Resource Management (Consenting and Other System Changes) Amendment Bill

Government Bill

As reported from the Environment Committee

Commentary

Recommendation

The Environment Committee has examined the Resource Management (Consenting and Other System Changes) Amendment Bill and recommends by majority that it be passed. We recommend all amendments by majority.

About the bill as introduced

The Government has decided on a three-phase work programme to reform the resource management system. This will culminate in the repeal of the Resource Management Act 1991 (RMA) and its replacement with new legislation based on the enjoyment of property rights and focused on managing material environmental effects. The replacement resource management system would establish two Acts. One would manage the environmental effects arising from activities and the other would enable urban development and infrastructure.

This bill forms the legislative component of the second phase.[1] Its objective is to make targeted changes to the Act that can be progressed quickly and have an effect in the short to medium term.

The bill would amend a range of existing RMA provisions across five themes: infrastructure and energy, housing growth, farming and the primary sector, natural hazards and emergencies, and system improvements. The amendments aim to support the following Government priorities:

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[1] The first phase involved repealing the Natural and Built Environment Act 2023 and Spatial Planning Act 2023 in December 2023.

- making it easier to consent new infrastructure, including for renewable energy, building houses, and enhancing the primary sector
- enabling investment in renewable energy for New Zealand to meet its emissions reduction targets
- making the Medium Density Residential Standards optional for councils
- implementing the Going for Housing Growth policy to release land for housing, build infrastructure, and allow communities to share the benefits of growth
- facilitating the development and efficiency of ports, and strengthening international supply networks
- simplifying the planning system.

Specifically, the bill would amend the RMA to:

- specify default maximum time frames for consent processing and establish default consent durations for renewable energy and infrastructure consents
- introduce new ministerial powers to ensure compliance with national directions
- enable use of the streamlined process for listing and delisting heritage buildings and structures
- enable regional councils to include permitted activity discharge rules under section 70 where standards would contribute to a reduction in adverse effects over time
- enable national environmental standards to contain rules that make it easier for a consent holder to change or cancel consent conditions for an aquaculture activity
- clarify the interface between the RMA and the Fisheries Act 1996, to balance marine protection with fishing rights
- allow the Minister for the Environment rather than regional councils to appoint industry organisations to certify and audit freshwater farm plans
- introduce regulation-making powers to support emergency responses and recovery efforts
- clarify and strengthen councils' ability to decline land use consents or impose conditions when significant natural hazard risks are present
- increase fines for RMA offences, prohibit the use of insurance to indemnify a person against financial penalties for RMA offences, and enable cost recovery for councils
- allow a council to consider an applicant's compliance history when making consent decisions.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

On 24 March 2025, the Regulations Review Committee wrote to us about the regulation-making powers contained in clauses 2, 64, and 69 of the bill. On 1 May 2025, we responded to that committee and informed it of our proposed amendments. We received a further response from the committee on 14 May 2025. We consider that our proposed amendments have addressed the matters raised by the committee.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We deal with them thematically, rather than following the order of the bill's clauses. We do not discuss minor or technical amendments.

Infrastructure and energy

Duration of resource consent

Section 123 of the RMA sets out the default minimum duration periods for different types of resource consents. Clause 42, which would insert new section 123B, provides for a default period of 35 years for the duration of a resource consent for renewable energy and long-lived infrastructure.

We note that land use consents under section 9 of the RMA are typically granted in perpetuity. We understand that clause 42 is intended to apply only to time-limited consents granted under sections 12 to 15 of the RMA. We recommend inserting section 123B(4A) to make it clear that land use consents are excluded from the 35-year maximum duration policy.

Definition of long-lived infrastructure

Clause 4, amended section 2, contains definitions for "electricity network" and "long-lived infrastructure". The definition of "long-lived infrastructure" includes facilities, lines, and supporting structures to generate, distribute, or transmit electricity. However, it excludes substations and other facilities that are used to transmit and distribute electricity and could exclude activities that are needed for maintaining and upgrading the network. We recommend broadening the definition of "electricity network" to also include:

- a facility needed for the operation, maintenance, or upgrade of the electricity transmission or electricity distribution network
- a supporting and subsidiary activity in relation to either of those networks.

We also recommend adding the electricity network to the definition of "long-lived infrastructure".

The definition of "long-lived infrastructure" also includes "structures for transport on land by cycleways, rail, roads, walkways, or any other means". We note that this definition would exclude ports and other transport infrastructure not on land. We were advised that all transport infrastructure was intended to benefit from the 35-year consent duration. Accordingly, we recommend amending the definition of "long-lived infrastructure" to include all transport infrastructure, regardless of whether it is on land.

Prescribing additional activities as long-lived infrastructure

Section 360 of the RMA empowers the Governor-General to make regulations for a range of purposes. Clause 69 would amend section 360 to enable the Governor-General to prescribe that an activity or thing was long-lived infrastructure.

This empowering provision, as introduced, does not state the types of activities or things that could be added as long-lived infrastructure. We consider that it is too broad and should include criteria for its use. We therefore recommend inserting section 360(2FA) to limit the regulation-making power to infrastructure, as defined in section 2 of the RMA, which:

- has an expected lifespan of at least 50 years
- is suitable for a consent duration of 35 years
- delivers benefits to the public.

Applying the 35-year consent duration after commencement

Clause 2 specifies that section 42 would come into force on the earlier of a date set by Order in Council and the date that is 2 years after Royal assent. We think it is unclear what consents the 35-year duration policy would apply to after commencement, and recommend amending clause 2 to provide clarity. Resource consents eligible for a 35-year duration could be applied for immediately after the bill commenced. Applications that were yet to be determined or returned would also be eligible. They would need to have been lodged before commencement and accepted as complete under section 88 of the RMA.

Lapse period for renewable energy consents

Section 125 of the RMA sets out when resource consents lapse. Clause 43 would amend section 125 to double the default lapse period from 5 to 10 years for resource consents for renewable energy activities if no date is specified on the consent. We understand that 10 years is proposed as the default lapse period but it could be interpreted as the maximum period available. We recommend inserting section 125(3) to make it clear that applicants could request a shorter or longer lapse period than the default.

Time limit for processing resource consent applications for certain energy or wood processing activities

Clause 29 would insert new section 88BA to require a consent authority to process and decide a resource consent application for a specified energy or wood processing activity within 1 year. Clause 4, amended section 2, defines "specified energy activity" as:

- the establishment, operation, or maintenance of an activity that produces energy from solar, wind, geothermal, hydro, or biomass sources
- the establishment, operation, or maintenance of the transmission and distribution of electricity through the electricity network.

We note that this definition would exclude upgrades, supporting and subsidiary activities, and the storage and discharge of electricity. We consider that including in the definition all consents directly associated with specified energy activities would make the policy more straightforward to implement. We recommend amending the definition of "specified energy activity" accordingly. Some of us are concerned that omitting thermal firming energy from this definition means that the energy system would be unable to support the increase in renewables to meet the policy intention.

The bill would allow extensions to the 1-year consenting time frame under certain circumstances but would not allow the clock to be paused. We consider that this could increase the risk that consents were declined because applicants and decision-makers would have less flexibility to address issues arising during the consenting process. To address this risk, we recommend inserting section 88BA(5A) and (5B). Our proposed amendments would enable an applicant to request that an eligible application be paused. The time on hold would not count towards the 1-year time limit for decision-making.

Proposed new section 88BA(2) would allow an applicant an extension of up to 1 year if they requested it. Proposed new section 88BA(5) states that, if the time period were extended, the total time for the consenting authority to process and decide the application could not exceed 2 years.

Under proposed new section 88BA(3), a Treaty settlement entity, iwi authority, or recognised customary rights group could request an extension of up to 1 year. The extension would need to be for the purpose of recognising or providing for a Treaty settlement or other specified arrangement. We recommend inserting section 88BA(2)(b) to make it clear that the 2-year maximum would still apply when a consent authority received multiple extension requests.

