No 46 s 447

7 Offer of authorisations for activities in common marine and coastal area in accordance with natural environment plan

(1) If a rule in ~~an operative~~ a natural environment plan provides for public tendering or another method of allocating authorisations, the regional council must, by public notice and in accordance with the rule, offer authorisations for coastal permits for the occupation of space in the common marine and coastal area.

(2) **Subclause (1)** applies subject to—

(a) **subclause (3)**; and

(b) any Order in Council made under **clause 10**.

(3) A regional council must give the Minister not less than 4 months' notice before making an offer of authorisations under **subclause (1)**.

(4) **Subclause (1)** does not apply if the Minister responsible for aquaculture must offer the authorisations under **clause 8**.

Compare: 2023 No 46 s 448

8 Offer of authorisations by Minister responsible for aquaculture

If a rule in~~ an operative~~ a natural environment plan provides for public tendering or another method of allocating authorisations in relation to which the Minister responsible for aquaculture is the decision-maker, the Minister must, by public notice and in accordance with the rule, offer authorisations.

Compare: 2023 No 46 s 449

9 When applications not to be made unless applicant holds authorisation in accordance with natural environment plan

(1) **Subclause (2)** applies to space in the common marine and coastal area if a rule in a natural environment plan~~ rule that has legal effect~~ provides for public tendering or another method of allocating authorisations in relation to an activity in the space.

(2) A person must not apply for a coastal permit authorising occupation of the space for the purposes of the activity unless the person is the holder of—

(a) an authorisation that relates to the space and activity; or

(b) a coastal permit granted under an authorisation that related to the occupation of that space and the application is for the purposes of an activity that was within the scope of the authorisation.

(3) **Subclause (2)** does not affect any application received by the regional council before the proposed natural environment plan became operative or the rule in~~ a~~ the proposed natural environment plan had legal effect.

(4) **Subclause (2)** does not affect any application referred to in **clause 43** that is received by the regional council—

(a) after a rule in a proposed natural environment plan has legal effect; but

(b) before the rule becomes operative.

Compare: 2023 No 46 s 450

10 Power to give directions relating to allocation of authorisations for space provided for in natural environment plan

(1) This clause applies if a rule in a natural environment plan—

(a) provides for a method for allocating authorisations; and

(b) provides that a regional council is responsible for~~ the allocation of~~ allocating authorisations.

(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, direct the regional council—

(a) not to proceed with a proposed allocation of authorisations for space in a common marine and coastal area; or

(b) in proceeding with a proposed allocation of authorisations for space in a common marine and coastal area, to give effect to the matters specified in the Order in Council.

(3) The Minister may make a recommendation~~ under **subclause (2)**~~ only for 1 or more of the following purposes:

(a) to give effect to Government policy in the common marine and coastal area:

(b) to preserve the ability of the Crown to give effect to any of its obligations under any agreement in principle or deed of settlement between the Crown and any group of Māori claimants or representative of any group of Māori claimants in relation to a claim arising from, or relating to, any act or omission by or on behalf of the Crown or by or under any~~ enactment~~ legislation before 21 September 1992:

(c) to facilitate compliance with **clause 22**:

(d) to assist the Crown to comply with its obligations under the Maori Commercial Aquaculture Claims Settlement Act 2004.

(4) The matters referred to in **subclause (2)(b)** include—

(a) the allocation method to be used:

(b) ~~subject to **sections 178 and 180**, ~~the maximum term of a coastal permit to which the authorisations available for allocation relate, subject to **sections 178 and 180**:

(c) the allocation, at no cost, of authorisations relating to specific spaces within a common marine and coastal area to the Crown:

(d) the allocation, at no cost, of authorisations relating to specific spaces in a common marine and coastal area, or a certain proportion of the authorisations proposed to be allocated, to the trustee that is representative of the entire space for which authorisations are to be offered under the proposed allocation.

(5) If an Order in Council contains a direction under **subclause (4)(a)**, the order must be made before the relevant proposed natural environment plan is publicly notified.

(6) If an Order in Council contains a direction under **subclause (4)(b), (c), or (d)**, the order must be made before the regional council publicly notifies the offer under **clause 7**.

(7) ~~Subject to **subclause (5)**, the ~~The Minister may make a recommendation under **subclause (2)** only if the Minister makes the recommendation within 3 months after receiving a notice under **clause 7(3)**.

(7A) **Subclause (7)** is subject to **subclause (5)**.

(8) An Order in Council does not affect the following if made before the Order in Council comes into force:

(a) a publicly notified offer of authorisations:

(b) an application for a coastal permit.

(9) An order under **subclause (2)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 2023 No 46 s 451

Ministerial approval of use of method of allocating authorisations

11 Regional council may request use of allocation method

(1) This clause applies if,—

(a) in the opinion of the regional council, it is desirable, due to actual or anticipated high demand, or competing demands, for coastal permits for occupation of space in the common marine and coastal area for the purposes of 1 or more activities, that a method be used to allocate authorisations for the space; and

(b) ~~an operative~~ a natural environment plan—

(i) does not provide for a rule ~~in relation to~~ for a method of allocating authorisations for the space for the purposes of the activities; or

(ii) does provide for a rule referred to in **subparagraph (i)**, but the council considers that the rule will not enable it to manage effectively the high demand or the competing demands for coastal permits for the occupation of space for the purposes of the activities.

(2) The council may request the Minister to approve allocation by public tender of authorisations or another method of allocating authorisations for the space in the common marine and coastal area.

(3) A request under **subclause (2)** must be made in accordance with any requirements prescribed in regulations.

(4) On the day a request is made under **subclause (2)**, or as soon as practicable afterwards, the council must give public notice of the request that meets any requirements prescribed in regulations.

Compare: 2023 No 46 s 452

12 Stay on applications following request under clause 11

(1) **Subclause (2)** applies if a regional council has made a request under **clause 11(2)**.

(2) A person must not apply for a coastal permit to occupy any space that is the subject of the request for the purposes of an activity in the request during the period commencing on the day on which public notice of the request is given under **clause 11(4)**, and ending on the earlier of the following:

(a) the day on which the council publicly notifies under **clause 13~~(8)~~(6)** that the request has been declined:

(b) the day on which the approval of an allocation method is notified in the *Gazette* under **clause 13(1)(c)(i)**.

(3) If the request is approved, **clause 16** applies to applications from the date from which the approval applies.

(4) Neither this clause nor **clause 16** affects any application received by the council before the request was made under **clause 11(2)** or any application referred to in **clause 43**.

Compare: 2023 No 46 s 453

13 Minister may approve use of allocation method

Minister's duties when request received under clause 11(2)

(1) If the Minister receives a request under **clause 11(2)** (the **request**), the Minister—

(a) must consult relevant Ministers, including the Minister of Conservation, and including the Minister responsible for aquaculture if the request relates to aquaculture activities; and

(b) may—

(i) consult any other person whom the Minister considers it appropriate to consult; and

(ii) request any further information from the regional council that made the request; and

(c) must, within 25 working days after receiving the request,—

(i) by notice in the *Gazette*, approve the request—

(A) on the terms specified by the council in the request; or

(B) on terms that, in the opinion of the Minister, will better manage the actual or anticipated high demand, or competing demands, in the space; or

(ii) decline the request.

(2) A failure to comply with the time limit in **subclause (1)(c)** does not prevent the Minister from making a decision on the request.

(3) Any period of consultation under **subclause (1)(b)(i)** is excluded from the period specified in **subclause (1)(c)**.

How request must be decided

(4) The Minister must not approve the request unless the Minister considers that—

(a) there is actual or anticipated high demand, or there are competing demands, for coastal permits for occupation of the space for the purposes of the activity or activities that the request applies to; and

(b) the method and terms of allocation specified in the request, or any modified terms determined by the Minister, will—

(i) effectively manage the actual or anticipated high demand, or competing demands, identified under **paragraph (a)**; and

(ii) be implemented within a time frame that is, in the Minister's opinion, reasonable.

(5) In considering whether to approve the request, the Minister must have regard to~~—~~ the following:

(a) Government policy ~~in relation to~~ for the common marine and coastal area:

(b) the ability of the Crown to give effect to any of its obligations under any agreement in principle or deed of settlement between the Crown and any group of Māori claimants or representative of any group of Māori claimants in relation to a claim arising from, or relating to, any act or omission by or on behalf of the Crown or by or under any enactment before 21 September 1992:

(c) the need to facilitate compliance with **clause 22**:

(d) the ability of the Crown to give effect to its obligations under the Maori Commercial Aquaculture Claims Settlement Act 2004.

(6) If the Minister declines the request,—

(a) the Minister must notify the council of that decision; and

(b) the council must as soon as practicable after receiving notice of the decision publicly notify that—

(i) the request was declined; and

(ii) applications may be made for coastal permits to occupy any space for the purposes of any activity that was the subject of the request.

Contents of Gazette notice

(7) A *Gazette* notice approving the request ~~under **subclause (1)(c)(i)**~~—

(a) must specify,—

(i) if the approval does not relate to a public tender, the other allocation method that is approved; and

(ii) the space and activities that the public tender or other allocation method will apply to; and

(iii) how and within what period the public tender or other allocation method must be implemented, including any staging of the allocation; and

(b) may also specify 1 or more of the following:

(i) whether the approval is for a single public tender or a single use of the allocation method or is to be used on more than 1 occasion~~; and~~:

(ii) an expiry date for the approval~~; and~~:

(iii) a date by which authorisations allocated in accordance with the public tender or other allocation method will lapse, being a date that is not more than 2 years after the date on which an authorisation is granted~~; and~~:

(iv) any restrictions on transferring authorisations allocated under the public tender or other allocation method~~; and~~:

(v) that applications received in respect of authorisations allocated under the public tender or other allocation method (together with any other applications for coastal permits related to the activities to which the authorisation relates) must be processed and heard together~~; and~~:

(vi) ~~subject to **sections 178 and 180**,~~ the maximum term of a coastal permit to which the authorisations available for allocation relate~~; and~~, subject to **sections 178 and 180**:

(vii) that authorisations relating to specific spaces within a common marine and coastal area must be allocated to the Crown at no cost~~; and~~:

(viii) that authorisations relating to specific spaces, or a certain proportion of the authorisations that are representative of the entire space for which authorisations are to be offered in accordance with the public tender or other allocation method, must be allocated to the trustee at no cost.

Other matters

(8) A provision in ~~an operative~~ a natural environment plan that relates to the allocation of space to which a *Gazette* notice under this clause relates does not apply during the period of the approval to the extent that it is inconsistent with the terms of the *Gazette* notice.

(9) An authorisation allocated in accordance with **subclause (7)(b)(viii) or clause 10(4)(d)** is a settlement asset for the purposes of the Maori Commercial Aquaculture Claims Settlement Act 2004.

Compare: 2023 No 46 s 454

14 Period of approval to use public tender or other method to allocate authorisations

~~(1) An approval to use a public tender or other method to allocate authorisations applies for the period on and from the date on which the relevant *Gazette* notice is published until the earliest of the following dates:~~

~~(a) the date on which it is expressed in the relevant *Gazette* notice to expire or any date substituted under **subclause (3)**; or~~

~~(b) the date on which it lapses under **clause 15(2)**; or~~

~~(c) the date on which it is revoked by a further notice in the *Gazette* under **subclause (2)**; or~~

~~(d) the date on which a proposed natural environment plan is notified with an alternative allocation method for the space to which the *Gazette* notice applies.~~

(1) An approval to use a public tender or other method to allocate authorisations applies until the earlier of the following:

(a) the end of the period stated or provided for in the relevant *Gazette* notice; or

(b) the date on which a proposed natural environment plan is notified with an alternative allocation method for the space to which the *Gazette* notice applies.

(2) The Minister may, by notice in the *Gazette*, revoke an approval to use a public tender or other allocation method to allocate authorisations if the Minister—

(a) is requested to do so by the regional council; and

(b) considers that—

(i) there is no longer actual or likely high demand, or there are no longer competing demands, for coastal permits to occupy the space for the purposes of the relevant activity or activities; or

(ii) the regional council has in place other methods that will satisfactorily manage actual or likely high demand, or competing demands, for coastal permits to occupy the space for the purposes of the relevant activity or activities.

(3) The Minister may, by notice in the *Gazette*, substitute another date~~ in the relevant *Gazette* notice~~ for the date on which the relevant *Gazette* notice is to expire if—

(a) the Minister receives a request from the regional council to do so; and

(b) the Minister considers that—

(i) there remains actual or likely high demand, or there remain competing demands, for coastal permits to occupy the space for the purposes of the relevant activity or activities; and

(ii) the regional council does not have in place other methods that will satisfactorily manage the high demand or competing demands.

Compare: 2023 No 46 s 455

15 Regional council must offer authorisations if Minister approves

(1) If the Minister approves the use of a public tender or other method for allocating authorisations under **clause 13(1)(c)(i)**, the regional council must by public notice offer authorisations for coastal permits for the occupation of space in the common marine and coastal area in accordance with the terms of that approval.

(2) A *Gazette* notice under **clause 13(1)(c)(i)** lapses if the regional council does not carry out the public tender or implement the other approved allocation method within the period specified in the notice (or any extension of time specified by the Minister in a further notice under **subclause (3)**).

(3) The Minister may by notice in the *Gazette* approve an extension of time for carrying out a public tender or implementing the other approved allocation method, but only if the Minister is satisfied that—

(a) the regional council has taken all reasonable steps to carry out the public tender or implement the other approved allocation method; and

(b) the regional council requires further time to carry out the public tender or implement the other approved allocation method.

Compare: 2023 No 46 s 456

16 During period of approval, no person may apply unless they hold authorisation

(1) ~~**Subclause (2)**~~ This clause applies to space in the common marine and coastal area if the Minister has approved public tendering or another method for allocating authorisations in relation to any activity in that space by a *Gazette* notice under **clause 13(1)(c)(i)**.

(2) During the period of the approval, no person may apply for a coastal permit authorising occupation of the space for the purposes of an activity covered by the approval unless the person is the holder of an authorisation that relates to that space and activity.

Compare: 2023 No 46 s 457

Authorisations

17 Authorisation does not confer right to coastal permit

(1) The granting of an authorisation does not confer any right to the grant of a coastal permit for the space that the authorisation relates to.