Some submitters commented that the bill uses inconsistent terminology when referring to iwi and Māori groups intended to participate in the bill's processes. We agree and recommend inserting section 88BA(4) to align the terminology with other parts of the bill and the principal Act. Our proposed amendment would enable the following groups to request an extension for the purpose of recognising or providing for a Treaty settlement or other arrangement:

- iwi authorities

- post-settlement governance entities
- Ngā hapū o Ngāti Porou as defined in section 10 of Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019
- iwi and hapū party to a Mana Whakahono ā Rohe or Joint Management Arrangement that applies in the region
- customary marine title groups, protected customary rights groups, and applicant groups (all within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011).

Designations

The RMA provides that requiring authorities can notify the council that an area of land is to be designated for a public work. The area is identified in a council's district plan and is known as a "designation". All Ministers of the Crown and local authorities are requiring authorities. Section 167 of the RMA also enables the Minister for the Environment to approve as requiring authorities certain persons, businesses, or organisations that are responsible for network utilities or certain types of infrastructure.

Extending designation powers to ports

Section 166 of the RMA contains the definitions for the designation provisions. Clause 48 would amend section 166 to include ports in the definition of network utility operators. This would allow them to access the designation powers under the Act.

The definition would apply to a person who "operates an inland port (not contiguous with the coastal marine area) or the landward operations of a seaward port operated under the Port Companies Act 1988." We understand that the amendment is intended to apply to the 12 major ports authorised under that Act, including Northport. However, we were advised that Northport might not be able to rely on this definition due to its ownership and oversight arrangements.[2] We recommend amending the definition in clause 48 to specify that Northport would be a requiring authority for the purposes of designating land for coastal and inland port purposes.

Inland ports

Inland ports provide important storage and handling facilities for coastal ports, which often lack the roading and warehousing infrastructure needed to manage large cargo volumes. We note that the 12 major port companies all have at least one inland port. Clause 48 would enable ports operating under the Port Companies Act to designate inland ports. To prevent unrelated commercial operators from being able

[2] Northport Ltd is a joint venture company that operates Northport. It is jointly owned by Marsden Maritime Holdings Ltd and Ports of Tauranga. Those two companies are incorporated under the Port Companies Act but Northport is not.

to establish in areas as an inland port, we recommend amending the port-related definition in clause 48. Our proposed definition would specify that inland ports could only be designated if they were associated with a coastal port operating under the Port Companies Act. The words "associated with" would allow the Minister for the Environment to take into account different ownership and oversight mechanisms for ports and their associated inland port/s. This assessment would take place when a port applied to the Minister to become a requiring authority.

Notices of requirement

A notice of requirement is used to designate an area of land for a particular purpose. Clause 49 would amend section 168 of the RMA (Notice of requirement to territorial authority) to modify the information needed for a notice of requirement. Clauses 50 and 51 would amend sections 168A and 171 of the RMA to align with the changes made to section 168. Those two sections respectively relate to notices of requirement and a recommendation by a territorial authority.

Proposed new section 168(3B)(c) would require the assessment of the work's effect on the environment to describe possible alternative locations or methods for undertaking the activity. This provision would apply when the requiring authority had an interest in the land sufficient for undertaking the work and the work was likely to result in significant adverse effects on the environment.

Proposed new section 168(3C) would require that the information provided in the assessment only be at a level of detail that was proportionate to the nature and significance of any effects of the project or work.

We note that these two provisions are not included in the notice of requirement by a territorial authority in clause 50. We understand that the information needs for notices of requirement should be the same for requiring authorities and local authorities. Therefore, we recommend amending clause 50 by replicating the provisions in proposed new section 168(3B)(c) and (3C).

Extending coastal permits for ports

In 1993, the Minister of Transport issued coastal permits under section 384A of the RMA. These gave certain port companies the right to occupy the coastal marine area to the extent that they had in 1991 before the RMA was introduced. The permits were enabled in the transitional provisions of the RMA and allowed port companies to continue operating while Regional Coastal Plans were developed to transition into the RMA planning framework. The permits are due to expire on 30 September 2026.

Clause 47 would extend the section 384A permits for an additional 20 years, to 20 September 2046. It would also require councils to undertake a review of the permit and identify whether any conditions were needed to mitigate any adverse environmental effects resulting from the activity authorised by the permit.

Proposed new section 165ZZG lists the parties that must be given limited notice of the review. Several submitters noted that the list excludes parties to joint management agreements. These are agreements between local authorities and iwi or hapū

groups to share functions related to a natural or physical resource. We agree with submitters that parties to these agreements should be properly consulted. Accordingly, we recommend inserting section 165ZZG(a)(vi) to add iwi and hapū parties to joint management agreements to the groups that must be notified of a review of conditions.

We note that the bill does not explicitly state whether the RMA's cost recovery mechanisms could be applied to the cost of the review. Without such a provision the cost could rest with ratepayers, which was not the intent of the policy. We therefore recommend inserting section165ZZD(3) to specify that the costs of the review could be recovered from ports under section 36 of the RMA.

Ministerial intervention powers

Clause 6 would insert new section 25A(3). It would apply when a national policy statement required a local authority to prepare a document other than a plan or policy statement and the local authority had not prepared the document. The Minister for the Environment could direct a local authority to prepare or amend the document.

Clause 7 would insert new section 25A(4) and deals with a situation where a local authority did not comply with a national policy statement. In that situation, the Minister could direct a local authority to prepare a plan change to address the non-compliance. The Minister could also specify the planning process that the authority would need to use to prepare the plan change.

We note that section 24A of the RMA empowers the Minister to investigate and make recommendations about a local authority's function, powers, or duties and its omission or failure to exercise or perform them. We were advised that the RMA is unclear as to whether an investigation would need to occur before the Minister used the intervention powers. We recommend amending clause 6 and inserting new clauses 5A and 5B to make it clear that the investigation and recommendation would need to occur before sections 25 and 25A were used.[3]

Housing growth

Making the Medium Density Residential Standards optional

In 2021, the RMA was amended to require specified territorial authorities to introduce the Medium Density Residential Standards (MDRS). The standards allow sites to support the development of three homes of up to three storeys without the need for resource consent. We note that most specified territorial authorities have given effect to the MDRS and National Policy Statement on Urban Development 2020 (NPS-UD).

The bill would insert sections 77FA and 77FB (clause 17), section 80G (clause 24), and amend section 77G (clause 18) of the RMA to make it optional for councils to incorporate the MDRS into all their relevant residential zones. This includes councils

[3] Section 25 contains residual powers for the Minister for the Environment.

that have already implemented the MDRS. Councils that opt out would need to give effect to the revised NPS-UD.

We received advice that Cabinet has now agreed to remove provisions of the bill that would have enabled councils that have implemented the MDRS to opt out of them. It considers that it would be simpler and more efficient to defer this ability to phase 3 of the RMA reforms. The deferral would reduce unnecessary plan changes ahead of the additional plan changes that will likely result from the phase 3 legislation. We acknowledge this change in approach, and therefore recommend deleting clauses 17, 18, and 24 to remove the ability to opt out of the MDRS for all specified territorial authorities. We understand that Auckland Council and Christchurch City Council are expected to be the only specified territorial authorities to have not implemented the MDRS by the time the bill commences. We have therefore recommended bespoke processes for them, by inserting Schedule 3C into the Act (by means of new Schedule 1). We discuss the alternative intensification provisions for Auckland and Christchurch in our next section.

Withdrawal process for Auckland Council

We understand that Auckland Council has faced challenges with progressing its Intensive Planning Instrument (IPI).[4] This is because of natural hazard issues and scope constraints that prevent it from downzoning (rezoning to a less intensive use) areas subject to natural hazards. It requested a bespoke solution that would enable it to withdraw its IPI without ministerial approval when the bill commenced. It could then notify a new plan change to address natural hazards, the Auckland Light Rail Corridor, and some elements that are signalled to be included in a future NPS-UD.

We agree that a bespoke process for Auckland Council is appropriate. This is partly because its issues with natural hazards are challenging to address through its current IPI. We consider that a bespoke solution would need to enable the council to quickly withdraw its IPI. At the same time, the solution would need to ensure that further work was progressed that would enable housing development.

To implement the bespoke solution for Auckland and Christchurch, we have recommended inserting Schedule 3C into the Act (Schedule 1 of the bill). Part 1 would set out the process for Auckland to withdraw its IPI (Plan Change 78). Our proposed amendments would permit Auckland Council to withdraw its IPI in full or in part without ministerial approval when the bill commenced. If it withdrew its IPI, it would need to notify a new plan using the streamlined planning process to:

- provide at least the same housing capacity as Plan Change 78 (as notified) would have enabled give effect to the intensification policies of the NPS-UD 2020
- enable heights and densities commensurate with the greater of likely future demand for housing and business use, or accessibility to business and services

[4] An IPI is a plan change to give effect to the MDRS.

in the walkable catchments of the Maungawhau (Mount Eden), Kingsland, and Morningside Stations (subject to any relevant qualifying matters).

If Auckland Council withdrew its IPI, it would also need to publicly notify the new plan change before the local body elections (10 October 2025). We consider that this would provide clarity for the council and could support the pace needed for council decisions.

The RMA enables councils to use the streamlined planning process (SPP) to prepare a planning instrument if they meet certain entry requirements.[5] Any local authority seeking to use an SPP must apply for ministerial approval. The Minister for the Environment may then approve the request and issue a direction to the local authority. We have recommended that the council use the SPP because we think it is more efficient than the standard plan change process in Schedule 1. It would also give the Minister oversight of the plan change through the direction.

We propose several amendments to support scrutiny of the plan change and ensure that legislative requirements are met and that land zoned for housing use and intensification is enabled. We recommend that Auckland Council be required, when it seeks a direction, to provide information about how the plan change would meet the requirements set out in clause 4 of proposed new Schedule 3C. The direction could require Auckland Council to update or publish this information when it publicly notified the instrument. The Minister could also include expectations in the direction about how the plan change would meet the requirements set out above.

Clause 22 would amend section 80E(2) to broaden the scope of matters that could be addressed in the IPI. The matters are natural hazards, business and commercial zones, and things that increase or reduce the ability to develop a site. We understand that these provisions were included to enable Auckland Council to vary its IPI to address natural hazard risk and other issues. Given our proposed bespoke solution for the council, we consider that this provision is no longer needed. Therefore, we recommend deleting clause 22.

IPI scope constraints prevent Auckland Council from using its IPI to downzone. Our proposed amendment to enable Auckland Council to withdraw its IPI would mean that the council could use its new plan change to downzone, because this plan change would be subject to the usual RMA provisions regarding downzoning. We recognise that the RMA makes it very difficult to downzone land. This requires a plan change, which involves a submissions and hearings process. While our proposed amendments would not explicitly improve the ability of Auckland Council to downzone beyond the standard RMA provisions, it would remove the current scope barrier that applies to Auckland Council. We acknowledge that our amendment would address one barrier, but it would not provide a solution to the issue of the RMA making it very difficult to downzone.

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[5] We note that, if Auckland withdrew its IPI, these entry requirements would not apply to its plan change following withdrawal (the Auckland housing planning instrument).

Withdrawal process for Christchurch City Council

Christchurch City Council expressed concern about having to enter a multi-year plan change process so soon after it had decided its current IPI. It requested a simple and cost-effective way of withdrawing the undecided parts of the MDRS. We agree that a bespoke solution is also appropriate for this council. However, a complete withdrawal of its IPI (Plan Change 14) is not needed because it does not have the same scope issues that Auckland Council has. To implement the bespoke solution for Christchurch and Auckland, we have recommended inserting Schedule 3C into the Act (Schedule 1 of the bill). Part 2 would specify the process for Christchurch, which we set out below.

We consider that the criteria to withdraw the council's IPI should ensure that land is freed up for development so the council would not need an immediate subsequent plan change to support development capacity. To achieve this, we think that the council should still be required to apply to the Minister to withdraw any parts of its IPI that had not been made operative by commencement. However, the criteria for development capacity that the Minister would need to be satisfied of for withdrawal would be modified. It would instead be like the proposed housing growth targets that would have been included in the revised NPS-UD—that is, sufficient housing capacity to accommodate 30 years of future housing demand plus a 20 percent contingency margin. We recommend amending the bill to this effect.

To help the Minister assess the application for withdrawal, we also recommend amending the bill to require the council to provide information about how the withdrawal criteria are met. Following withdrawal, Christchurch City Council would not be required to undertake a subsequent plan change.

Amendments to the streamlined planning process

Clause 70(4) to (22) would amend the streamlined planning process set out in Schedule 1.

Clause 76 of Schedule 1 of the RMA sets out the requirements that apply to a local authority's application or notice to use the SPP. Clause 76(2)(c) provides that the responsible Minister must have regard to any relevant obligations set out in any iwi participation legislation or Mana Whakahono ā Rohe.

A submitter suggested that this clause should be amended to instead place the responsibility on local authorities. The submitter considered that this approach would streamline the process by ensuring that councils identify and notify relevant iwi obligations upfront rather than requiring the Minister to seek this information later. We agree that this approach would be more efficient. We recommend amending clause 75A to replicate the wording in clause 75(b)(vi) of Schedule 1, which relates to an application to a Minister for a direction to use the SPP. The application must include the implications of using the process for any relevant iwi participation legislation or Mana Whakahono ā Rohe entered into under subpart 2 of Part 5 of the Act.

Clause 70(15) would replace clauses 83 to 87 in Schedule 1. These changes through the bill would amend the "back end" of the SPP process so the Minister would no

longer make final decisions on plan changes. Instead, councils would decide whether to accept or reject the SPP Panel's recommendations. Accepted recommendations would become operative without appeal. Rejected ones could be appealed to the Environment Court on their merits, or to the High Court on points of law—but not beyond that (that is, no further appeals to the Court of Appeal or Supreme Court).

Submitters raised concerns about uncertainty in the final stage of the SPP. They particularly focused on how "alternative solutions" would become operative if no appeals were lodged; whether clause 17 of Schedule 1 would apply; and how councils would make recommendations and decisions on designations and heritage orders.

Agencies pointed out that the SPP amendments would unintentionally remove the Minister of Conservation's role in approving Regional Coastal Plans. We also understand that there are some missing links in the appeals process—specifically, references to new Schedule 1 clause 93A, which deals with the right of appeals in relation to rejected recommendations.

To close these gaps, we recommend amendments to clause 19, which would amend section 80B(2), and to clause 70(15), which would amend Schedule 1 (clauses 84, 85, and 94, and revised clause 86). These would clarify the key steps and ensure decisions could be made operative clearly and efficiently.

Clause 70(15) would require a local authority to establish an SPP panel to receive submissions and make recommendations to the council about the plan change. As introduced by clause 70(4) of the bill, proposed new clause 75A in Schedule 1 contains the content requirements for a notice of direction related to a listed planning instrument. Proposed new clause 75A(2)(d) provides that the notice must be in writing and describe the number of independent commissioners that the authority wants on the SPP panel and the required expertise. We recommend inserting clause 70(3A) in the bill to add a similar provision as subclause (b)(iva) in Schedule 1, clause 75, which lists the required contents of an application to a Minister to use the SPP.

Commencement and transitional provisions for MDRS and SPP amendments

Clause 2 provides for delayed commencement of the provisions related to the MDRS and SPP changes. They would come into force on the earlier of a date set by Order in Council or 1 year after Royal assent. Clause 72 would amend Schedule 12 to insert a new Part 8 transitional arrangements for the changes that the bill would make. It would also establish when specified provisions would apply to processes and applications under the principal Act.

We understand that the delayed commencement for opting out of the MDRS was so that councils could give effect to the revised NPS-UD through their SPP plan change. However, we were advised that Cabinet has agreed that the NPS-UD changes will instead progress as part of the phase 3 resource management reforms and the MDRS will be abolished. However, we have recommended bespoke processes for Auckland Council and Christchurch City Council to withdraw from the MDRS that would need to apply immediately. Consequently, we recommend amending clauses 2 and 72 so

that the provisions related to the SPP and housing and listed planning instruments would commence on the day after Royal assent.

Heritage

Clause 20 would amend section 80C of the RMA to enable a local authority to apply to the Minister for a direction to use the SPP in certain circumstances. The provision would apply if the proposed instrument would remove, or enable the removal of, heritage protection (other than that provided by a heritage order) from buildings or structures that were listed in a heritage list in a plan.