(2) However, if a coastal permit is granted to the holder of an authorisation, the permit must be within the terms of the authorisation, including not being granted for a period greater than the period specified in the authorisation.

Compare: 2023 No 46 s 458

18 Authorisation may be transferred

(1) An authorisation or any part of it may be transferred by its holder to any other person, but the transfer does not take effect until written notice of it has been received by the regional council concerned.

(2) This clause applies subject to any restrictions on the transfer of authorisations specified in—

(a) the *Gazette* notice under **clause 13(1)(c)(i)** under which the authorisations were allocated; and

(b) the relevant ~~operative~~ natural environment plan under which the authorisations were allocated.

Compare: 2023 No 46 s 459

19 Authorisation lapses in certain circumstances

(1) An authorisation lapses at the close of 2 years after the day on which it is granted (or any earlier day that may be specified in the authorisation) unless **subclause (3)** applies.

(2) **Subclause (3)** applies,—

(a) for an authorisation for which no earlier date is specified, if,—

(i) before the second anniversary of the date on which an authorisation is granted, its holder has applied for a coastal permit to occupy space for the purposes of the activity that the authorisation relates to; and

(ii) on the second anniversary date,—

(A) the consent authority has not decided whether to grant or decline the application; or

(B) the consent authority has made a decision, but the time for lodging appeals to the Environment Court has not expired, or an appeal has been lodged but the court has made no decision on the appeal; or

(b) for an authorisation specified to lapse on a date earlier than 2 years after the day on which it is granted, if,—

(i) before the date specified in the authorisation, its holder has applied for a coastal permit to occupy space for the purposes of the activity that the authorisation relates to; and

(ii) on the date specified in the authorisation,—

(A) the consent authority has not decided whether to grant or decline the application; or

(B) the consent authority has made a decision, but the time for lodging appeals to the Environment Court has not expired, or an appeal has been lodged but the court has made no decision on the appeal.

(3) The authorisation does not lapse until—

(a) the time for lodging an appeal ~~in respect of the decision~~ against the decision to grant or decline the application has expired and no appeal has been lodged; or

(b) an appeal has been lodged and the court has given its decision on the appeal.

Compare: 2023 No 46 s 460

20 Public notice of offer of authorisations

(1) This clause applies to—

(a) a notice given by a regional council under **clause 7 or 15(1)**; and

(b) a notice given by the Minister responsible for aquaculture when conducting an allocation process under **clause 8**.

(2) The notice must be made in accordance with any requirements prescribed in regulations.

(3) This clause applies subject to an Order in Council made under **clause 10**.

Compare: 2023 No 46 s 461

21 Requirements for offers for authorisations

(1) An offer for an authorisation must specify—

(a) the activity or range of activities for which the authorisation is sought; and

(b) the site it applies to.

(2) In the case of a tender for authorisations, the tender must also specify—

(a) the total remuneration offered (including any annual rental component); and

(b) the form of payment of the remuneration.

(3) A tender must be accompanied by—

(a) a cash deposit (being payment in advance of part of the remuneration) or equivalent security to the satisfaction of the regional council; and

(b) any additional information specified in the notice calling for tenders.

(4) An offer or a tender must be accompanied by any charge payable under **section 229**.

(5) If a tender is accepted under **clause 23**, the amount of any annual rental component of the remuneration payable under **subclause (2)** must be reduced by the amount of any ~~coastal occupation charges payable under **section 302**~~ natural resource levy imposed under **section 313** or any coastal occupation charge for the occupation of the area concerned.

Compare: 2023 No 46 s 462

22 Preferential rights of iwi

(1) A regional council, the Minister, or the Minister responsible for aquaculture must, when conducting a tender of authorisations under this Part, or making

regulations in relation to this Part or **Part 4** of this schedule, give effect to any preferential right held by iwi to purchase a proportion of authorisations.

(2) **Subclause (1)** applies to the rights (**preferential rights**) that are conferred by—

(a) section 316 of the Ngāi Tahu Claims Settlement Act 1998:

(b) section 119 of the Ngati Ruanui Claims Settlement Act 2003:

(c) section 79 of the Ngati Tama Claims Settlement Act 2003:

(d) section 106 of the Ngaa Rauru Kiitahi Claims Settlement Act 2005:

(e) section 118 of the Ngāti Awa Claims Settlement Act 2005:

(f) section 92 of the Ngāti Mutunga Claims Settlement Act 2006.

(3) For the purposes of **subclause (1)**, the sections of the Acts referred to in **subclause (2)** apply as if—

(a) the references in those sections to the Minister of Conservation were references to the regional council or the Minister responsible for aquaculture (as applicable); and

(b) any references in those sections to **Part 4** of this schedule were references to the relevant provisions of this Part.

Compare: 2023 No 46 s 463

23 Acceptance of offer for authorisations

(1) After considering the offers for authorisations provided in response to a notice given in accordance with **clause 20** and in accordance with the relevant criteria~~ referred to in **clause 20(2)(e)**~~ (if any) prescribed in regulations, the regional council or the Minister responsible for aquaculture may—

(a) accept any offer; or

(b) reject all offers; or

(c) reject all offers and call for new offers; or

(d) negotiate with any person who made an offer with a view to reaching an agreement.

(2) If the offer of authorisations is a tender, the regional council or the Minister responsible for aquaculture may accept any tender or negotiate with any tenderer, whether or not the tender was the highest received.

(3) As soon as practicable after deciding to accept an offer for an authorisation or to reject all offers or after reaching an agreement, the regional council or the Minister responsible for aquaculture must give written notice of the decision or agreement and the reasons for it to every person who made an offer.

(4) If an offer is accepted or an agreement is reached, the notice under **subclause (3)** must include details of the person who made the offer or entered into the agreement and the nature of the activity that the offer or agreement relates to.

Compare: 2023 No 46 s 464

24 Grant of authorisation

(1) If the regional council accepts an offer or reaches an agreement under **clause 23** with a person who made an offer, the regional council must grant an authorisation to the person concerned.

(2) If the Minister responsible for aquaculture accepts an offer or reaches an agreement under **clause 23**, that Minister must direct the regional council to grant an authorisation to the person concerned.

Compare: 2023 No 46 s 465

25 Tender money

(1) If the holder of an authorisation obtains a coastal permit authorising the holder to undertake an activity for which the authorisation was granted, the regional council must forward to the Minister 50% of the remuneration received under the tender.

(2) The Minister must cause the money to be paid into a Crown Bank Account in accordance with the Public Finance Act 1989.

(3) If an authorisation granted to a successful tenderer has lapsed under **clause 19**, the regional council must, as soon as possible, refund the remuneration to the tenderer.

(4) If a tenderer who has failed to obtain an authorisation forwarded a payment to the regional council under **clause 21(3)**, the regional council must, as soon as possible, refund the payment to the tenderer.

Compare: 2023 No 46 s 466

26 Use of tender money

The regional council must apply its share of the remuneration to perform its functions and responsibilities under this Act in the coastal marine area in its region.

Compare: 2023 No 46 s 467

Ministerial powers in relation to applications for coastal permits to undertake aquaculture activities in common marine and coastal area

27 Regional council may request suspension of receipt of applications to occupy common marine and coastal area for purposes of aquaculture activities

(1) A regional council may request the Minister responsible for aquaculture to suspend receipt of applications for coastal permits to occupy space in a common marine and coastal area for the purposes of aquaculture activities if—

(a) it identifies actual or anticipated high demand, or competing demands, for those permits and considers that—

(i) the provisions of the ~~operative~~ natural environment plan will not enable the demand to be managed effectively; and

(ii) the suspension is desirable to enable the natural environment plan to be amended or other measures available under this Act to be used to manage the demand; or

(b) it identifies an actual or emerging biosecurity concern relating to aquaculture activities and considers that—

(i) the provisions of the ~~operative~~ natural environment plan will not enable the biosecurity concern to be managed effectively; and

(ii) the suspension is desirable to enable the natural environment plan to be amended or other measures available under this Act or other legislation to be used to manage the biosecurity concern.

(2) A request for a suspension must—

(a) specify—

(i) the space in the common marine and coastal area that it is proposed the suspension will apply to; and

(ii) the aquaculture activities that it is proposed the suspension will apply to; and

(iii) the planning or other measure that the council proposes to implement to manage the identified demand or biosecurity concern; and

(iv) the proposed duration of the suspension, which must be not more than 12 months; and

(b) be accompanied by information about—

(i) the actual or anticipated high demand, or competing demands, for coastal permits for occupation of the space for the purposes of the aquaculture activities covered by the request; or

(ii) the actual or emerging biosecurity concern.

(3) A regional council must give public notice of a request for suspension on the day the request is made or as soon as practicable after the request is made.

(4) A public notice under **subclause (3)** must include—

(a) the matters specified in **subclause (2)(a)**; and

(b) a statement to the effect of **clause 29(2) and (3)**.

~~(5) To avoid doubt, this clause may apply in relation to an aquaculture activity, 1 or more classes of aquaculture activities, or all aquaculture activities.~~

Compare: 2023 No 46 s 468

28 Minister responsible for aquaculture may suspend receipt of applications

~~(1) The Minister responsible for aquaculture may, at their own initiative, suspend receipt of applications for coastal permits to occupy space in a common marine and coastal area for the purposes of aquaculture activities if that Minister—~~

~~(a) identifies actual or anticipated high demand or competing demands for those permits and considers that—~~

~~(i) the provisions of the operative natural environment plan will not enable the demand to be managed effectively; and~~

~~(ii) the suspension is desirable—~~

~~(A) to enable the operative natural environment plan to be amended or for other measures available under this Act to be used to manage the demand; or~~

~~(B) for that Minister to use other measures available under the Maori Commercial Aquaculture Claims Settlement Act 2004 for the purpose of upholding the Crown's settlement obligations under that Act in the region; or~~

~~(b) identifies an actual or emerging biosecurity concern relating to aquaculture activities and considers that—~~

~~(i) the provisions of the operative natural environment plan will not enable the biosecurity concern to be managed effectively; and~~

~~(ii) the suspension is desirable to enable the operative natural environment plan to be amended or other measures available under this Act or other legislation to be used to manage the biosecurity concern.~~

(1) The Minister responsible for aquaculture may, at their own initiative, suspend receipt of applications for coastal permits to occupy space in a common marine and coastal area for the purposes of aquaculture activities, if the Minister is satisfied that—

(a) any of the circumstances provided for in **clause 27(1)(a) or (b)** apply, as if the Minister were the regional council; or

(b) the suspension is desirable to enable the Minister to use other measures available under the Maori Commercial Aquaculture Claims Settlement

Act 2004 for the purpose of upholding the Crown's settlement obligations under that Act in the region.

(2) Before issuing a suspension, the Minister responsible for aquaculture—

(a) must consult the regional council; and

(b) must consult the Minister; and

(c) may consult any other person that the Minister responsible for aquaculture considers appropriate.

(3) The Minister responsible for aquaculture must issue the suspension by notice in the *Gazette*, which must specify—

(a) the space and aquaculture activities that the suspension on applications will apply to; and

(b) the date on which the notice expires, which must not be more than 12 months after the date of the *Gazette* notice.

~~(4) To avoid doubt, this clause may apply in relation to an aquaculture activity, 1 or more classes of aquaculture activities, or all aquaculture activities.~~

Compare: 2023 No 46 s 469

29 Effect on applications of request under clause 27

(1) **Subclause (2)** applies if a regional council has made a request under **clause 27(1)**.

(2) A person must not apply for a coastal permit to occupy any space that is the subject of the request for the purposes of an aquaculture activity during the period commencing on the day on which public notice of the request is given under **clause 27(3)~~(a)~~**, and ending on,—

(a) if the request is declined, the day on which the regional council publicly notifies under **clause 31(6)** that the request has been declined; or

(b) if the request is granted, the date on which the *Gazette* notice issued by the Minister responsible for aquaculture under **clause 31(1)(c)** in response to the request expires.

(3) Neither this clause nor **clause 31(6)** affects—

(a) any application received by the regional council before the request was made under **clause 27(1)**:

(b) any application to which **clause 43** applies:

(c) any application made in accordance with an authorisation.

Compare: 2023 No 46 s 470

30 Effect on applications of suspension at initiative of Minister responsible for aquaculture

(1) A person must not apply for a coastal permit to occupy any space that is the subject of a *Gazette* notice issued by the Minister responsible for aquaculture

under **clause 28** for the purposes of an aquaculture activity during the period commencing on the day on which the *Gazette* notice ~~was~~ is issued and ending on the date on which the *Gazette* notice expires.

(2) Neither this clause nor **clause 31** affects—

(a) any application received by the regional council before the date of *Gazette* notice issued by the Minister responsible for aquaculture under **clause 28**:

(b) any application to which **clause 43** applies:

(c) any application made in accordance with an authorisation.

Compare: 2023 No 46 s 471

31 Minister responsible for aquaculture may suspend applications on request under clause 27

(1) If the Minister responsible for aquaculture receives a request under **clause 27(1)**, that Minister—

(a) must consult the Minister; and

(b) may—

(i) consult any other person whom the Minister responsible for aquaculture considers it appropriate to consult; and

(ii) request any further information from the regional council that made the request; and

(c) must, within 25 working days after receiving the request,—

(i) approve the request by notice in the *Gazette*—

(A) on the terms specified by the regional council in the request; or

(B) on terms that in the opinion of the Minister responsible for aquaculture will better manage the actual or anticipated high demand, or competing demands, in the space or the biosecurity concerns; or

(ii) decline the request.

(2) A failure to comply with the time limit in **subclause (1)(c)** does not prevent the Minister responsible for aquaculture from making a decision on the request.

(3) Any period of consultation under **subclause (1)(b)(i)** is excluded from the period specified in **subclause (1)(c)**.

(4) The Minister responsible for aquaculture must not approve the request unless they consider that—

(a) there are—

(i) actual or likely high demand, or competing demands, for coastal permits for occupation of the space for the purposes of the aquaculture activities that the request applies to; or

(ii) actual or emerging biosecurity concerns relating to the aquaculture activities; and

(b) the planning or other measure that is proposed, or any modified terms determined by the Minister responsible for aquaculture, will—

(i) effectively manage the high demand or competing demands or biosecurity concerns; and

(ii) be implemented within a time frame that is, in the Minister's opinion, reasonable.

(5) A *Gazette* notice under **subclause (1)(c)(i)** must specify~~—~~ the matters set out in **clause 28(3)(a) and (b)**.

~~(a) the space and aquaculture activities that the suspension on applications will apply to; and~~

~~(b) the date on which the notice expires, which must not be more than 12 months after the date of the *Gazette* notice.~~

(6) If the Minister responsible for aquaculture declines a request made under **clause 27(1)**,—

(a) that Minister must notify the regional council of the decision to decline the request; and

(b) the regional council must, as soon as practicable after receiving notice under **paragraph (a)**, publicly notify that—

(i) the request was declined; and

(ii) applications may be made for coastal permits to occupy any space for the purposes of any aquaculture activity that was the subject of the request.

(7) The Minister responsible for aquaculture must notify the Minister of a decision to issue a *Gazette* notice, or to decline a request for a suspension of receipt of applications.

Compare: 2023 No 46 s 472

32 Subsequent requests for direction in relation to suspension of receipt of applications

(1) The Minister responsible for aquaculture may, at their own initiative or at the request of the regional council under **clause 27**, issue a further *Gazette* notice under **clause 31** before the expiry of a notice issued under that clause if—

(a) ~~that~~ the Minister considers that there remain—

(i) actual or likely high demand, or competing demands, for coastal permits to occupy the space for the relevant aquaculture activity or activities; or

(ii) biosecurity concerns relating to aquaculture activities; and

(b) ~~that~~ the Minister considers there are no planning or other measures in place that will satisfactorily manage the demands or biosecurity concerns; and

(c) ~~that~~ the Minister is satisfied that more time is needed to put in place planning or other measures to manage the demands or biosecurity concerns.

(2) **Clauses 27 to 31** apply with any necessary modifications to a request for a further suspension of receipt of applications.

Compare: 2023 No 46 s 473

Processing and hearing together of applications for coastal permits for aquaculture activities

33 Regional council may request direction to process and hear together applications for permits for ~~purpose~~ purposes of aquaculture activities

(1) A regional council may request the Minister responsible for aquaculture to direct it to process and hear together applications for coastal permits to occupy space in a common marine and coastal area for the purposes of aquaculture activities if the council considers—

(a) that processing and hearing together of those applications would be more efficient and would enable better assessment and management of cumulative effects of those permits; and

(b) the natural environment plan does not provide adequately for efficient processing, assessment, and management of the cumulative effects of those permits.

(2) The regional council's request must—

(a) specify—

(i) the space in the common marine and coastal area that it is proposed the direction will apply to; and

(ii) the aquaculture activities that it is proposed the direction will apply to; and

(iii) the applications or classes of applications for coastal permits that it is proposed the direction will apply to; and

(b) be accompanied by information about why it would be more efficient and would enable better assessment and management of the cumulative effects of those permits if the direction were made.

Compare: 2023 No 46 s 474

34 Minister responsible for aquaculture may decide at own initiative to give direction

(1) The Minister responsible for aquaculture may, at their own initiative, decide to give a direction to the regional council to process and hear together applications for coastal permits to occupy space in a common marine and coastal area for the purposes of aquaculture activities if the Minister is of the opinion that the matters referred to in **clause 33(1)(a) and (b)** apply.

(2) The decision must contain the information described in **clause 33(2)**.

Compare: 2023 No 46 s 475

35 Direction to process and hear applications together

(1) If the Minister responsible for aquaculture receives a request for a direction under **clause 33**, that Minister—

(a) must consult the Minister; and

(b) may consult any other person whom the Minister responsible for aquaculture considers it appropriate to consult; and

(c) may request any information or further information from the regional council; and

(d) must decide, within the 25-day period, to give a direction or decline the request; and

(e) must notify the decision to the regional council~~,~~ and the Minister.

(2) If the Minister responsible for aquaculture decides under **clause 34** to give a direction at their own initiative,—

(a) this clause applies, other than **subclause (1)(d)** and **subclauses (5) to (7)**; and

(b) that Minister must consult ~~with~~ the affected regional council.

(3) The Minister responsible for aquaculture must not give a direction unless—

(a) that Minister considers it will facilitate efficient processing and better assessment and management of the cumulative effects of the applications that are the subject of the direction; and

(b) the direction complies with **clause 36** (which relates to the content of the direction).

(4) The Minister responsible for aquaculture must give the direction by *Gazette* notice.

(5) A failure to comply with **subclause (1)(d)** within the 25-day period does not prevent the Minister responsible for aquaculture from giving a direction or declining a request.

(6) Any period of consultation carried out under **subclause (1)(b)** is excluded from the 25-day period.

(7) In this clause, **25-day period** means 25 working days after the Minister responsible for aquaculture receives a request from the regional council or makes a decision under **clause 34**.

Compare: 2023 No 46 s 476

36 Content of direction

(1) A direction given under **clause 35** must require the regional council to process and hear together applications for coastal permits to occupy the common marine and coastal area for the purposes of aquaculture activities (together with any other applications for coastal permits related to the aquaculture activities)—

(a) on the terms specified by the regional council under **clause 33(2)(a)** (in the request); or

(b) on terms~~,~~ that, in the opinion of the Minister responsible for aquaculture, will facilitate efficient processing, assessment, and management of the cumulative effects of those permits.

(2) The direction must specify—

(a) the space in the common marine and coastal area that the direction applies to; and

(b) the aquaculture activities that the direction applies to; and

(c) the applications or classes of applications to which the direction applies.

(3) The direction may apply to applications or classes of applications that (without limitation) include—

(a) applications made on or after the commencement date; or

(b) applications made but not determined before the commencement date; or

(c) applications defined by reference to their contents (for example, by the size of the space they relate to).

(4) The direction may not apply to applications or classes of applications—

(a) in respect of which the regional council or the Minister responsible for aquaculture has determined, before the commencement date, to hold a hearing and the hearing has commenced or been completed; or

(b) in respect of which the regional council or the Minister responsible for aquaculture has determined, before the commencement date, that no hearing is required; or

(c) to which **clause 43** applies; or

(d) made more than 12 months after the commencement date.

(5) ~~The direction may specify that~~ **Subclause (5A)** applies to an application for a coastal permit—

(a) that is made after the commencement date; and

(b) to which the direction does not apply~~—~~.

~~must not be processed and heard until decisions have been made and notified on all of the applications to which the direction applies.~~

(5A) The direction may specify that the application must not be processed and heard until decisions have been made and notified on all of the applications to which the direction applies.

(6) In this clause, **commencement date** means the date on which the direction comes into force (as specified in the *Gazette* notice).

Compare: 2023 No 46 s 477

37 Regional council must comply with direction

(1) A regional council given a direction under **clause 35** must comply with the direction.

(2) The regional council must process and hear together applications to which the direction applies—

(a) on and from the commencement date of the direction (as specified in the *Gazette* notice); and

(b) in accordance with the terms of the direction (as specified in the *Gazette* notice).

Compare: 2023 No 46 s 478

Processing and hearing together of applications for coastal permits

38 Application of ~~clauses 39 to 41~~ clause 39

~~**Clauses 39 to 41** apply~~ **Clause 39** applies if a regional council is required to process and hear together any applications or class of applications for coastal permits to occupy space in the common marine and coastal area under—

(a) a rule in a natural environment plan (*see* **clause 4**); or

(b) a *Gazette* notice under **clause 13** (approving a request to use an allocation method); or

(c) a *Gazette* notice under **clause 35** (given at the request of the regional council or at the initiative of the Minister responsible for aquaculture).

Compare: 2023 No 46 s 479

39 ~~Interpretation~~ Processing and hearing of applications

(1) In this clause ~~and **clauses 40 and 44**~~,—

affected application, in relation to a PHT requirement,—

(a) means an application for a coastal permit to occupy space in the common marine and coastal area for the purposes of 1 or more activities that is required to be processed and heard together with another application or applications under the PHT requirement; and

(b) includes any other applications for coastal permits that are related to the application referred to in **paragraph (a)** and that are subject to the PHT requirement

PHT requirement means a requirement that an application be processed and heard together with another application or applications as provided in a rule or *Gazette* notice referred to in **clause 38**.

(2) **Sections 130 to 152** apply in respect of each affected application that is subject to a PHT requirement.

(3) The regional council must, as soon as practicable after the latest date on which the period for submissions closes on an affected application to which the PHT requirement relates, advise each applicant of the names and contact details of the other affected applicants.

(4) **Section 153(a) and (b)** applies in respect of any affected application that the regional council is required to process and hear together with other affected applications.

(5) A regional council must process and hear affected applications in accordance with the procedure prescribed in regulations.

Compare: 2023 No 46 s 480

~~**40 Processing of affected applications**~~

~~(1) **Sections 130 to 152** apply in respect of each affected application that is subject to a PHT requirement.~~

~~(2) The regional council must, as soon as practicable after the latest date on which the period for submissions closes on an affected application to which the PHT requirement relates, advise each applicant of the names and contact details of the other affected applicants.~~

~~(3) **Section 153(a) and (b)** apply in respect of any affected application that the regional council is required to process and hear together with other affected applications.~~

~~Compare: 2023 No 46 s 482~~

~~**41 Hearing of affected applications**~~

~~The provisions of this Act that relate to the hearing and making of decisions on a coastal permit apply to the affected applications with the following modifications:~~

~~(a) if a hearing is to be held in respect of any affected application,—~~

~~(i) a hearing must be held for all affected applications; and~~

~~(ii) all affected applications must be heard together; and~~

~~(b) the date for the commencement of the hearing must be within 25 working days after the latest closing date for submissions on an affected application to which the PHT requirement relates; and~~

~~(c) decisions on the affected applications are, subject to **section 135(4)**, to be made in the order in which the applications were lodged; and~~

~~(d) notice of the decision on each affected application must be given within 30 working days after the end of the hearing or, if no hearing is held, within the period within which a hearing would have been required to be held under **paragraph (b)**; and~~

~~(e) **paragraph (c)** is subject to **clauses 43 and 44**.~~

~~Compare: 2023 No 46 s 483~~

Part 2
Order in which applications by existing consent holders are to be processed

42 Application

(1) This Part applies only to applications for coastal permits to occupy space in the common marine and coastal area for the purposes of aquaculture activities.

(2) However, this Part does not apply to an application if, at the time the application is made, ~~an operative~~ a natural environment plan provides for a method of allocating authorisations for the space and activity.

Compare: 2023 No 46 s 486

43 Processing applications for existing permit holders

(1) This clause applies if—

(a) a person holds a coastal permit to occupy space in the common marine and coastal area for the purposes of aquaculture activities; and

(b) the permit referred to in **paragraph (a)** (the **existing coastal permit**)—

(i) is in force at the time of any application under **paragraph (c)**; and

(ii) applies in relation to space in the common marine and coastal area in which aquaculture is not a prohibited activity; and

(c) the holder of the existing coastal permit (the **existing permit holder**) makes an application for a new coastal permit that is—

(i) for occupation of some or all of the same space; and

(ii) for the purposes of the same or another aquaculture activity; and

(iii) accompanied by any other applications for coastal permits related to the carrying out of the aquaculture activity; and

(d) the application and any related applications are—

(i) made to the appropriate consent authority; and

(ii) made—

(A) at least 6 months before the expiry of the existing coastal permit; or

(B) in the period that begins 6 months before the expiry of the existing coastal permit and ends 3 months before the expiry of the existing coastal permit, and the authority, in its discretion, allows the holder to continue to operate.

(2) If this clause applies, then—

(a) the applications must be processed and determined before any other application for a coastal permit to occupy the space that the permit applies to; and

(b) no other application to occupy the space that the application relates to may be accepted before the determination of the application; and

(c) the existing permit holder may continue to operate under the existing coastal permit until—

(i) a new coastal permit is granted and all appeals are determined; or

(ii) a new coastal permit is declined and all appeals are determined.

Compare: 2023 No 46 s 487

44 Applications for space already used for aquaculture activities

(1) This clause applies to an application for a coastal permit to occupy space in the common marine and coastal area for the purposes of aquaculture activities if—

(a) the application relates to space that is subject to a permit referred to in **clause 43**; and

(b) the application is made by a person who is not the existing permit holder.

(2) The application must be held by the consent authority without processing until 3 months before the expiry of the permit.

(3) While the application is being held under **subclause (2)**, the consent authority must not accept any other applications by persons other than the existing permit holder to occupy that space until after the application being held under **subclause (2)** is determined or has lapsed.

(4) After receiving an application referred to in **subclause (1)**, the consent authority must notify the existing permit holder—

(a) of the application; and

(b) that the holder can make an application in accordance with **clause 43(1)(c)**.

(5) If an application to which **clause 43(1)(c)** applies is made, then the application referred to in **subclause (1)** remains on hold until that application is determined.

(6) If the application to which **clause 43(2)(a)** applies is granted, then the application referred to in **subclause (1)** lapses.

(7) If no application to which **clause 43(2)(a)** applies is made before the date that is 3 months before expiry of the relevant permit, then the application being held under **subclause (2)** must be processed and determined in accordance with this Act.

(8) However, the application may be processed and determined before the expiry of the 3-month period referred to in **subclause (7)** if the existing permit holder notifies the consent authority in writing that the holder does not propose to make an application under **clause 43(1)(c)**.

Compare: 2023 No 46 s 488

45 Additional criteria for considering applications for permits for space already used for aquaculture activities

(1) When considering an application under **clause 43** that relates to the same aquaculture activity, a consent authority must consider all relevant information available in relation to the existing coastal permit, including any available monitoring data.

(2) When considering an application to which **clause 43** ~~and~~ or **clause 44(7) or (8)** applies, a consent authority may consider the matters in **section 162(1) and (3)**.