Some submitters consider that the amendment needs additional guidance or a direction so that it can be implemented effectively. We agree that a direction in the RMA would help when making delisting decisions using the amended SPP. We consider that the direction should take the form of matters that councils would need to give particular regard to when recommending and approving the removal of a building or structure from a heritage schedule in a plan. We recommend amending the SPP provisions in Part 5 of Schedule 1 to require independent hearing panels and local authorities to have particular regard to:

- the building or structure's heritage significance
- its physical condition, including degree of seismic risk
- its current or proposed use and the economic viability of any proposed use
- whether the owner agrees to remove the heritage protection. (See new clause 78(3B) as inserted by clause 70(12)).

We note that "structure" is defined in the RMA but "building" is not. For clarity, we recommend inserting section 80C(5) to include a definition of "building". Our proposed definition would specify that "building" has the meaning given in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014.

Section 70 discharges

Section 70(1) of the RMA sets out the requirements on a council before it includes in a regional plan a permitted activity rule allowing the discharge of contaminants into water. The council must be satisfied that none of the following effects are likely to arise in the receiving waters:

- the production of conspicuous oil or grease film, scums or foams, or floatable or suspended materials
- any conspicuous change in the colour or visual clarity
- any emission or objectionable odour
- the rendering of fresh water unsuitable for consumption by farm animals
- any significant adverse effects on aquatic life.

Clause 15 would insert new section 70(3) to enable a council to include a rule in a regional plan that allowed as a permitted activity a discharge into water that could result in significant adverse effects to aquatic life. The rule would need to include

standards for the permitted activity. The council would also need to be satisfied of two matters: that the receiving waters already had the effects described in subsection (1)(g) and that the standards would contribute to a reduction of the adverse effects over a period specified in the rule.

The form of permitted activity rules required to meet these new tests would be at the discretion of the council and depend on the activity and adverse effects being addressed. For example, where significant adverse effects on aquatic life are a result of excess nitrogen run-off, the council may set the discharge of nitrogen associated with a farming activity as permitted provided a certified freshwater farm plan is in place and complied with. If compliance with the catchment wide farm planning regime is expected to result in a reduction in overall adverse effects this standard could meet the new test.

To accommodate new section 70(3), clause 15(1) would amend section 70(1) to add "Except as provided in subsection (3)". However, we consider that this could imply that a council would not need to make any considerations under section 70 before including a rule that allowed a permitted activity. As this was not intended, we recommend deleting clause 15(1).

Many submitters expressed concern that the bill lacks a specific time frame for achieving a reduction in adverse effects. We agree that the current proposal could be interpreted as only requiring a tiny improvement over many years. We also consider that decision makers need to have confidence that actions in current plans, rather than future plans, will achieve the necessary reduction over time. We agree that 10 years (the time in which a plan must be reviewed) would be an appropriate time frame. Consequently, we recommend amending proposed section 70(3)(c) to require the council to be satisfied that the standards would contribute to a reduction in adverse effects within 10 years.

We recognise that it is the whole plan, not just standards in a rule, that would reduce adverse effects on aquatic life. We therefore think that a council should be able to consider the effects of the entire plan and not just the permitted activity standards when determining a reduction in adverse effects. We recommend amending section 70(3)(c) to enable this.

We note that the bill is unclear as to what plans the amended section 70(3) would apply to when the bill commenced. We therefore recommend inserting clause 49A into Schedule 2 to make it clear that the section would apply to any plans already notified. This would include those under appeal and subject to ongoing court proceedings.

Farming and the primary sector

Freshwater farm plans

Clauses 53A to 58 would amend Part 9A of the RMA, which relates to freshwater farm plans (FW-FP). Industry and councils use FW-FPs to help farmers and growers manage their farms in a way that reduces environmental effects. In August 2023,

Part 9A of the RMA was amended to enable regional councils to approve industry organisations to certify or audit plans under the FW-FP regulations. Under the current system, individual regional councils must approve industry organisations to provide FW-FP certification or audit services. Consequently, for an organisation to operate nationally, it may need approval from 16 regional councils. The bill would amend Part 9A to specify that the Minister for the Environment would instead make and revoke the approval of industry organisations. Clause 58 would amend section 217M to prescribe regulations for the processes and applicable requirements.

When a farm would need to have a certified freshwater farm plan

Section 217D of the RMA prescribes the minimum size for when a farm must have a certified FW-FP. The thresholds include 20 hectares for arable, pastoral, and mixed land use, and 5 hectares for horticultural land use.

We note that some types of land use can entail lower risk to freshwater compared with others that are intensive, such as commercial vegetable growing. The majority of us therefore consider that it is reasonable to increase the minimum size threshold for those lower-risk activities. We recommend inserting clause 54A to provide that an FW-FP would be needed where:

- 50 or more hectares of the farm was in pastoral, arable, or mixed land use
- 50 or more hectares of the farm was in viticultural or orcharding land use
- 5 or more hectares of the farm was in horticultural land use other than viticultural or orcharding land use.

We recognise that dairy farming is a higher-risk activity. Accordingly, we recommend inserting clause 54A to require an FW-FP where any farm is undertaking commercial dairy supply.

Certification and audit requirements

Section 217G of the RMA requires farm operators to have their FW-FPs certified if their farm meets the minimum size threshold under section 217D. Section 217H provides that all farms that meet these thresholds must be audited.

We acknowledge the role that the certification plays in managing on-farm risks to freshwater. However, the majority of us consider that there is merit in removing certification requirements for low-risk farms to provide a more cost-effective system. Instead, certification should focus on areas such as higher intensity farming activities, or catchments where farming activity presents risks to freshwater regardless of its intensity. The majority of us recommend amending section 217M to enable regulations to be made that would prescribe the kinds of farming activities or catchments that would require an FW-FP to be certified. The majority of us also recommend inserting clause 54B, amending section 217E, to provide that farm operators would only need to submit their FW-FP for certification if they were:

- undertaking activities that were identified in regulations as requiring a certified FW-FP

- using their FW-FP to meet some other regulatory requirement
- operating a farm located in a catchment prescribed in regulations as needing a certified FW-FP.

We note that there may be situations where a farmer voluntarily seeks to have their FW-FP certified. We recommend amending clause 56, section 217I(2)(a) to specify that a farm operator could voluntarily choose to have their FW-FP certified at any stage.

Information requirements for monitoring and oversight

Clause 56 would amend section 217I, which relates to the functions of regional councils. It would add a requirement for councils to monitor how approved industry organisations deliver certification or audit services in the region. Under amended section 217I(2)(b), a council could request information from an approved industry organisation that it considered reasonably necessary for carrying out its functions under the section. We recommend amending this provision by replacing "request" with "require". We consider that this would provide more assurance that councils could get the information needed for their monitoring function.

Clarifying the relationship between the RMA and the Fisheries Act

The bill would clarify the relationship between the RMA and the Fisheries Act 1996 by introducing definitions and restrictions on rules that control fishing.

Definition of "rule that controls fishing"

Clause 5 would insert new section 2B, which defines a "rule that controls fishing". It includes a rule that directly controls fishing. We understand that the definition is only intended to cover wild-capture fisheries. However, as introduced, it would also cover aquaculture. Given that aquaculture is already clearly regulated under the RMA, we do not think it needs to be subject to additional constraints. We therefore recommend amending clause 5 to exclude aquaculture activities from the definition of rules that control fishing.

Requirements of an evaluation report

Section 32 of the RMA contains the requirements for preparing and publishing evaluation reports required under the Act. Clause 8 would amend section 32 to provide that a proposal that included a rule that controlled fishing must also include an assessment of the impact of those rules on fishing. Proposed new section 32(2A) sets out the matters that the assessment must and may examine. We consider that the matters that the assessment may examine are all critical considerations and should be mandatory rather than discretionary. Making them mandatory would also improve consistency and clarity. We recommend amending the bill to make the criteria under section 32(2A)(b) mandatory. We also recommend retaining as a discretionary factor section 32(2A)(b)(vii), which provides for any other relevant factor.

We recognise that our proposed amendment could set an unreasonably high standard for the assessment. To provide flexibility where necessary, we recommend inserting section 32(2B) to state that councils must examine the matters to the extent that the information is reasonably available.