Compare: 2023 No 46 s 489

Part 3
Aquaculture areas

46 Interpretation

In this Part, unless the context otherwise requires,—

application means an application for a coastal permit to occupy space in the common marine and coastal area for the purposes of aquaculture activities

aquaculture area rules means rules in a natural environment plan that provide for or relate to aquaculture activities in an aquaculture area

chief executive means the chief executive of the Ministry responsible for the administration of the Fisheries Act 1996

reservation means a decision by the chief executive under section 186E of the Fisheries Act 1996 that they are not satisfied that the aquaculture activities provided for within the aquaculture area will not have an undue adverse effect on fishing

stock has the meaning given in section 2 of the Fisheries Act 1996.

Compare: 2023 No 46 s 490

47 Request for aquaculture area decision

If a natural environment plan prescribes aquaculture areas and provides aquaculture area rules, a person may request the chief executive, in accordance with any requirements prescribed in regulations, to make an aquaculture area decision in respect of—

(a) an aquaculture area; and

(b) any aquaculture activities that may be carried out in the aquaculture area.

Compare: 2023 No 46 s 491

48 Aquaculture area subject to quota management system reservation

(1) If the chief executive makes a reservation relating to stock that is subject to the quota management system,—

(a) the part of the aquaculture area to which the reservation relates is closed for applications during the period (the **waiting period**)—

(i) commencing on the date of the aquaculture area decision; and

(ii) ending on the date that is 6 months later or, if an extension under section 186ZI of the Fisheries Act 1996 is granted, 9 months later; and

(b) if an aquaculture agreement or a compensation declaration relating to the reservation is registered under the Fisheries Act 1996 and the waiting period is completed,—

(i) the terms of the agreement or declaration must be made available by the negotiator in accordance with section 186ZEA(2) of the Fisheries Act 1996; and

(ii) each applicant must demonstrate in their application that the negotiator agrees that they have met the terms of the agreement or declaration; and

(iii) if the application is granted, it commences in accordance with **section 175**; and

(c) if no aquaculture agreement or compensation declaration relating to the reservation is so registered, the application (other than an application for an authorisation) must proceed in accordance with **section 133**.

(2) In this clause,—

aquaculture agreement means an aquaculture agreement registered in accordance with section 186ZH of the Fisheries Act 1996

compensation declaration means a compensation declaration registered under section 186ZHA of the Fisheries Act 1996.

Compare: 2023 No 46 s 492

49 Aquaculture area subject to reservation

An application that is granted to occupy space in an aquaculture area that is subject to a reservation must commence in accordance with **section 177** if the reservation relates to—

(a) recreational fishing or customary fishing; or

(b) commercial fishing in relation to stocks and species not subject to the quota management system.

Compare: 2023 No 46 s 493

Part 4
Coastal tendering relating to certain activities

50 Application

(1) This Part applies to the following activities in the coastal marine area:

(a) removing any sand, shingle, shell, or other natural material:

(b) reclaiming or draining any foreshore or seabed.

(2) This Part does not apply to applications for coastal permits to authorise the occupation of a coastal marine area.

Compare: 2023 No 46 s 495

51 Interpretation

In this Part, unless the context otherwise requires,—

authorisation means an authorisation granted by the Minister under **clause 61**

Order in Council means an Order in Council made under **clause 52**.

Compare: 2023 No 46 s 496

52 Order in Council may require holding of authorisation

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, direct that a consent authority must not grant a coastal permit for a specified part of the ~~marine and coastal~~ coastal marine area (other than for any specified freehold land) that would, if granted, authorise the permit holder to undertake an activity to which this Part applies, unless the applicant holds an authorisation for that activity.

(2) The Minister must not make a recommendation—

(a) unless—

(i) they consider that there are, or are likely to be, for an area to which it is proposed that the Order in Council relate, competing demands for the use of that area for all or any of the activities to which this Part applies; and

(ii) the Minister is satisfied that the Order in Council gives effect to any preferential right held by iwi to purchase a proportion of authorisations listed in **clause 22(2)**:

(b) that relates to the reclamation or drainage of any foreshore or seabed in the coastal marine area of any region until a proposed natural environment plan of a combined plan has been prepared and notified under this Act for that region.

(3) An Order in Council expires on the second anniversary of the date on which it comes into force.

(4) An order under **subclause (1)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 2023 No 46 s 497

53 Application of Order in Council

An Order in Council does not apply to or affect—

(a) any application for a coastal permit made before the date on which the Order in Council comes into force:

(b) any application, whether made before or after the date on which the Order in Council comes into force, for a coastal permit to do something—

(i) that otherwise would contravene **section 20, 21, 22, or 23**; or

(ii) that otherwise would contravene **section 18** (other than something described in **clause 50(1)** that is the subject of the Order in Council):

(c) any application for a coastal permit to which **section 181(a)** applies and any coastal permit granted as a result of any such application:

(d) any of the following in force or being carried out on the date on which the Order in Council comes into force:

(i) a coastal permit:

(ii) a permitted activity in the coastal marine area:

(iii) another lawful activity.

Compare: 2023 No 46 s 498

54 Publication, etc, of Order in Council

The Minister must, as soon as practicable,—

(a) cause a copy of every Order in Council to be served on the appropriate regional council; and

(b) cause a notice of the making of the Order in Council and its effect to be served on—

(i) the Minister for the Environment:

(ii) every territorial authority whose district or any part of whose district is situated within the region to which the Order in Council relates:

(iii) the tangata whenua of that region, through iwi authorities.

Compare: 2023 No 46 s 499

55 Particulars of Order in Council to be endorsed in natural environment plan

On receiving a copy of an Order in Council, the regional council must endorse particulars of it in the natural environment plan, but the endorsement does not form part of the natural environment plan.

Compare: 2023 No 46 s 500

56 Effect of Order in Council

(1) ~~Except as otherwise provided in **clause 53**, if~~ If an Order in Council is in force for any part of the coastal marine area, a consent authority must not grant a coastal permit authorising any activity to which this Part applies unless—

(a) the applicant for that permit holds an authorisation for the activity; or

(b) the Order in Council does not require such an authorisation to be held.

(2) **Subclause (1)** is subject to **clause 53**.

Compare: 2023 No 46 s 501

57 Calling of public tenders for authorisations

(1) If an Order in Council is in force for any part of the coastal marine area, the Minister may, at any time by a publicly notified tender, offer authorisations for the whole or any portion of that part for all or any of the activities to which the Order in Council applies.

(2) The public notice of every offer must be made in accordance with any requirements prescribed in regulations.

(3) The Minister may amend, revoke, or replace any notice before the time by which tenders must be received expires.

(4) In conducting a tender under this clause, the Minister must give effect to any preferential right to which **clause 22(1)** applies, as if they were conducting a tender under **clause ~~22~~ 21**.

Compare: 2023 No 46 s 502

58 Requirements of tender

(1) Every tender for an authorisation must specify—

(a) the activity or range of activities for which the authorisation is sought; and

(b) for an authorisation to remove any sand, shingle, shell, or other natural material, the maximum period of any proposed coastal permit, and the maximum amount of material proposed to be extracted under the permit; and

(c) the total remuneration offered, including—

(i) any initial payment for the authorisation:

(ii) any royalty for the extraction of material, and any proposed formula for adjustment of royalty.

(2) The tender must be accompanied by—

(a) the prescribed fee (if any) and, if an initial payment for the authorisation is offered, a cash deposit of that payment or equivalent security to the satisfaction of the Minister; and

(b) any additional information specified in the public notice calling for tenders.

Compare: 2023 No 46 s 503

59 Acceptance of tender, etc

(1) The Minister may, after having regard to the matters specified in **subclause (2)**, ~~in their discretion,~~ —

(a) accept any tender, whether or not it is the highest tender; or

(b) enter into private negotiations with any tenderer, whether or not that tenderer offered the highest tender, with a view to reaching an agreement; or

(c) reject all tenders and call for new tenders under **clause 57**.

(2) The matters concerned are—

(a) the interests (including the financial interests) of the Crown in the coastal marine area; and

(b) the financial and other circumstances of the tenderers; and

(c) any other matters the Minister considers relevant.

(3) If the Minister decides to accept a tender or reject all tenders, the Minister—

(a) must without delay give written notification of the decision to the appropriate regional council and every tenderer; and

(b) must include reasons for the decision and ~~the~~ details of ~~the name of~~ the successful tenderer and the nature of the activity to which the tender relates.

(4) If the Minister reaches an agreement with a tenderer under **subclause (1)(b)**, the Minister must without delay give written notification to the appropriate regional council and every other tenderer of the name of the person with whom agreement was reached and the nature of the activity to which the agreement relates.

Compare: 2023 No 46 s 504

60 Notice of acceptance of tender

(1) Every tender accepted in accordance with **clause 59** must be by written notice of acceptance given by the Minister to the successful tenderer.

(2) At the same time as giving any written notice of acceptance, the Minister must also give written notice to every other tenderer of the failure of their tender and, on request, return all documents submitted with each unsuccessful tender.

Compare: 2023 No 46 s 505

61 Grant of authorisation

(1) If the Minister gives notice of acceptance of a tender or enters into an agreement satisfactory to the Minister under **clause 59(1)(b)**, the Minister must grant a written authorisation, in any form they think appropriate, to the successful tenderer or the person with whom the agreement was entered into.

(2) The Minister must cause a copy of every authorisation to be given to the appropriate regional council.

(3) **Clauses 17 to 19** apply to an authorisation granted under this clause.

Compare: 2023 No 46 s 506

62 Tender money

(1) If a person to whom an authorisation has been granted forwarded an initial payment to the Minister under **clause 58(2)**, the money becomes the property of the Crown and, on granting the authorisation, the Minister must cause that money to be paid into a Crown Bank Account in accordance with the Public Finance Act 1989.

(2) If an authorisation granted to a person to whom **subclause (1)** applies has lapsed under **clause 19**, the Minister must cause 80% of the initial payment to be refunded to that person from a Crown Bank Account.

(3) If any tenderer who has failed to obtain an authorisation forwarded an initial payment to the Minister under **clause 58(2)**, the Minister must, as soon as practicable, cause that money to be refunded to that tenderer.

Compare: 2023 No 46 s 510

~~Part 5~~
~~Continuation of coastal permits~~

~~63 Part 5 applies in relation to coastal permits extended under sections 165ZFHC and 165ZZC of Resource Management Act 1991~~

~~This Part applies in relation to coastal permits extended under sections 165ZFHC and 165ZZC of the Resource Management Act 1991 that are in force and have not been surrendered on the date on which this clause comes into force.~~

~~*Restrictions on section 186 reviews of conditions of extended coastal permits*~~

~~64 Restrictions on section 186 review of conditions of extended coastal permits~~

~~(1) This clause applies until the specified transition date to a coastal permit, the extension of which is continued by section 165ZFHC of the Resource Management Act 1991.~~

~~(2) A consent authority must not give notice under **section 186(1)** of its intention to review the conditions of the permit unless,—~~

~~(a) the notice is given under **section 186(1)(c)**; or~~

~~(b) the following criteria are met:~~

~~(i) the permit expressly allows for a review of the conditions for the purposes of an adaptive management approach; and~~

~~(ii) the review is to be carried out for those purposes only; and~~

~~(iii) the review is to be carried out at a time specified in the permit for that purpose.~~

~~(3) In **subclause (2)**, **adaptive management approach**—~~

~~(a) means a systematic and iterative process of decision-making that aims to reduce and manage uncertainty about the environmental effects of an activity over time through—~~

~~(i) monitoring the activity and its effects; and~~

~~(ii) making changes to management in response to the results of that monitoring; and~~

~~(b) can include management by a staged development programme, each stage proceeding only when the monitoring of the biological or physical effects of the previous stage demonstrates that the adverse effects—~~

~~(i) are within limits prescribed in the provisions of the relevant coastal permit; and~~

~~(ii) are reversible.~~

~~(4) To avoid doubt, this clause does not affect a review of conditions required under **section 186(2)**.~~

~~Compare: 1991 No 69 s 165ZFHHA~~

~~*Review of conditions applying to extended coastal permits*~~

~~65 Power to undertake review~~

~~(1) A consent authority may review the conditions of any coastal permit to which this Part applies.~~

~~(2) This Part is in addition to, and does not affect the application of,—~~

~~(a) **section 185**, which provides for the holder of a coastal permit to apply to change or cancel any condition of a coastal permit; and~~

~~(b) **section 186**, which—~~

~~(i) provides for the consent authority to review the conditions of a coastal permit; but~~

~~(ii) until the specified transition date, is subject to the restrictions in **section 64**; and~~

~~(c) **section 188**, which sets out requirements for notices of reviews under **section 187**; and~~

~~(d) **section 191**, which preserves the power of the Environment Court to change or cancel a coastal permit by an enforcement order.~~

~~(3) A review undertaken under this Part—~~

~~(a) must commence not later than the specified transition date; and~~

~~(b) must not be undertaken more than once in relation to any coastal permit; and~~

~~(c) must not amend the duration of a coastal permit extended under section 165ZFHC of the Resource Management Act 1991, or change the species or consented area to which the coastal permit relates.~~

~~(4) Despite **section 229**, a consent authority must bear its own costs of a review undertaken under this Part, other than any costs arising from a request by the Director-General under **clause 67(3)** for information not held by the consent authority in its normal course of business.~~

~~Compare: 1991 No 69 s 165ZFHI~~

~~66 Purpose of review~~

~~The purpose of undertaking a review is to better promote the sustainable management of the natural and physical resources associated with the marine farm, as long as the review is undertaken in a way that does not prevent the permit holder from carrying out the aquaculture activity to which the coastal permit relates.~~

~~Compare: 1991 No 69 s 165ZFHJ~~

~~67 Concurrence of Director-General required for review to proceed~~

~~(1) Before a consent authority may undertake a review under this Part, it must provide a proposal to the Director-General of the Ministry for Primary Industries (the **Director-General**) that sets out how the consent authority considers the proposed review meets the purpose of a review under this Part.~~

~~(2) Not later than 20 working days after receiving a proposal, the Director-General must—~~

~~(a) decide whether to concur with the consent authority that the proposal is consistent with the purpose of the review; and~~

~~(b) notify the relevant consent authority in writing of that decision.~~

~~(3) For the purposes of making that decision, the Director-General may request the relevant consent authority and permit holders to provide information in writing to the Director-General not later than 20 working days after the request is received.~~

~~(4) The information requested—~~

~~(a) must be provided as requested, in the case of a request to the consent authority; and~~

~~(b) may be provided in the case of a request to a permit holder.~~

~~(5) The time that the Director-General may need to obtain information from the relevant consent authority and permit holders is in addition to the 20 working days specified in **subclause (2)**.~~

~~(6) If the information is not received in full within the time specified in **subclause (3)**, the Director-General may decide whether to concur with the review proposal under **subclause (2)(a)**, taking into account the information received within that time.~~

~~Compare: 1991 No 69 s 165ZFHK~~

~~68 Process applying to review~~

~~(1) Not later than 20 working days after a consent authority has received written notice of the Director-General's concurrence with the proposed review, the consent authority may initiate a review of the conditions of an extended coastal permit by notifying that intention to—~~

~~(a) any of the following groups or persons if the extended coastal permit applies in their rohe:~~

~~(i) iwi authorities:~~

~~(ii) post-settlement governance entities:~~

~~(iii) ngā Hapū o Ngāti Porou, as defined in section 10 of Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019:~~

~~(iv) iwi and hapū that are party to a Mana Whakahono ā Rohe under this Act:~~

~~(v) customary marine title groups (within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011) that—~~

~~(A) hold customary marine title in an area under that Act; or~~

~~(B) have applied under that Act for customary marine title but whose application has not yet been determined; and~~

~~(b) the permit holder.~~

~~(2) Groups or persons notified under **subclause (1)** may make submissions on the proposed review to the relevant consent authority—~~

~~(a) within 20 working days after limited notification is given under **subclause (1)**; and~~

~~(b) in accordance with **section 131**.~~

~~(3) A consent authority undertaking a review under this Part must not hold a hearing as part of that review, and nothing in **sections 153** applies to a review under this Part.~~

~~Compare: 1991 No 69 s 165ZFHL~~

~~69 Decision on review~~

~~(1) A consent authority that undertakes a review under this Part must, not later than 2 years after initiating the review, decide whether to add to, amend, or make no change to, any condition of the coastal permit under review.~~

~~(2) In making that decision, the consent authority must—~~

~~(a) apply **section 189**, as far as it is relevant to a review under this Part (and with any necessary modifications); and~~

~~(b) consider any submissions received under **clause 68(2)**.~~

~~(3) The consent authority must, as soon as is reasonably practicable, give written notice of the outcome of the review to the persons notified if they made a submission (*see* **clause 68(1) and (2)**).~~

~~Compare: 1991 No 69 s 165ZFHM~~

~~70 Right of appeal~~

~~(1) The following persons may appeal to the Environment Court against the whole or part of any decision made by the consent authority in the review of conditions under this Part:~~

~~(a) the permit holder; and~~

~~(b) any person or group who was notified under **clause 68(1)** and who made a submission under **clause 68(2)**.~~

~~(2) **Section 173** applies to an appeal under this clause.~~

~~Compare: 1991 No 69 s 165ZFHN~~

~~71 Final right of appeal~~

~~There is a final right of appeal on a question of law to the High Court, subject to **clauses 77 to 82 of Schedule 9 of the Planning Act 2025**.~~

~~Compare: 1991 No 69 s 165ZFHO~~

~~Port company coastal permits~~

~~72 Interpretation~~

~~In **clauses 73 to 80**, unless the context otherwise requires,—~~

~~**holder** means a port company that holds a section 165ZZC coastal permit~~

~~**port company** and **port related commercial undertaking** have the same meanings as in section 2(1) of the Port Companies Act 1988~~

~~**section 165ZZC coastal permit** and **permit** mean a coastal permit that was continued under section 165ZZC of the Resource Management Act 1991.~~

~~Compare: 1991 No 69 s 165ZZB~~

~~*Review of section 165ZZC coastal permits*~~

~~**73 Requirement to undertake review**~~

~~(1) Each consent authority in whose area of jurisdiction a port company holds a section 165ZZC coastal permit must undertake a review of the permit in accordance with this Part (*see* **clause 75**).~~

~~(2) This clause is in addition to—~~

- ~~(a) **clauses 65 to 71**, which provide for—~~
  - ~~(i) a consent authority to review the conditions of a coastal permit; and~~
  - ~~(ii) the holder of a coastal permit to apply to the relevant consent authority to change or cancel any condition of a coastal permit; and~~
- ~~(b) **section 191**, which preserves the power of the Environment Court to change or cancel a coastal permit by an enforcement order.~~

~~Compare: 1991 No 69 s 165ZZD~~

~~**74 Purpose and scope of review**~~

~~(1) The purpose of a consent authority's review of a section 165ZZC coastal permit is to identify—~~

- ~~(a) any adverse environmental effects of the occupation of the coastal marine area authorised by the permit; and~~
- ~~(b) whether conditions need to be imposed or amended to avoid, remedy, or mitigate those effects.~~

~~(2) A consent authority may identify and provide, as the consent authority considers necessary for the purposes of the review, for—~~

- ~~(a) new conditions to be included in a section 165ZZC coastal permit; and~~
- ~~(b) existing conditions to be modified.~~

~~(3) However, a consent authority—~~

- ~~(a) must not, in relation to a section 165ZZC coastal permit, provide for the inclusion of a new condition or modification of an existing condition that—~~
  - ~~(i) would change the size of the permit area or its location; or~~

~~(ii) would prevent the holder from occupying the permit area to manage and operate port related commercial undertakings; but~~

~~(b) may, if the holder agrees, provide for the inclusion of a new condition or modification of an existing condition that—~~

~~(i) permits activities to be undertaken in any specified part of the permit area; or~~

~~(ii) prohibits activities from being undertaken in any specified part of the permit area.~~

~~(4) **Sections 168 and 169** apply, subject to this clause, to a review of a section 165ZZC coastal permit.~~

~~Compare: 1991 No 69 s 165ZZE~~

~~Notice and other procedural requirements~~

~~75 Notice and other requirements relevant to review~~

~~(1) Not later than 30 September 2027, each consent authority in whose area of jurisdiction a port company holds a section 165ZZC coastal permit must initiate a review of the permit by serving a limited notice of the review on the parties described in **clause 76**.~~

~~(2) Each party who is served notice is entitled to make a written submission on the review, including proposing new or modified conditions for the permit (*see* **clause 77**).~~

~~(3) A review must be undertaken in a way that—~~

~~(a) does not prevent a holder from managing and operating port related commercial undertakings; and~~

~~(b) is efficient and causes as little disruption as possible to the management and operation of those port related commercial undertakings.~~

~~(4) A consent authority must not—~~

~~(a) give public notice that a review is being initiated (but must give limited notice); or~~

~~(b) hold a hearing on the submissions received.~~

~~(5) A review required by this Part must be completed, and a decision issued, not later than 2 years after the date on which the consent authority initiates the review.~~

~~Compare: 1991 No 69 s 165ZZF~~

~~76 Parties that must be given limited notice~~

~~The limited notice required by **clause 75(1)** must be served on—~~

~~(a) each of the following, to the extent that their area of interest overlaps with, or is within, the area of the relevant section 165ZZC coastal permit:~~

~~(i) iwi authorities:~~

~~(ii) post-settlement governance entities:~~

~~(iii) ngā hapū o Ngāti Porou, as defined in the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019:~~

~~(iv) any iwi or hapū that are party to an existing or initiated Mana Whakahono ā Rohe that applies in the whole or a part of the area of the section 165ZZC coastal permit:~~

~~(v) customary marine title groups (within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011)—~~

~~(A) who hold customary marine title under that Act in the whole or a part of an area to which the section 165ZZC coastal permit relates; or~~

~~(B) who have applied under that Act for customary marine title but whose applications have not yet been determined:~~

~~(vi) any iwi or hapū that are party to an existing joint management agreement; and~~

~~(b) the Director-General of Conservation; and~~

~~(c) the permit holder.~~

~~Compare: 1991 No 69 s 165ZZG~~

~~77 Submissions on review~~

~~If the parties listed in **clause 76** decide to make a submission, they must lodge their written submissions with the consent authority not later than 20 working days after receiving the notice served under **clause 75**.~~

~~Compare: 1991 No 69 s 165ZZH~~

~~78 Decision on review~~

~~A consent authority's decisions on its review of a section 165ZZC coastal permit must—~~

~~(a) take into account all submissions received under **clause 77**; and~~

~~(b) be consistent with the purpose of this Act.~~

~~Compare: 1991 No 69 s 165ZZI~~

~~Rights of appeal~~

~~79 Appeal rights~~

~~(1) The following persons or groups may appeal to the Environment Court against the whole or a part of a decision made by the consent authority on its review of a section 165ZZC coastal permit:~~

~~(a) the holder of the permit; and~~

~~(b) any person or group notified of the review under **clause 75** and who made a submission under **clause 77**~~

~~(2) **Section 173** applies to an appeal made under this clause.~~

~~Compare: 1991 No 69 s 165ZZJ~~

~~**80 Final right of appeal**~~

~~(1) There is a final right of appeal to the High Court on a question of law against a decision of the Environment Court under **clause 79**.~~

~~(2) **Clauses 77 to 82 of Schedule 9 of the Planning Act 2025** apply to any appeal under this clause.~~

~~Compare: 1991 No 69 s 165ZZK~~

Schedule 4
Water conservation orders

s ~~42~~ 124

Contents

Purpose and meaning

1 Purpose of water conservation orders

(1) The purpose of a water conservation order is to recognise and sustain—

(a) outstanding amenity or intrinsic values that are provided by waters in their natural state:

(b) if waters are no longer in their natural state, the amenity or intrinsic values of those waters that in themselves warrant protection because they are considered outstanding.

(2) A water conservation order may provide for any of the following:

(a) the preservation as far as possible in its natural state of any water body that is considered to be outstanding:

(b) the protection of characteristics that any water body has or contributes to, and that are considered to be outstanding,—

(i) as a habitat for terrestrial or aquatic organisms:

(ii) as a fishery:

(iii) for its wild or other natural characteristics:

(iv) for scientific and ecological values:

(v) for recreational or historical purposes:

(c) the protection of characteristics that any water body has or contributes to, and that are considered to be of outstanding significance to Māori.

Compare: 2023 No 46 s 364; 1991 No 69 s 199

2 Meaning of water conservation order

(1) A **water conservation order** is an order that—

(a) is made under **clause 13** for any of the purposes set out in **clause 1**; and

(b) imposes restrictions or prohibitions on the performance or exercise of regional councils' functions or powers under **section 222(4)(c) and (d)** in relation to water.

(2) The restrictions or prohibitions include those that relate, in particular, to—

(a) the quantity, quality, rate of flow, or level of a water body; and

(b) the maximum and minimum levels or flow or range of levels or flows, or the rate of change of levels or flows to be sought or permitted for a water body; and

(c) the maximum allocation for abstraction consistent with the purposes of the order; and

(d) the maximum contaminant concentrations and loading consistent with the purposes of the order; and

(e) the ranges of temperature and pressure in a water body.

Compare: 2023 No 46 s 365; 1991 No 69 s 200

3 Legal effect of water conservation order

(1) A water conservation order does not affect or restrict any permit granted or any lawful use established in respect of a water body before the order is made.

(2) If a water conservation order is operative, the relevant ~~consent~~ permit authority—

(a) must not grant a water permit, coastal permit, or discharge permit if the grant of that permit would be inconsistent with any restriction or prohibition or any other provision of the order:

(b) must not grant a water permit, a coastal permit, or a discharge permit to discharge water or contaminants into water unless the grant of ~~such a~~ the permit or the combined effect of the grant of ~~such a~~ the permit and existing water permits and discharge permits and existing lawful discharges into the water or taking, use, damming, or diversion of the water is such that the provisions of the water conservation order can remain without change or variation:

(c) must, in granting any water permit, coastal permit, or discharge permit, impose any conditions that are necessary to ensure that the provisions of the water conservation order are ~~not compromised~~ maintained:

(d) must undertake, in relation to the order, the functions relating to monitoring specified in **section 227**.

(3) The regional council for the region to which a water conservation order applies must—

(a) review the operation and performance of the order and, if practicable, undertake the review when reviewing a natural environment plan under **section 112**; and

(b) publish a report on the findings of its review of the order.

(4) A review of a water conservation order does not affect the status or effect of the order.

Compare: 2023 No 46 s 382; 1991 No 69 s 217

4 How to apply for water conservation order

(1) Any person may, on payment of any prescribed fee, apply to the Minister to make a water conservation order for a water body.

(2) The application must—

(a) identify the water body for which an order is sought; and

(b) state the reasons for the application, referring to the matters set out in **clauses 1, 2, and 10**, as far as they are relevant; and

(c) describe the provisions that, in the applicant's opinion, should be included in a water conservation order and the effect that the provisions would have on the water body.

(3) The Minister may, by notice in writing, require the applicant to supply any further information relating to the application that the Minister considers necessary.

Compare: 2023 No 46 s 366; 1991 No 69 s 201

Appointment of, and process to be followed by, special tribunal

5 Appointment of special tribunal

(1) When the Minister receives an application for a water conservation order, the Minister must, as soon as practicable,—

(a) appoint a special tribunal to hear and report on the application and notify the applicant of the decision to appoint a special tribunal; or

(b) reject the application and notify the applicant of the decision, giving reasons for rejecting the application.

(2) Before appointing a special tribunal, the Minister must, if appropriate, consult the Minister for Māori Development, the Minister of Conservation, and the Commissioner of Crown Lands on the membership of the tribunal.

Compare: 2023 No 46 s 367; 1991 No 69 s 202

6 Administrative matters relating to special tribunal

(1) A special tribunal appointed under **clause 5** must have—

(a) no fewer than 3, and no more than 5, members; and

(b) a chairperson appointed by the Minister or by the members, if the Minister declines to do so.

(2) If the Minister directs, members must be paid out of money appropriated by Parliament for the purpose, in accordance with the Fees and Travelling Allowances Act 1951,—

(a) remuneration by way of fees, salary, or allowances; and

(b) travelling allowances and expenses in accordance with that Act for time spent travelling in the service of the tribunal.

(3) A member of a special tribunal is not liable for anything the member does or omits to do in good faith in performing or exercising the functions, duties, and powers of the tribunal.