When rules that control fishing would have legal effect

Clause 25 would amend section 86B of the RMA, which relates to when rules in proposed plans have legal effect. The bill would amend section 86B to provide that a rule described in subsection (3)(b) or (c) would not have immediate legal effect if it was a rule that controlled fishing in a coastal marine area. Those sections deal with rules that protect areas of significant indigenous vegetation or significant habitats of indigenous fauna. We understand that this provision is intended to give affected parties an opportunity to have their say through a submissions process before the controls come into effect.

We note that a rule that controls fishing could also be one that protects or relates to water as set out in section 86B(3)(a). We recommend amending section 86B(4A) to include section 86B(3)(a) in the rules that would not have immediate legal effect (to the extent that it is a rule that controls fishing in the coastal marine area).

Pre-notification requirements for rules that control fishing

Clause 70(1) would insert new clause 4B in Schedule 1 to prescribe the requirements on a regional council before notifying a rule that controlled fishing. The council would need to complete an assessment required by section 32(2A) about the impacts of the proposed rule on fishing and give it to the Director-General of the Ministry for Primary Industries. The Director-General would need to advise the council, within a reasonable time frame, whether they concurred with the assessment. We recommend amending clause 4B(1)(b) to specify a time frame of 40 working days. We consider that this would give councils clarity and allow them to factor it into the time frames for their processes.

Proposed new clause 4B(2) provides that the Director-General may concur with the assessment only if they:

- are satisfied that the assessment has given appropriate consideration to the impacts of the rule on fishing in accordance with the requirements of section 32(2A) (clause 4B(2)(a))
- are satisfied with the quality, clarity, and accuracy of the information provided in the assessment (clause 4B(2)(b))
- have consulted Te Ohu Kai Moana about their proposed decision (clause 4B(2)(c)).

If the Director-General concurs with the assessment, they must advise the regional council in writing of their decision and the council may notify the rule.

Under the bill, as introduced, the Director-General would only need to be satisfied of the matters in clause 4B(2)(a) and (b) before concurring with the assessment. It would

not allow them to take into account whether the proposed rule would have significant effects on fishing.

We consider that the proposed quality assurance role of the Director-General is not sufficient when councils are setting rules that control fishing. We instead recommend amending clause 4B(2) to provide that the proposed rule could only progress if the Director-General were satisfied it would not have undue adverse effects on the matters described in section 32(2A)(a).

Interaction between rules that control fishing and Māori customary non-commercial fishing rights

Clause 26, which would insert new section 86H, specifies that council rules would not apply to Māori customary non-commercial fishing rights provided for in certain secondary legislation under the Fisheries Act. The rules would not apply to regulations made under sections 186, 297, and 298 of that Act for the purpose of giving effect to section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. We understand that this provision is intended to provide clarity and legal certainty that legal customary fishing could not be overridden or otherwise controlled via the RMA.

Some Treaty-settlement legislation requires regulations that were made under the Fisheries Act, or that are treated as if made under that Act, to give effect to section 10 of the Settlement Act noted above. We were advised that such legislation would be included under clause 26. The exception to this would be Te Arawa Lakes (Fisheries) Regulations 2006. These are not made under the Fisheries Act in the same way as the regulations referred to above. We understand that these regulations prevail over other conservation and fisheries regulations. We therefore recommend inserting section 86H(1)(c) to include them. We also recognise that future Treaty-settlement legislation could provide for the creation of customary fishing regulations (either by provisions that would direct that regulations be treated as though they were made under the Fisheries Act, or via bespoke provisions such as the Te Arawa regulations). We recommend inserting section 86H(1)(b) and 86H(1)(d) to make it clear that section 86H(1) would apply to any such customary fishing regulations.

Natural hazards and emergencies

Enabling a consent authority to refuse land use consent in certain circumstances

Clause 37 would insert proposed section 106A to allow a consent authority to refuse a land use consent or to attach conditions to the consent in certain circumstances. It would need to consider that the activity for which consent was sought would create or increase significant risks from natural hazards. This provision would not apply to consent applications where an existing activity already had significant risk but the proposed land use would not increase the risk.

Section 106(1)(a) of the RMA allows a council to refuse to grant a subdivision consent or attach conditions to a consent if it considers that there is a significant risk from natural hazards. For consistency and to simplify the application process, we

recommend amending proposed new section 106A(1) to align the terminology with existing section 106(1)(a). Under our proposed amendment, the consent authority would only need to be satisfied that a significant risk from natural hazards exists. It would not need to be satisfied that there would be a new or increased level of risk.

As introduced, the provision would apply to consent applications for all land use activities required under sections 9 or 13 from a regional or district council.[6] Submitters representing infrastructure providers and primary producers sought an exemption from this provision for infrastructure and primary production activities. Their concerns included that the provision would add unnecessary administrative burden, cost, and complexity to the consenting system. The provision also does not take into account the differences between regionally and nationally significant infrastructure in uninhabited areas and residential development, or between rural and urban activities. The majority of us consider that excluding infrastructure and primary production activities from this provision would address submitters' concerns. It would also provide certainty, create efficiency, reduce complexity, and contribute to broad government goals to enable infrastructure and promote primary production. Accordingly, the majority of us recommend inserting section 106A(4) to provide that proposed new section 106A would not apply to land use consents required in connection with infrastructure and primary production activities.

Clarifying the relationship between elements of the risk assessment process

Proposed new section 106A(2)(a) to (d) provides that an assessment of the risk from natural hazards requires a combined assessment of:

(a) the likelihood of natural hazards occurring (whether individually or in combination); and

(b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and

(c) whether the proposed use of the land would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b); and

(d) whether the proposed use of the land would result in adverse effects on the safety or health of people.

Some submitters requested clarification of the risk assessment process due to the use of "and" between the paragraphs. We understand that the threshold of risk is intended to apply in relation to the combination of the matters, rather than each matter individually needing to meet the threshold. To make this intent clear, we recommend amending section 106A(2) to state that an assessment of risk requires an assessment of all the matters in subsection (2)(a) to (d) to be taken together. Similarly, section 106 is amended to align the terminology between that section and new section 106A.

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[6] These sections relate to restrictions on the use of land and on certain uses of beds of lakes and rivers.

We also consider that the wording could be simplified to reflect the recommended alignment of proposed section 106A(1) with section 106(1)(a), which relates to subdivisions. We recommend that, rather than "avoiding or mitigating the effects from any significant risks from natural hazards" in section 106A(3)(a), it would be more appropriate to replicate the approach in section 106(2)(a) of cross-referencing subsection (1).

Emergencies

Power to take preventive or remedial action

Section 330 of the RMA deals with emergency works and the power to take preventive or remedial action. Section 330(3) provides that, as soon as practicable after entering any place specified under the section, every person must identify themselves and inform the occupier of the place of the entry and the reasons for it. Clause 62 would amend section 330 and would apply when an occupier could not be found. The local authority or consent authority could instead leave a notice displayed on the land with details of the entry and then serve a similar written notice on the ratepayer.

Proposed new section 330(3A)(a) specifies that the notice to the occupier would need to include the date of entry, the reasons for entry, and the contact details of a person who could provide further information. Proposed new section 330(3A)(b) would require the same information to be given to the ratepayer.

We consider that the time of entry could also be useful information for the occupier and ratepayer. We recommend amending section 330(3A)(a) to this effect.

Regulation-making power to help respond to and recover from emergency events

Clause 64 would insert new section 331AA to empower the Governor-General to make regulations for two purposes. They are to respond to a natural hazard event or other emergency in an area and to enable recovery efforts in the affected area. The emergency response regulations would permit changes to RMA processes and time frames.

Submitters had contrasting views about the regulation-making power. Some considered the powers too broad and suggested amendments to limit their use and duration. Other submitters thought that the powers were not broad enough and proposed amendments to extend their time frames and scope. We propose four amendments to the regulation-making powers that we consider address the majority of submitters' concerns and strike an appropriate balance.

Proposed new section 331AA(2)(f) provides that the Minister must consult any affected councils and relevant Māori entities and invite written comments from them about the proposed regulations. We recommend amending section 331AA(2)(f) to align the terminology for Māori participation with other parts of the bill.