Compare: 2023 No 46 s 368; 1991 No 69 s 203

7 Public notification of application

(1) A special tribunal must, as soon as practicable after it is appointed under **clause 5**, ensure that—

(a) public notice of the application is given; and

(b) a short summary of the application is published in a daily newspaper in each of the cities of Auckland, Wellington, Christchurch, and Dunedin with details of the internet site where the notice may be accessed; and

(c) any other public notice of the application is given that the tribunal considers appropriate; and

(d) notice of the application is served on—

(i) the applicant; and

(ii) all relevant local authorities; and

(iii) the relevant iwi authorities; and

(iv) persons who hold relevant natural resource permits; and

(v) any other persons that the tribunal considers appropriate.

(2) The notices required under this clause must be in the prescribed form and must—

(a) describe the application and where it and all relevant information the special tribunal holds may be viewed; and

(b) state that any person may make a submission on the application in writing, stating their preference under **clause 8(4)**; and

(c) enable the tribunal to consider wider matters than those raised in the application; and

(d) state the closing date for the tribunal to receive submissions, which must be the 20th working day after the application is notified or a later date if an extension of time is agreed and notified under **section 319**; and

(e) state the address for service of the tribunal and each applicant.

(3) The special tribunal may request further information from the applicant at any reasonable time before the hearing, applying the requirements of **section 140** as if references to the ~~consent~~ permit authority were references to the special tribunal, and references to a permit were references to an order.

Compare: 2023 No 46 s 369; 1991 No 69 s 204

8 Submissions to special tribunal

(1) Any person may make a submission to the special tribunal on an application notified under **clause 7**.

(2) Submissions must be made in a form approved by the Minister for the purpose and must be served not later than the date under **clause 7(2)(d)** on—

(a) the relevant local authorities in the region; and

(b) all applicants.

(3) The requirements of **section 319** (waiver and extension of time limits) apply.

~~(4) A submitter may support the making of a water conservation order, but may prefer—~~

~~(a) that an order be made over a different (but related) water body within the same catchment; or~~

~~(b) that an order be made to protect different features and qualities of the water body from those identified in the application.~~

~~(5) If **subclause (4)** applies, the submitter must endeavour, in the submission,—~~

~~(a) to make that preference known to the tribunal; and~~

~~(b) to specify the reasons for that preference, having regard to the purpose of a water conservation order (*see* **clause 1**) and the matters for consideration set out in **clause 10**.~~

(6) A submitter who opposes the making of an order must specify why the submitter considers the proposed order is not justified, having regard to the purpose of

water conservation orders (*see* **clause 1**) and the matters that must be considered (*see* **clause 10**).

(7) If a submission does not include all ~~the matters listed in **subclause (5)** or, if applicable,~~ the information required by **subclause (6)**, the tribunal may still consider the submission.

(8) A special tribunal may, by notice in writing, require a submitter to supply further information relating to the submission that the tribunal considers necessary.

Compare: 2023 No 46 s 370; 1991 No 69 s 205

9 Hearing by special tribunal

(1) The Minister must, without delay, provide the application and any other relevant information to the special tribunal appointed under **clause 5**.

(2) **Sections 134 and 135 of the Planning Act 2025** apply as if references in those provisions—

(a) to ~~a permit authority or~~ a consent authority were references to a special tribunal; and

(b) to a ~~natural resource permit~~ planning consent were references to a water conservation order.

(3) If a special tribunal directs an applicant or a submitter to provide briefs of evidence by a certain date (which must be at least 10 working days before a hearing), the hearing date must be not more than 40 working days after the closing date for submissions.

(4) If a special tribunal does not give ~~such~~ a direction, the hearing date must be within 25 working days after the closing date for submissions.

(5) A hearing must be held at a place determined by the special tribunal that is near the water body to which the application relates.

Compare: 2023 No 46 s 371; 1991 No 69 s 206

10 Matters to be considered

(1) In considering an application under this ~~subpart~~ Part, a special tribunal must have particular regard to—

(a) the purpose of a water conservation order; and

(b) the matters set out in **clause 1(2)**.

(2) The special tribunal must also have regard to—

(a) the application and all submissions; and

(b) the needs of primary and secondary industry, and of the community; and

(c) the relevant provisions of every national standard, national policy direction, regional spatial plan, natural environment plan, and land use plan, and any proposed plan.

Compare: 2023 No 46 s 372; 1991 No 69 s 207

11 Special tribunal to report on application

(1) As soon as is reasonably practicable after the close of a hearing, a special tribunal must prepare a report on the application and give notice in accordance with **subclause (2)**.

(2) The notice ~~required by **subclause (1)**~~ must—

(a) either include a draft water conservation order, or state that the tribunal recommends that the application be declined; and

(b) state the reasons for the tribunal's conclusion; and

(c) be sent to the applicant, the Minister, the regional council, the relevant territorial authorities, the relevant iwi authorities, and every person who made a submission on the application.

Compare: 2023 No 46 s 373; 1991 No 69 s 208

12 Appeal to Environment Court on point of law

(1) Any of the following persons may appeal to the Environment Court against a decision of a special tribunal on a question of law:

(a) the applicant for the proposed water conservation order to which the report relates:

(b) any person who made a submission to the special tribunal under **clause 8**:

(c) any other person to whom the Environment Court grants leave to make a submission on the grounds that the person could not reasonably have been expected to know that the report of the special tribunal would affect the person or an aspect of the public interest that that person represents.

(2) An appeal must be made by lodging a notice of appeal no later than 30 working days after the date of notification of the decision under **clause 11**.

(3) A notice of appeal must be served on the persons listed in **subclause (1)** within 5 working days after the date on which the notice of appeal is lodged.

(4) A decision of the Environment Court under this clause may be appealed against under **clause 28 of Schedule 2 of the Planning Act 2025**.

Making, and revoking or amending, water conservation order

13 Making of water conservation order

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make a water conservation order in respect of any water body.

(2) The Minister must not make a recommendation for the purposes of **subclause (1)**—

(a) except in accordance with the report of the special tribunal under **clause 11**; and

(b) unless all appeals under **clause 12** have been determined.

(3) A water conservation order is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 2023 No 46 s 379; 1991 No 69 s 214

14 Minister's obligation to state reasons for not accepting recommendation

If a special tribunal report under **clause 11** recommends that a water conservation order be made and the Minister decides not to recommend that the Governor-General make the order, then the Minister must,—

(a) within 20 sitting days after making their decision, ~~lay before~~ present to the House of Representatives a written statement setting out the reasons for their decision; and

(b) within 20 working days after making their decision, serve the written statement on—

(i) the applicant; and

(ii) every person who made a submission to the special tribunal; and

(iii) every party to an appeal under **clause 12**.

Compare: 2023 No 46 s 380; 1991 No 69 s 215

15 Revocation or amendment of water conservation order

(1) The following apply until the expiry of 2 years after the date on which a water conservation order is made:

(a) an application must not be made to the Minister to revoke the order; and

(b) the Minister must not recommend to the Governor-General that an order be made to revoke the order.

(2) ~~Except as provided in **subclause (1)**, any~~ A person may apply to the Minister to revoke or amend a water conservation order, stating the reasons for the application, except as provided in **subclause (1)**.

(3) If the Minister receives an application under **subclause (2)**, the Minister may recommend that the order be amended~~,~~ if—

(a) the Minister is of the opinion that the application should be accepted, but that there is no need to hold an inquiry because the amendment—

(i) would have only minor effect; or

(ii) is of a technical nature and would not prevent the order from achieving any purpose for which it was made; and

(b) the original applicant for the order (if that person can be located) and the regional council agree to the amendment.

(4) ~~Except as provided in **subclause (3)**, an~~ An application made under **subclause (2)** for the revocation or amendment of a water conservation order must be dealt with in the same manner as an application for an order under **clause 4**, except as provided in **subclause (3)**.

~~(5) An order under **subclause (3)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).~~

Compare: 2023 No 46 s 381; 1991 No 69 s 216

Schedule 5
Freshwater farm plans

s 125

Contents

1 Purpose

The purpose of this schedule is to better control the adverse effects of farming on freshwater and freshwater ecosystems within specified districts, regions, or parts of New Zealand through the use of freshwater farm plans.

Compare: 1991 No 69 s 217A

2 Interpretation

In this schedule, unless the context otherwise requires,—

approved industry organisation means an industry organisation approved under **clause 13**

arable land use means the use of land to grow any of the following crops for harvest:

(a) grain cereal, legumes, or pulse grain:

(b) herbage seed:

(c) oilseed:

(d) maize grain, maize silage, cereal silage, or mangels:

(e) crops grown for seed multiplication:

(f) a crop prescribed in regulations made under **clause 15(1)(a)**

auditor means a person who—

(a) is appointed under **clause 12** or by an approved industry organisation; and

(b) meets the criteria prescribed in regulations made under **clause 15(1)(j)**

certification and audit services means the services prescribed for the purposes of **clause 13** in regulations (if any) prescribed under **clause 15**

certified freshwater farm plan means a freshwater farm plan certified under **clause 8**, as amended from time to time in accordance with **clause 6(3) or (4)**

certifier means a person who—

(a) is appointed under **clause 12** or by an approved industry organisation; and

(b) meets the criteria prescribed in regulations made under **clause 15(1)(j)**

farm means a farm where all or part of the farm is—

(a) arable land use; or

(b) horticultural land use; or

(c) pastoral land use; or

(d) other agricultural land use prescribed in regulations made under **clause 15(1)(b)**; or

(e) any combination of the above

farm operator means the person with ultimate responsibility for the operation of a farm

freshwater farm plan means a freshwater farm plan required under **clause 5**

horticultural land use means the use of land to grow food or beverage crops for human consumption (other than arable crops), or flowers for commercial supply

pastoral land use means the use of land for the grazing of livestock

regulations means regulations made under **clause 15**

relevant regional council means the regional council (as defined in **section 3**) in whose jurisdiction the farm is located

specified instrument means any designation, national standard, regulations made under **Part 6**, natural environment permit, rule in a plan, or water conservation order

statutory land use area threshold,—

(a) in relation to a land use described in any of **paragraphs (a), (b), (c), and (e) of clause 5(1)**, means the area specified in that clause for that land use:

(b) in relation to the land use described in **clause 5(1)(d)**, means the area prescribed in regulations made under **clause 15** for that land use.

Compare: 1991 No 69 s 217B

3 Application of this schedule

(1) This schedule applies only—

(a) to a region, district, or part of New Zealand specified in an Order in Council under this clause; and

(b) on and from the date specified in the Order in Council (but *see* **clause 4**, which relates to when this schedule ceases to apply).

(2) The Governor-General may, by Order in Council, on the recommendation of the Minister, determine—

(a) that this schedule applies to a specified district, region, or part of New Zealand; and

(b) the date on which this schedule applies to that district, region, or part of New Zealand.

(3) The Governor-General may, by Order in Council, on the recommendation of the Minister, in relation to a region, district, or part of New Zealand to which this schedule applies,—

(a) disapply a statutory land use area threshold; or

(b) disapply a statutory land use area threshold and prescribe a higher land use area threshold in its place.

(4) Before making a recommendation under **subclause (2) or (3)**, the Minister must—

(a) be satisfied that regulations are necessary to achieve the purpose of this schedule in the specified district, region, or part of New Zealand; and

(b) consult the Minister of Agriculture.

(5) An order under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 217C

4 When this schedule ceases to apply

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, amend an Order in Council under **clause 3** to—

(a) cease the application of this schedule to a district, region, or part of New Zealand specified in that Order in Council; and

(b) provide for the date on which this schedule ceases to apply to the specified district, region, or part of New Zealand.

(2) Before making a recommendation under **subclause (1)**, the Minister must—

(a) be satisfied that regulations are no longer necessary to achieve the purpose of this schedule in the specified district, region, or part of New Zealand; and

(b) consult the Minister of Agriculture.

(3) An order under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 217CA

5 Farm must have freshwater farm plan if it meets land use threshold

(1) A farm must have a freshwater farm plan if—

(a) 50 or more hectares of the farm is pastoral or arable; or

(b) 50 or more hectares of the farm is viticultural or orcharding land use; or

(c) 5 or more hectares of the farm is horticultural land use other than viticultural or orcharding land use; or

(d) a prescribed area of the farm is other agricultural land use prescribed in regulations made under **clause 15(1)(c)**; or

(e) 50 or more hectares of the farm is a combination of 2 or more of the land uses set out in **paragraphs (a) to (d)**; or

(f) the farm holds a Dairy Supply Number.

(2) However,—

(a) if an order made under **clause 3(3)(a)** disapplies a statutory land use area threshold, a farm is not subject to that threshold; and

(b) if an order made under **clause 3(3)(b)** disapplies a statutory land use area threshold and prescribes a higher land use area threshold in its place, a farm is subject to the higher threshold.

(3) A freshwater farm plan applies to the entire farm.

Compare: 1991 No 69 s 217D

6 Main duties of farm operators

(1) A farm operator who is required to have a freshwater farm plan must submit the plan for certification if—

(a) the farm is undertaking activities identified in activity-based criteria prescribed in regulations; or

(b) the farm is located in a catchment prescribed in regulations; or

(c) the operator is required to submit the freshwater farm plan for certification to meet other regulatory requirements.

(2) A farm operator of a farm that is required to have a freshwater farm plan must—

(a) prepare a freshwater farm plan in accordance with this schedule and regulations; and

(b) ensure that the farm operates in compliance with the freshwater farm plan; and

(c) if the freshwater farm plan is required under **subclause (1)** to be certified, arrange for the farm to be audited in accordance with this schedule and regulations for compliance with the freshwater farm plan.

(3) A farm operator must keep the certified freshwater farm plan fit for purpose by—

(a) amending the plan as necessary to reflect any changes in the farm; and

(b) amending the plan as necessary to comply with this schedule and regulations.

(4) A farm operator must amend and recertify a certified freshwater farm plan if any circumstances prescribed by regulations apply.

(5) A farm operator must comply with the same freshwater farm plan certification requirements under this Act as a farm operator referred to in **subclause (1)** if—

(a) the farm operator is not required under **subclause (1)** to have the farm's freshwater farm plan certified; but

(b) the farm operator chooses to have the farm's freshwater farm plan certified.

Compare: 1991 No 69 s 217E

7 Contents of freshwater farm plan

A freshwater farm plan must—

(a) identify any adverse effects of activities carried out on the farm on freshwater and freshwater ecosystems and any relevant human health or environmental limits to which those adverse effects on freshwater may contribute; and

(b) specify requirements that—

(i) are appropriate for the purpose of avoiding, minimising, remedying, or of offsetting or compensating when appropriate and enabled in a plan, the adverse effects of those activities on freshwater and freshwater ecosystems; and

(ii) are clear and measurable; and

(c) demonstrate how any outcomes prescribed in regulations are to be achieved; and

(d) comply with any other requirements in regulations; and

(e) comply with **clause 14**.

Compare: 1991 No 69 s 217F

8 Certification of freshwater farm plan

(1) A farm operator who must, under **clause 6(1)**, submit a freshwater farm plan for certification must do so within the prescribed time frame.

(2) The certifier must certify a freshwater farm plan if the certifier is satisfied that the plan complies with the requirements in **clause 7**.

(3) The certifier must, as soon as practicable, notify the relevant regional council—

(a) that the freshwater farm plan has been certified; and

(b) the date on which it was certified.

(4) This clause applies, with any necessary modifications, to a certified freshwater farm plan that is required by regulations to be amended and recertified.

Compare: 1991 No 69 s 217G

9 Audit of farm for compliance with freshwater farm plan

(1) A farm operator must, if the farm is required under **clause 6(2)(c)** to be audited,—

(a) arrange, within the prescribed time frame, for an auditor to audit the farm for compliance with the freshwater farm plan; and

(b) arrange for further audits to be carried out at the frequency required by regulations.

(2) The audit must be completed in the manner prescribed in regulations.

(3) The farm operator must provide the auditor with reasonable access to the farm (or any part of it) for the purpose of any audit inspection.

Compare: 1991 No 69 s 217H

10 Functions of regional councils

(1) For the purposes of this schedule, a regional council has the following functions:

(a) to enforce the observance of the requirements of this schedule and regulations to the extent that its powers under this Act enable it to do so; and

(b) to monitor compliance by farm operators with their duties under this schedule and with any requirements in regulations; and

(c) to receive notifications of freshwater farm plans that have been certified; and

(d) to appoint certifiers and auditors under **clause 12**; and

(e) to receive audit reports and related notifications from auditors; and

(f) to monitor the delivery of certification or audit services, or both, by approved industry organisations in the council's region for compliance with this schedule and with any applicable requirements prescribed in regulations.

(2) A regional council may do all or any of the following:

(a) require a farm operator to produce a freshwater farm plan for inspection:

(b) require information from an approved industry organisation that the council considers reasonably necessary for carrying out its functions under this clause:

(c) notify the Minister of any significant or persistent concerns regarding the performance under this schedule of an approved industry organisation operating in the council's region, including concerns arising in the course of the council's exercise of its functions under **subclause (1)(f)**.

Compare: 1991 No 69 s 217I

11 Records that must be kept by regional council

A regional council must keep and maintain, in relation to each farm in its jurisdiction, a record of—

~~(a) the date that each farm that is required under **clause 5(1)** to have a freshwater farm plan was last audited for compliance with the plan; and~~

(b) if the farm's freshwater farm plan is required under **clause 6(1) or (5)** to be certified,—

(i) whether the farm's freshwater farm plan is certified; and

(ii) if the farm's freshwater farm plan is certified, the date on which the plan was last certified; and

(ba) if the farm is required under **clause 6(2)(c)** to be audited, the date that the farm was last audited for compliance with the freshwater farm plan; and

(c) any other information required by regulations.

Compare: 1991 No 69 s 217J

12 Regional council must appoint certifiers and auditors

(1) A regional council must—

(a) appoint 1 or more certifiers; and

(b) appoint 1 or more auditors.

(2) A regional council may make an appointment under this clause only if satisfied that criteria prescribed in regulations have been met.

Compare: 1991 No 69 s 217K

13 Minister may approve industry organisation to provide certification or audit services

(1) The Minister may, on application, approve an industry organisation to provide certification or audit services, or both, under this schedule to its members—

(a) if the Minister is satisfied that the organisation meets any applicable eligibility requirements prescribed in regulations; and

(b) after consulting regional councils and the Minister of Agriculture.

(2) An approved industry organisation may appoint certifiers or auditors if it is satisfied that the applicable requirements have been met as prescribed in regulations.

(3) The Minister may revoke an industry organisation's approval—

(a) if the Minister is satisfied that the applicable requirements for revocation have been met, as prescribed in regulations; and

(b) after consulting regional councils, the Minister of Agriculture, and the industry organisation.

(4) An approval or a revocation of approval of an industry organisation may apply either nationally or in respect of 1 or more regions.

(5) Any appointment of certifiers or auditors that was made by an approved industry organisation under **subclause (2)** ceases to the extent that the industry organisation's approval is revoked under **subclause (3)**.

(6) The Minister may request from an industry organisation information that the Minister considers reasonably necessary before deciding to approve the organisation or revoke its approval.

Compare: 1991 No 69 s 217KA

14 Relationship between freshwater farm plan and specified instruments

(1) A freshwater farm plan may contain a requirement that—

(a) relates to an activity carried out on the farm (an activity) even if there is no similar requirement relating to that activity in a provision of a specified instrument; or

(b) restricts an activity more than a provision of a specified instrument.

(2) However, if a provision of a specified instrument restricts an activity more than a requirement of a freshwater farm plan, the provision of the specified instrument prevails.

(3) To avoid doubt, compliance with a requirement of a certified freshwater farm plan—

(a) does not of itself authorise a person to undertake an activity:

(b) may be specified or included as a requirement or condition in any specified instrument relating to an activity.

Compare: 1991 No 69 s 217L

15 Regulations relating to freshwater farm plans

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister after consulting the Minister of Agriculture, make regulations that—

(a) prescribe crops for the purpose of the definition of arable land use in **clause 2**:

(b) prescribe agricultural land uses for the purpose of the definition of farm in **clause 2**:

(c) prescribe the area of land described in **clause 5(1)(d)** (in relation to agricultural land use prescribed under **paragraph (b)**):

(d) prescribe the kinds of farm activities or catchments in respect of which a certified freshwater farm plan is required:

(e) provide for the content of a freshwater farm plan, including (without limitation) specifying—

(i) any requirements, including actions, criteria, methods, or thresholds for the purpose of identifying, measuring, avoiding, minimising, remedying, or of offsetting or compensating when appropriate and enabled in a plan, any adverse effects of activities carried out on the farm on freshwater and freshwater ecosystems; and

(ii) outcomes that must be achieved for the purpose of avoiding, minimising, remedying, or of offsetting or compensating when appropriate and enabled in a plan, those adverse effects on freshwater and freshwater ecosystems; and

(iii) any requirements, including actions, criteria, methods, thresholds, or outcomes, for the purpose of achieving relevant human health or environmental limits.

(iv) any other information that must be included in the plan for the purpose of this schedule:

(f) provide for the form and manner in which a freshwater farm plan that must be certified is certified, including (without limitation) prescribing—

(i) time frames that must be complied with by the farm operator and certifier; and

(ii) any fees payable by the farm operator or the manner of calculating those fees:

(g) prescribe the circumstances in which a certified freshwater farm plan must be amended and recertified:

(h) prescribe requirements that must be met for the approval of industry organisations under **clause 13** or the revocation of their approval, including any further obligations for approved industry organisations:

(i) provide for the form and manner in which a farm that must be audited for compliance with a freshwater farm plan is audited, including (without limitation) prescribing—

(i) the time frame by which a farm must be audited; and

(ii) the frequency at which those audits must be carried out; and

(iii) the period after which the auditor must provide their final report; and

(iv) any matters that an auditor must take into account when considering whether the farm achieves compliance with the freshwater farm plan; and

(v) the information that the farm operator must provide to the auditor for the purpose of the audit; and

(vi) any fees payable by the farm operator or the manner of calculating those fees:

(j) prescribe criteria that apply to the appointment of a person as an auditor or certifier and their continuation in that role:

(k) require auditors, certifiers, and farm operators to supply prescribed information to regional councils for the purpose of **clause 10**:

(l) prescribe information that a regional council must keep in relation to farms in its jurisdiction:

(m) prescribe infringement offences for the contravention of, or non-compliance with, a provision of this schedule or of any regulations made under this clause:

(n) provide for any other matters that are contemplated by, or necessary for giving full effect to, this schedule and for its due administration.

(2) Regulations under this clause may apply generally or to specified districts, regions, or parts of New Zealand.

(3) Regulations under this clause may apply to all certifiers or auditors generally, or may apply only to certifiers and auditors appointed—

(a) by a regional council under **clause 12(1)**; or

(b) by an approved industry organisation under **clause 13(2)**.

(4) Regulations under this clause may incorporate material by reference under **Part 4 of Schedule 2** (which applies as if references in that schedule to a national instrument were references to regulations under this clause).

(5) Regulations under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 217M

Schedule 6
Statutory acknowledgements

~~ss~~ s 3~~, 146, 149~~

Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008

Ahuriri Hapū Claims Settlement Act 2021

Heretaunga Tamatea Claims Settlement Act 2018

Hineuru Claims Settlement Act 2016

Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018

Maniapoto Claims Settlement Act 2022

Maraeroa A and B Blocks Claims Settlement Act 2012

Maungaharuru-Tangitū Hapū Claims Settlement Act 2014

Moriori Claims Settlement Act 2021

Ngaa Rauru Kiitahi Claims Settlement Act 2005

Ngāi Tahu Claims Settlement Act 1998

Ngāi Tai ki Tāmaki Claims Settlement Act 2018

Ngai Tāmanuhiri Claims Settlement Act 2012

NgāiTakoto Claims Settlement Act 2015

Ngāruahine Claims Settlement Act 2016

Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014

Ngāti Apa (North Island) Claims Settlement Act 2010

Ngāti Awa Claims Settlement Act 2005

Ngāti Hauā Claims Settlement Act 2014

Ngāti Hāua Claims Settlement Act 2026

Ngāti Hei Claims Settlement Act 2026

Ngāti Hinerangi Claims Settlement Act 2021

Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Act 2022

Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014

Ngāti Koroki Kahukura Claims Settlement Act 2014

Ngāti Kuri Claims Settlement Act 2015

Ngāti Mākino Claims Settlement Act 2012

Ngāti Manawa Claims Settlement Act 2012

Ngāti Manuhiri Claims Settlement Act 2012

Ngāti Maru (Taranaki) Claims Settlement Act 2022

Ngāti Mutunga Claims Settlement Act 2006

Ngāti Pāhauwera Treaty Claims Settlement Act 2012

Ngati Porou Claims Settlement Act 2012

Ngāti Pūkenga Claims Settlement Act 2017

<u>Ngāti Rāhiri Tumutumu Claims Settlement Act 2026</u>

Ngāti Rangi Claims Settlement Act 2019

Ngāti Rangiteaorere Claims Settlement Act 2014

Ngāti Rangitihi Claims Settlement Act 2022

Ngāti Rangiwewehi Claims Settlement Act 2014

Ngati Ruanui Claims Settlement Act 2003

Ngati Tama Claims Settlement Act 2003

Ngāti Tamaoho Claims Settlement Act 2018

<u>Ngāti Tara Tokanui Claims Settlement Act 2026</u>

Ngati Toa Rangatira Claims Settlement Act 2014

Ngāti Tuwharetoa (Bay of Plenty) Claims Settlement Act 2005

Ngāti Tūwharetoa Claims Settlement Act 2018

Ngāti Whare Claims Settlement Act 2012

Ngāti Whātua o Kaipara Claims Settlement Act 2013

Ngāti Whātua Ōrākei Claims Settlement Act 2012

Ngatikahu ki Whangaroa Claims Settlement Act 2017

Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009

Pouakani Claims Settlement Act 2000

Rangitāne o Manawatu Claims Settlement Act 2016

Rangitāne Tū Mai Rā (Wairarapa Tamaki nui-ā-Rua) Claims Settlement Act 2017

Raukawa Claims Settlement Act 2014

Rongowhakaata Claims Settlement Act 2012

Tapuika Claims Settlement Act 2014

Taranaki Iwi Claims Settlement Act 2016

Te Arawa Lakes Settlement Act 2006

Te Atiawa Claims Settlement Act 2016

Te Aupouri Claims Settlement Act 2015

Te Kawerau ā Maki Claims Settlement Act 2015

Te Korowai o Wainuiārua Claims Settlement Act 2025

Te Rarawa Claims Settlement Act 2015

Te Roroa Claims Settlement Act 2008

Te Uri o Hau Claims Settlement Act 2002

Waitaha Claims Settlement Act 2013

Whakatōhea Claims Settlement Act 2024

~~Schedule 7~~
~~Amendments to other legislation~~

~~s 336~~

~~Part 1~~
~~Amendments to Acts~~

~~Fast-track Approvals Act 2024 (2024 No 56)~~

~~In section 5(1)(c)(ii), replace “Resource Management Act 1991” with “Natural Environment Act **2025**”.~~

~~In section 5(1)(g), replace “section 165J, 165M, 165Q, 165ZC, or 165ZDB of the Resource Management Act 1991” with “**clause 9, 12, 16, 29, or 30 of Schedule 3** of the Natural Environment Act **2025**”.~~

~~In section 5(1)(l)(ii), replace “section 15B of the Resource Management Act 1991” with “**section 246** of the Natural Environment Act **2025**”.~~

~~In section 5(1)(l)(iii), replace “section 15C of the Resource Management Act 1991” with “**section 247** of the Natural Environment Act **2025**”.~~

~~In section 22(7)(b), replace “Resource Management Act 1991” with “Natural Environment Act **2025**”.~~

~~In section 30(3)(a), replace “section 124C(1)(c) or 165ZI of the Resource Management Act 1991” with “**section 184 or clause 44 of Schedule 3** of the Natural Environment Act **2025**”.~~

~~Replace section 30(4)(b)(i) with:~~

> ~~(i) lodge an application for a natural resource consent under the Natural Environment Act **2025** that is affected by **section 181(a)** or **clause 43 of Schedule 3** of that Act; or~~