Some submitters suggested that the Minister should be required to have regard to the comments received from councils and iwi when making emergency response regula-

tions. We agree with this suggestion and recommend inserting section 331AA(2)(fa) to this effect.

Proposed new section 331AA(4) states that comments received under subsection 2(f) must be provided within 5 working days of the invitation being received unless the Minister extends that period. We recommend inserting section 331AA(4A) to extend the time frames for comments from councils and iwi from 5 to 10 working days. We think that an extension could improve the quality of the regulations while not significantly delaying their enactment. It could also ensure that the regulations meet the needs of councils (as the main implementor) and allow them to consult and incorporate feedback from their civil defence emergency management groups. We note that this was one of the matters raised by the Regulations Review Committee. It considered that extending the 5-day time frame would mitigate some of its concerns relating to consultation, without significantly delaying the enactment of regulations.

We recommend inserting section 331AB to require the Minister to review any active emergency response regulations annually and to make the outcomes of the review public. We consider that such a review would increase transparency and ensure that the regulations remain relevant, reasonable, and responsive to a community's needs.

System improvements

Information requirements for resource consent applications

Section 88 of the RMA relates to applying for a resource consent. Clause 28 would amend section 88 to specify that an applicant would need to provide information at a level of detail proportionate to the nature and significance of the activity. A consent authority could accept an application that was not fully compliant with the information required in section 88(2)(b). To do so, it would need to be satisfied that the information provided was proportionate to the nature and significance of the activity.

We acknowledge submitters' concerns that interpreting "proportionate" is subjective. This could result in practices varying between consent authorities and disagreements with applicants. It would also introduce a new legal threshold for information requirements and could increase the risk of litigation. Further, small and insignificant activities in one location could have significant adverse effects on the environment in another location. A submitter also expressed concern that giving consent authorities more discretion to accept non-fully-compliant applications could reduce the quality of applications.

Clause 2 of Schedule 4 of the RMA contains the information requirements for a resource consent application. Clause 2(3)(c) requires an assessment of the activity's potential effects on the environment that includes a level of detail proportionate to the scale and significance of those effects. We recommend amending section 88(2AA) to replicate this requirement. We consider that this would partly address concerns about introducing a new legal threshold and ensure that environmental effects are appropriately considered. To address the concern about the quality of applications,

we recommend a similar amendment to section 88(2AB). This would apply the same threshold for when a consent authority could choose to accept an application that did not fully comply with information requirements in section 88(2)(b).

Further information requests

Clause 30 would amend section 92 to specify criteria that a consent authority would need to consider before requesting further information. Proposed new section 92(2B) provides that a consent authority must consider whether:

- it needs the information for the purpose of section 104(1)(b) or (c) or any other provision of this Act that relates to the application (section 92(2B)(a))[7]
- it can assess the effects of the proposal from the information currently available (section 92(2B)(b))
- any information that it seeks is proportionate to the nature and significance of the proposal (section 92(2B)(c)).

We propose three amendments to this section. First, we consider that the reference to "any other provision of this Act that relates to the application" in section 92(2B)(a) could expand the scope of consideration beyond what is needed. We recommend deleting that reference so that the information would be needed for the purpose of the entirety of section 104. Second, we think that section 92(2B)(b) is not needed because the consent authority would not need to request further information if it could already assess the effects of the proposal. Therefore, we recommend deleting it. Finally, we recommend amending section 92(2B)(c) so that the level of information required by an applicant is the same as when making an application for resource consent—that is, proportionate to the scale and significance of the effects the activity may have on the environment.

Returning submissions from unresponsive submitters

Clauses 31 and 33 would amend sections 92A(3) and 92(2) respectively to make it discretionary for a consent authority to consider an application if the applicant did not respond to requests. Clause 32, which would insert new section 92AA, sets out when a consent authority could determine that a resource consent application was incomplete. It also describes the steps that would need to be taken to inform the applicant and return the application. An application could be considered incomplete if the applicant was required to provide certain responses by an agreed date and had not provided them 3 months after that date. We think that the reference to "agreed date" could be problematic because the consent authority and the applicant might fail to reach an agreement. We recommend amending section 92AA to align the time frames for a response by the applicant with the time frames already provided in the relevant section of the Act (for example, in relation to a request under section 92(1), within 15 working days or within the time set by the consent authority).

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[7] Section 104 of the RMA relates to the consideration of applications for resource consent.

Proposed new section 92AA(2) provides that a consent authority must notify the applicant of its intention to return the application by writing to the applicant's email address. We recommend inserting section 92AA(1)(c) to enable the consent authority to notify its intention using any of the service methods set out in the bill.

Some submitters suggested that the powers in clause 32 should apply retrospectively to applications accepted before the bill is enacted. This could help councils respond to application backlogs. We acknowledge the benefits of allowing councils to return applications that appear to have been abandoned. However, we also recognise that this could be unfair to applicants who lodged applications before the power came into force. To balance these factors, we recommend inserting a transitional provision as clause 49B of Schedule 2 to give consent authorities the discretion to notify applicants of their intention to return applications. The consent authority would need to have been awaiting a response to a further information request for at least a year.

Removing the obligation to hold a hearing

Clause 34 would replace section 100 to provide that a consent authority must not hold a hearing for a resource consent application if it determined that it had sufficient information to decide the application. Clause 35 would insert new section 103BA to list the evidence that a consent authority would need to provide to the applicant and submitters if a hearing was not held.

The majority of submitters that expressed a view on this provision opposed it. Their concerns included the following:

- The hearings process was noted as being an efficient and pragmatic way of reconciling different parties' interests. Removing it would reduce the opportunity for resource consents to be granted with effective and workable conditions.
- It would increase the likelihood of appeals and make Environment Court processes more expensive and time-consuming.
- Only a very small number of granted resource consent applications require a hearing. Therefore, the risk of the change outweighs the benefits of determining a small number of applications faster than they otherwise would be.
- It would undermine iwi, Māori, and public participation.

We acknowledge the substantial opposition and concern from submitters about this proposal and note their comments that the system is working effectively. We therefore recommend deleting clauses 34 and 35. We do, however, consider that a comprehensive review of the role and purpose of hearings should be carried out as part of the phase 3 resource management reform.

Review of draft conditions of consent

Clause 38 would insert new section 107G to allow an applicant to request that a consent authority provide any draft conditions of the consent. If a request were made, proposed new section 107G(2) specifies that a consent authority could suspend the

application processing (no more than once). It would also need to provide the draft conditions to the applicant and, if the application were notified, to submitters.

We recommend amending section 107G(2A) to clarify that it is the time frame that applies to the processing of the application that is suspended, rather than the actual processing of the application itself. The suspension to the time frame is for the purpose of allowing applicants and submitters to review the draft conditions. It does not preclude decision makers from working on the application while the time frame is suspended.

Proposed new section 107G(2)(c) would allow the consent authority to provide the draft conditions to submitters who received a copy of a report provided under section 42A. We recommend deleting this provision as it is unnecessary. Submitters who are entitled to receive such a report are a subset of submitters on an application that has been notified. They would therefore already be entitled to receive the draft conditions.

Proposed new section 107G(1)(c) states that an applicant for a resource consent may request the draft conditions only once. However, proposed new section 107G(5) specifies that a consent authority could provide the draft conditions to applicants and submitters more than once. We recommend amending section 107G(5) to make the rationale for this provision clearer. Proposed new section 107G(3) would enable an applicant and submitters to comment on the draft conditions. Under proposed new sections 107G(4) and 107G(5), the consent authority could consider the comments and send out further drafts of the conditions. This would apply regardless of whether the applicant requested the draft conditions and whether the time frame for processing the application was suspended.

Compliance and enforcement

Recovering costs for monitoring and compliance functions

Clause 10 would amend section 36 to enable local authorities to recover costs for monitoring and compliance functions. Proposed new section 36(1)(caaa) would allow a local authority to charge a person undertaking a permitted activity. The charge would be for the purpose of the local authority monitoring the person's compliance with any rule in a plan related to the permitted activity.

We note that there may be situations where a national direction could seek nationally consistent approaches to funding compliance monitoring of a permitted activity rule. In situations like this, we think it would be appropriate for subparagraph (caaa) to be disenabled, and that cost recovery be available only if enabled in the national environmental standard, via the existing mechanism in section 36(1)(cc). We recommend amending section 36(1)(caaa) accordingly.

Proposed new section 36(1)(caab) would enable a local authority to charge a person who an enforcement officer considered had not complied with the Act. We understand that this provision is intended to fund reactive responses to individual complaints about non-compliance with the Act. This would apply when the activity was permitted but the conditions were not being complied with. We recommend amending

section 36(1)(caab) so that the charges would only be payable when an enforcement officer had formed the opinion that a contravention had occurred.

Considering previous non-compliance with requirements of the Act

Clause 36 would amend section 104 to authorise a consent authority to take into account specified types of previous non-compliance with requirements. It could also decline an application based on a specified degree of non-compliance. For consistency with the existing language in section 104, we recommend replacing the reference to "take into account" with "have regard to".

Some submitters were concerned that the clause provides for unlimited retrospectivity. This appears to override the provisions of the Criminal Records (Clean Slate) Act 2004, which default to a period of 7 years. We agree that unlimited retrospectivity is unreasonable, and that the ability to consider a natural person's compliance history should align with the rehabilitation period provisions in that Act. For companies and other persons that are not natural persons, the 7-year cut-off should not apply. We recommend amending section 104(2EA) and 104(6A) and clause 59, amended section 314, to this effect.[8]

We also recognise that a consent authority would not know that a resource consent applicant had a history of non-compliance. We therefore recommend amending the standard resource consent application form to require an applicant to declare this when applying for a resource consent. (This is Form 9 under the Resource Management (Forms, Fees, and Procedure) Regulations 2003).

Revoking or suspending resource consent for non-compliance with the Act

Clause 59 would insert new section 314 to permit the Environment Court to revoke or suspend a resource consent for non-compliance with the RMA. This would apply when a local authority or the Environmental Protection Authority (EPA) was satisfied that there had been ongoing, significant, or repeated non-compliance. They could apply to the Environment Court or, in certain cases, the District Court for an enforcement order to revoke or suspend the consent. The local authority or EPA would need to demonstrate in their application that, on the balance of probabilities, the revocation or suspension was in the bests interests of the public and would not result in any adverse environmental effects. We consider that this is an unreasonable evidential burden on the regulator and could undermine the workability of the provision. Accordingly, we recommend deleting proposed section 314A(2) and making changes to existing sections 314 to 321 instead.

We understand that the ability to revoke or suspend consents is intended for certain rare occasions. They are where persistent non-compliance has not been resolved by previous enforcement action and where revocation or suspension is necessary to avoid environmental harm. However, clause 59 as introduced would allow a consent

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[8] Clause 59 relates to the scope of an enforcement order.

to be revoked in instances of ongoing or repeated minor non-compliance. Consent could also be revoked or suspended without serious enforcement action having previously been taken. We therefore recommend amending section 314A to limit the situations where a resource consent could be revoked or suspended. Our proposed amendment would apply to situations of significant non-compliance with a resource consent that had been ongoing or repeated. The non-compliance would also need to be the subject of an enforcement order or a conviction.

We note that resource consents for an activity are often processed as a bundle. Revoking the entire bundle may be needed to achieve compliance and prevent ongoing adverse effects. We recommend amending section 314A(4) to make it clear that the court could revoke or suspend any associated resource consents that enabled the same activity.

Making insurance against fines unlawful

Clause 66 would insert section 342A to prohibit certain insurance contracts against fines or infringement fees under the principal Act. Clause 2(5) provides that proposed new section 342A would come into force 2 years after Royal assent.

We recognise that insurance for fines significantly undermines the deterrence value of imposing a fine. Further, the deterrence associated with paying a fine is essential to achieving the purposes of the Sentencing Act 2002. We understand that, although insurance that indemnifies a person for RMA fines is commonly available, its legality is uncertain. This provision is therefore intended to provide statutory clarity that such insurance is unlawful. We consider that the delayed commencement of the insurance prohibition is contrary to this intent. Delaying commencement would effectively make insurance lawful for the next two years before prohibiting it. The deterrence element of a fine would also be inhibited for a longer period due to the time taken to conclude enforcement proceedings. We therefore recommend amending the bill so that section 342A(1), (2), and (3) would have immediate effect on commencement. The two-year delayed commencement would be retained for section 342A(4), which contains the offence.

New Zealand Labour Party differing view

Section 70 discharge

The bill as introduced amends section 70 to enable a regional council to have permitted activity rules for a discharge that could result in significant adverse effects to aquatic life. Enabling activities that result in significant adverse effects is extraordinary. The change to section 70 follows a change made to section 107 (after submissions were made) to the Resource Management (Freshwater and other matters) Bill.

Labour's position is that our polluted rivers should be improved so that we are able to swim in them. This change to section 70 is part of a package of changes that goes against the swimmable ambition and will harm both New Zealand's environment and economy.

Freshwater farm plans

Farming groups have long advocated for the use of farm plans as a means to coordinate a response to environmental rules. Currently the Regional Council is the certifier of freshwater farm plans. This bill removes regional councils from approving certifiers and auditors. Because Regional Councils are the primary regulator of water they should retain a role in certification and audit of the freshwater component of farm plans.

Changes made by select committee will limit the number of farmers that require a freshwater farm plan to most farms larger than 50 hectares. We understand that this will exclude approximately a third of farms. While we accept there may be an argument for small lifestyle blocks to be excluded the 50 hectare size is both too big and is not risk based. In addition not all of the farms that require freshwater farm plans need to be certified. If freshwater farm plans are used to replace the need for resource consents then they must be certified and audited. There is the potential for a significant departure from an independent regulator (the regional council) being replaced by an industry body for both certification and audit (if any happens); this is a retrograde step. How will farmers be able to demonstrate that they are appropriately regulated if the regulator is cut out of the process?

Green Party of Aotearoa New Zealand differing view

The Green Party does not support the Resource Management (Consenting and Other Matters) Amendment Bill. This bill contains a wide range of ad hoc amendments based on the Government's coalition agreements. The broad majority of changes represent the continued dismantling of environmental protections under this Government. As with other legislation promoted by this Government, the pace of reform in the resource management system and the lack of evidence to support these proposals remains a key feature of the fundamental flaws in this bill.

This differing view will be limited to the primary concerns that each aspect of the bill addresses.

Energy and Infrastructure

The Green Party does not support the proposal to include gas infrastructure as "long-lived infrastructure". In 2021, the Climate Change Commission recommended that there be no new gas connections from 2025, and the IEA has noted that all fossil gas generation be phased out by 2040. There is no justifiable need, in a climate crisis, to be giving 35-year consents to fossil fuel infrastructure that will be likely not be in use in 25 years.

In principle, the Green Party supports the intent behind 35-year consents for renewable energy. However, we would prefer to see some sort of mechanism for review at relatively regular intervals (for example, 10 years) to ensure that the consent remains consistent with local plans and changing environments.

The one-year time frame for consent processing of renewable energy and wood-processing may benefit some projects, however there is a lack of evidence to support that

this is an issue. National Monitoring System data showing that the majority of renewable energy generation consents were processed within 12 months (between 2022 and 2023), including 95 percent of solar, wind, and geothermal consents. National Monitoring System data also shows that 84 percent of wood processing activities were granted within 12 months (between 2018 and 2022). Any consent processes that may have complex or significant environmental effects (such as wood processing activities) will likely require more than a year to process the consent. Requiring a one-year timeframe is therefore likely to cause further harm to te taiao and lead to rushed processes that are not considered.

We are concerned about the doubling of lapse periods for renewable energy projects from 5 to 10 years. The Regulatory Impact Statement notes that "developers may not utilise consents to 'land bank' or engage in anticompetitive behaviour". Extending the allowed time frame may compound the existing issue of land banking by companies engaging in renewable energy generation.

Housing

The introduction of the Medium Density Residential Standards (MDRS) was a landmark cross-partisan decision to enable much-needed housing in our biggest cities. The full-scale implementation of the MDRS would have been a key driver in addressing housing supply and affordability issues. The MDRS is critical for realising the benefits of density, including reduced infrastructure costs, more efficient land use, and reduced emissions.