~~In section 48(1)(b)(i), replace “Resource Management Act 1991” with “Natural Environment Act **2025**”.~~

~~In section 95(1)(b) and (4)(b), replace “section 124(3) or 165ZH(2)(c) of the Resource Management Act 1991” with “**section 164(3)** of the Planning Act **2025** or **section 181(a)** of the Natural Environment Act **2025** which applies that provision, or **clause 43(2)(c) of Schedule 3** of the Natural Environment Act **2025**”.~~

~~Maori Commercial Aquaculture Claims Settlement Act 2004 (2004 No 107)~~

~~In section 4, definition of **new space**, paragraph (a), replace “section 116A of the Resource Management Act 1991” with “**section 177** of the Natural Environment Act **2025**”.~~

~~In section 5(1)(aa), replace “in accordance with an Order in Council under section 165K, or a notice in the *Gazette* under section 165N, of the Resource Management Act 1991” with “in accordance with an Order in Council under **clause 10 of Sched-**~~

~~**Maori Commercial Aquaculture Claims Settlement Act 2004 (2004 No 107)—** *continued*~~

~~**ule 3**, or a notice in the *Gazette* under **clause 13 of Schedule 3** of the Natural Environment Act **2025**”.~~

~~In section 11(2)(b)(ii), replace “section 165ZH of the Resource Management Act 1991” with “**clause 43 of Schedule 3** of the Natural Environment Act **2025**”.~~

~~In section 12(3), replace “Section 165E of the Resource Management Act 1991” with “**Clause 3 of Schedule 3** of the Natural Environment Act **2025**”.~~

~~In section 13(6), replace “section 165R of the Resource Management Act 1991” with “**clause 17 of Schedule 3** of the Natural Environment Act **2025**”.~~

~~In section 14(4)(d)(iv)(A), replace “a resource consent under the Resource Management Act 1991 that could commence under section 116A” with “a natural resource permit under the Natural Environment Act **2025** that could commence under **section 177**”.~~

~~In section 16A(1), replace “Section 165T of the Resource Management Act 1991” with “**Clause 19 of Schedule 3** of the Natural Environment Act **2025**”.~~

~~In section 16A(2)(a), replace “resource consent” with “natural resource permit”.~~

~~In section 16A(2)(b), replace “a resource consent has been cancelled under section 116A(3) or (7) of the Resource Management Act 1991” with “a natural resource permit has been cancelled under **section 177(3) or (7)** of the Natural Environment Act **2025**”.~~

~~In section 16A(3), replace “section 165S of the Resource Management Act 1991” with “**clause 18 of Schedule 3** of the Natural Environment Act **2025**”.~~

~~In section 50(6), replace “sections 135 and 165S of the Resource Management Act 1991” with “**section 194 and clause 18 of Schedule 3** of the Natural Environment Act **2025**”.~~

~~**Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)**~~

~~In section 9(1), insert in their appropriate alphabetical order:~~

> ~~**bespoke plan provision** has the meaning given in **section 3** of the Natural Environment Act **2025**~~
>
> ~~**identified permitted activity** means an activity that is identified in a natural environment plan or a proposed natural environment plan as subject to **section 103** of the Natural Environment Act **2025**~~
>
> ~~**natural environment plan** has the meaning given in **section 3** of the Natural Environment Act **2025**~~
>
> ~~**permitted activity** has the meaning given in **section 3** of the Natural Environment Act **2025**~~
>
> ~~**proposed natural environment plan** has the meaning given in **section 3** of the Natural Environment Act **2025**~~

~~**Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)**—*continued*~~

> ~~**spatial plan committee** has the meaning given in **section 3(1) of the Planning Act 2025**~~

~~In section 9(1), replace the definition of **RMA permission right** with:~~

> ~~**permission right** means the right held by a customary marine title group under a customary marine title order or agreement as provided for in sections 66 to 68~~

~~In section 11(6), replace "regional plans, and district plans" with "natural environment plans, and land use plans".~~

~~In section 19(3A)(b), replace "section 12(7) of the Resource Management Act 1991" with "**section 18(8)** of the Natural Environment Act **2025**".~~

~~In section 23(4), replace "Part 10 of the Natural and Built Environment Act 2023" with "**Schedule 7 of the Planning Act 2025**".~~

~~In section 26(4), replace "regional plans, and district plans" with "natural environment plans, and land use plans".~~

~~In section 27(5), replace "regional plans, and district plans" with "natural environment plans, and land use plans".~~

~~In section 30(2), replace "section 245(5) of the Resource Management Act 1991" with "**clause 72(3) of Schedule 7 of the Planning Act 2025**".~~

~~In section 35(7), replace "section 166 of the Resource Management Act 1991" with "**clause 9 of Schedule 5 of the Planning Act 2025**".~~

~~In section 39(1)(c), replace "section 245(5)(b) of the Resource Management Act 1991" with "**clause 72(3) of Schedule 7 of the Planning Act 2025**".~~

~~In section 43(5), replace "section 245(5)(b) of the Resource Management Act 1991" with "**clause 72(3) of Schedule 7 of the Planning Act 2025**".~~

~~In section 51(2)(c), replace "section 2(1) of the Resource Management Act 1991" with "**section 3(1) of the Planning Act 2025**".~~

~~Replace section 52(1) with:~~

> ~~(1) A protected customary right may be exercised under a protected customary rights order or an agreement without a permit, despite—~~
>
> ~~(a) any prohibition, restriction, or imposition that would otherwise apply in or under **sections 18 to 26** of the Natural Environment Act **2025**; and~~
>
> ~~(b) any limit, regulation, or rule set in or required by a national policy direction or national standards that may restrict or prohibit the exercise of that right.~~

~~In section 52(2)(a), replace "section 64A of the Resource Management Act 1991" with "**section 321** of the Natural Environment Act **2025**".~~

~~In section 52(2)(b), replace "the Resource Management Act 1991" with "the Natural Environment Act **2025**".~~

~~**Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)**—*continued*~~

~~In section 55(3)(a), replace "the Resource Management Act 1991" with "the Natural Environment Act **2025**".~~

~~In section 55(3)(b), replace "section 330A of the Resource Management Act 1991" with "**section 302** of the Natural Environment Act **2025**".~~

~~In section 55(3)(b), replace "section 330" with "**section 301**" in each place.~~

~~In section 62(1)(a), delete "a Resource Management Act 1991 (**RMA**)".~~

~~In section 62A(3), replace "section 88 of the Resource Management Act 1991" with "**section 130** of the Natural Environment Act **2025**".~~

~~In section 63, definition of **accommodated activities**, replace "an RMA permission right" with "a permission right".~~

~~In section 63, definition of **accommodated infrastructure**, paragraph (b)(iii), replace "a network utility operator (within the meaning of section 166 of the Resource Management Act 1991)" with "a core infrastructure operator (within the meaning of **clause 9 of Schedule 5 of the Planning Act 2025**)".~~

~~In section 63, definition of **associated operations**, paragraph (a), replace "the Resource Management Act 1991" with "the Natural Environment Act **2025**".~~

~~In section 63, definition of **emergency activity**, paragraph (c)(vi), replace "section 330 of the Resource Management Act 1991" with "**section 301** of the Natural Environment Act **2025**".~~

~~In section 64(1)(b), replace "an RMA permission right" with "a permission right".~~

~~In section 64(2)(c), replace "the Resource Management Act 1991" with "the Natural Environment Act **2025**".~~

~~In the cross-heading above section 66, replace "*RMA permission right*" with "*Permission right*".~~

~~Replace section 66 with:~~

~~**66 Scope of permission right**~~

~~(1) A permission right applies to activities that are—~~

~~(a) to be carried out under a natural resource permit, to the extent that the permit is for an activity to be carried out within a customary marine title area; and~~

~~(b) identified permitted activities, to the extent that the activities are to be carried out within a customary marine title area.~~

~~(2) A customary marine title group may give or decline permission, on any grounds, for an activity to which a permission right applies.~~

~~(3) Permission given by a customary marine title group cannot be revoked.~~

~~(4) A permission right does not apply to the grant or exercise of a permit for an accommodated activity.~~

~~**Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)**—*continued*~~

~~(5) A permission right, or permission given under such a right, does not limit the discretion of a consent authority—~~

~~(a) to decline an application for a natural resource permit; or~~

~~(b) to impose conditions.~~

~~(6) In this section, **consent authority** includes the Minister for the Environment and the Minister of Conservation exercising the powers of a consent authority under the Natural Environment Act **2025**.~~

~~In the heading to section 67, delete "**RMA**".~~

~~In section 67(1) and (6), replace "an RMA permission right" with "a permission right".~~

~~In section 67(1)(b), replace "resource consent" with "natural resource permit or identified permitted activity".~~

~~In section 67(2)(a)(ii), replace "consent authority" with "local authority".~~

~~Replace section 67(3) with:~~

~~(3) Unless the customary marine title group has already notified its decision to the applicant under subsection (2), it must do so not later than 40 working days after—~~

~~(a) it receives a notice from the applicant that the applicant has been granted the relevant natural resource permit (whether or not the applicant had previously notified the customary marine title group of the application); or~~

~~(b) it receives a request from the applicant for permission in respect of an identified permitted activity.~~

~~In section 67(5), replace "section 116 of the Resource Management Act 1991" with "**section 175** of the Natural Environment Act **2025**".~~

~~In the heading to section 68, delete "**RMA**".~~

~~Replace section 68(1) with:~~

~~(1) A person wishing to undertake an identified permitted activity or the holder of a natural resource permit for an activity in a customary marine title area to which a permission right applies must not commence the activity unless the relevant customary marine title group has given permission under **section 66(2)** for that activity.~~

~~(1A) The following activities to which a permission right applies must not be commenced unless the relevant customary marine title group has given permission under **section 66(2)** for that activity.:~~

~~(a) an activity in a customary marine title area authorised by a natural resource permit:~~

~~(b) an identified permitted activity.~~

~~**Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)**—*continued*~~

~~In section 68(2)(b), replace "a right of objection under section 357 or 357A of the Resource Management Act 1991" with "a right of review under **clauses 14 and 24 of Schedule 10 of the Planning Act 2025**".~~

~~In section 69(1), replace "an RMA permission right" with "a permission right".~~

~~Replace section 70(1) with:~~

~~(1) Subsection (3) applies only if the following, to which a permission right applies, occurs in a customary marine title area:~~

~~(a) an activity authorised by a natural environment permit is undertaken without the permission of the customary marine title group; or~~

~~(b) an identified permitted activity is undertaken without the permission of the customary marine title group.~~

~~Replace section 77 with:~~

~~**77 Consultation**~~

~~If the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of the Natural Environment Act **2025** proposes to prepare, issue, change, review, or revoke a national policy direction in respect of the coastal marine area under **section 74** of that Act, the Minister must seek and consider the views of the customary marine title groups recorded on the register.~~

~~In section 84(2)(b), replace "Resource Management Act 1991" with "Natural Environment Act **2025**".~~

~~Replace section 85(5)(d) with:~~

~~(d) the Natural Environment Act **2025**.~~

~~After section 86(1)(b), insert:~~

~~(ba) the spatial plan committee with jurisdiction in the region to which the planning instrument relates; and~~

~~In section 91(2)(b)(i), replace "the Resource Management Act 1991" with "the Natural Environment Act **2025**".~~

~~In section 91A, replace "section 360B of the Resource Management Act 1991" with "**section 311** of the Natural Environment Act **2025**".~~

~~In section 92, replace the definition of **regional document**, in its appropriate alphabetical order with:~~

~~**natural environment plan** means any of the following:~~

~~(a) a natural environment plan (within the meaning given in **section 3** of the Natural Environment Act **2025**):~~

~~(b) a proposed natural environment plan (within the meaning given in **section 3** of that Act)~~

~~**Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)**—*continued*~~

~~In section 93(2), (6) and (10)(b), replace "the Resource Management Act 1991" with "the Natural Environment Act **2025**".~~

~~In section 93(3), replace "section 104 of the Resource Management Act 1991" with "**section 156** of the Natural Environment Act **2025**".~~

~~In section 93(5)(a), replace "in accordance with Schedule 1 of the Resource Management Act 1991" with "as defined in **section 3** of the Natural Environment Act **2025**".~~

~~In section 93(9)(a), replace "Part 5 of the Resource Management Act 1991" with "**Part 2** of the Natural Environment Act **2025**".~~

~~In section 93(9)(b), replace "Schedule 1 of that Act" with "**Schedule 3 of the Planning Act 2025**".~~

~~After section 93(9), insert:~~

~~(9A) Despite **section 96** of the Natural Environment Act **2025**, a regional council may include a bespoke plan provision in a natural environment plan or proposed natural environment plan contrary to a rule in national standards to carry out its obligations under this section.~~

~~(9B) **Sections 106 and 108** of the Natural Environment Act **2025** do not apply if a regional council includes, to carry out its obligations under this section,—~~

~~(a) a bespoke plan provision in a natural environment plan or proposed natural environment plan contrary to a rule in national standards; or~~

~~(b) a provision on a specified topic.~~

~~In section 93(11), replace "clause 5 of Schedule 1 of the Resource Management Act 1991" with "**clause 10 of Schedule 3 of the Planning Act 2025**".~~

~~In section 93(12), replace "Part 2 of Schedule 1 of the Resource Management Act 1991" with "**Part 2 of Schedule 3 of the Planning Act 2025**".~~

~~In section 93(12)(a), replace "Part 2" with "**Part 2**".~~

~~In section 93(12)(a), replace "clause 25" with "**clause 51**".~~

~~In Schedule 2, Part 1, clause 1, replace "the Resource Management Act 1991 for any resource consents" with "the Natural Environment Act **2025** for any natural resource permits".~~

~~In Schedule 2, Part 1, clause 6(b), delete "RMA".~~

~~In Schedule 2, Part 1, clause 10(a), delete "RMA".~~

~~In Schedule 2, Part 1, clause 10(d), replace "resource consents necessary for the deemed accommodated activity under the Resource Management Act 1991" with "natural resource permits necessary for the deemed accommodated activity under the Natural Environment Act **2025**".~~

Legislative history

9 December 2025	Introduction (Bill 234–1)
16 December 2025	First reading and referral to Environment Committee

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