We support changes to remove the provisions in the bill that would have given councils that had already implemented the MDRS the ability to opt out of the MDRS, and do not support optionality being reinstated in later stages of RMA reforms. It is our view that providing for the optionality of the MDRS for Auckland Council and Christchurch City Council is a missed opportunity for growth. As an example, Cabinet's decision to remove the backstop against the MDRS changes to only require councils to provide for 30 years of growth will effectively halve Auckland Council's development capacity.

Heritage

The Green Party wants all communities to enjoy a strong heritage fabric, therefore we support the changes in this bill to make it easier for local authorities to remove heritage protections that are no longer serving their communities and are a barrier to the creation of new heritage.

We also recognise that these changes may still be inadequate. Wellington City Council noted that attempts to remove inappropriate heritage protections under these changes may still face the same barriers that impede current processes. The bill should go further to enable more effective and democratic management of perpetually derelict heritage protected structures, such as the hazardous Gordon Wilson Apartments in Wellington Central.

Freshwater

The proposed changes to section 70 are a kneejerk reaction to a successful legal challenge by the Environmental Law Initiative. They are un-precedented, in that for the first time in the RMA's history, significant levels of pollution or other adverse effects can be permitted if the receiving water bodies are already significantly polluted. These changes amount to giving up on our most polluted waterways and gifting them to polluters, taking us further away from Te Mana o te Wai, where the health of our freshwater would be prioritised. We oppose these changes in the strongest terms.

The amendments to Freshwater Farm Plans (FWFP) includes allowing national approval for industry organisations to audit FWFPs. We oppose provisions allowing industry organisations certifying and auditing FWFPs, as this undermines their credibility and transparency and risks regulatory capture. Further, approvals at the discretion of the Minister for the Environment may lead to undue lobbying and influence. Approval processes could sit better with an independent body or the Secretary for the Environment.

Fisheries

Regional councils have an important responsibility to protect indigenous biodiversity under the RMA and can only impose restrictions on fishing activity for a defined purpose, "to maintain indigenous biological biodiversity".

The amendments to section 32 of the RMA propose that if councils want to include rules in their plans that control fishing in the coastal marine area, they must undertake an assessment on the impact of the rules on fishing that consider recreational and commercial fishing interests in the area that will be affected. As the Environmental Defence Society submitted, the law specifically states that controls cannot be inserted if they are for the purpose of managing fisheries or fisheries resources controlled under the Fisheries Act. The proposed amendments to section 32 strays into that Fisheries Act purpose because assessments will focus on fishing impacts, as opposed to indigenous biodiversity. This simply adds complexity.

Additionally, the bill proposes giving powers to the Director-General of the Ministry for Primary Industries (MPI) to reject fishing assessments undertaken by councils in respect of new rules that sought to control fishing. As noted, maintaining indigenous biodiversity is a core function of regional councils. The Director-General has no role in the resource management system to protect indigenous biodiversity, and as rightly pointed out in submissions, they should not, given that MPI has the objective of promoting the utilisation of fisheries, not protection.

Natural Hazards and emergencies

The Green Party broadly supports the natural hazard and emergency provisions. Especially enabling councils and communities to make informed decisions in preventing development where there are known and emerging natural hazard risks. However, the exemption to allow granting of land use consents for infrastructure and primary production in areas that have significant risks from natural hazards is a dangerous and

unnecessarily risky change to the bill. It risks worse outcomes for the environment, communities, and infrastructure overall.

System Improvements

We support the majority of system improvement changes, particularly relating to compliance history being considered in consent decisions; financial penalties being increased; removing insurance against penalties; and the ability for the Environment Court to suspend or revoke consents.

Iwi and Hapū involvement

This bill is a clear step backwards in terms of protecting Māori rights and interests, and limits iwi and hapū involvement in resource management processes. For example, the 1-year decision making time frame for renewable energy and wood processing consents, limits arrangements to those formalised in legislation (such as Joint Management Agreements and Mana Whakahono ā Rohe). This means that those commitments that have been entered into as private agreements between iwi and hapū and applicants as part of the granting of previous consents, will not have any standing in the consenting process.

We do not support the continued approach of the Government as seeing their Te Tiriti o Waitangi obligations within legislation as limited to Treaty Settlement entities. Te Tiriti o Waitangi was entered as an enduring agreement between two sovereign parties with clear obligations toward one another. The Crown has an obligation to protect Māori rights and interests and uphold the rangatiratanga Māori have over their land and taonga. By the Crown removing or limiting the ability for Māori to exercise their right as kaitiaki of the whenua, they are failing in their duty to act in good faith toward their treaty partner and continues to risk further breaches to te Tiriti o Waitangi.

The changes to freshwater, particularly around section 70, are a breach of the principles of active protection under te Tiriti and Te Mana o Te Wai in the National Policy Statement for Freshwater. The changes will allow further degradation and pollution of taonga water sources and freshwater bodies.

The Green Party does not support this bill.

Appendix

Committee process

The Resource Management (Consenting and Other System Changes) Amendment Bill was referred to this committee on 17 December 2024. We called for submissions on the bill with a closing date of 10 February 2025. We received and considered submissions from 307 interested groups and individuals. We heard oral evidence from 113 submitters at hearings in Wellington and by videoconference.

Advice on the bill was provided by the Ministry for the Environment, the Ministry of Business, Innovation and Employment, the Ministry for Culture and Heritage, the Department of Conservation, the Ministry of Transport, the Ministry of Housing and Urban Development, and the Ministry for Primary Industries. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting. The Regulations Review Committee reported to us on the powers contained in clauses 2, 64, and 69.

Committee membership

Catherine Wedd (member from 29 January 2025 and Chairperson from 30 January 2025)

Hon Scott Simpson (member and Chairperson until 29 January 2025)

Glen Bennett (until 12 March 2025)

Hon Rachel Brooking

Mike Butterick (until 29 January 2025)

Dr Hamish Campbell (until 29 January 2025)

Simon Court

Hon Marama Davidson

Ryan Hamilton (from 29 January 2025)

Hon Melissa Lee participated in some of our consideration of this bill

Grant McCallum (from 29 January 2025)

Katie Nimon

Lan Pham

Hon Priyanca Radhakrishnan (from 12 March 2025)

Related resources

The documents we received as advice and evidence are available on the Parliament website.

Key to symbols used in reprinted bill

As reported from a select committee

<u>text inserted by a majority</u>

~~text deleted by a majority~~

Hon Chris Bishop

Resource Management (Consenting and Other System Changes) Amendment Bill

Government Bill

Contents

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Resource Management (Consenting and Other System Changes) Amendment Act **2024**.

2 Commencement

(1) This Act comes into force on the day after Royal assent, except as provided in this section.

(2) **Sections 11, 28 to 32,** ~~**34, 35,**~~ **38, and 71** come into force 2 months after Royal assent.

~~(3) **Sections 41 and 42** come into force on the earlier of—~~

~~(a) a date set by Order in Council; and~~

~~(b) the date that is 2 years after Royal assent.~~

~~(4) **Sections 7, 9, 17 to 19, 20(1) and (2), 21 to 24, and 70(3) to (22)** come into force on the earlier of—~~

~~(a) a date set by Order in Council; and~~

~~(b) the date that is 1 year after Royal assent.~~

(5) ~~**Section 66**~~ **Section 342A(4)**, as inserted by **section 66**, comes into force 2 years after Royal assent.

3 Principal Act

This Act amends the Resource Management Act 1991.

Part 1
Amendments to principal Act (except schedules)

Amendments to Part 1 of principal Act

4 Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

electricity distribution network means any part of the electricity network that is controlled by a person or body who is both an electricity distributor and an electricity operator as those terms are defined in section 2 of the Electricity Act 1992

~~**electricity network** means the electricity transmission network and the electricity distribution network~~

electricity network—

(a) means the electricity transmission network and the electricity distribution network; and

(b) includes—

(i) a facility needed for the operation, maintenance, or upgrade of either of those networks; or

(ii) a supporting and subsidiary activity in relation to either of those networks

electricity transmission network means all parts of the national grid of transmission lines and cables (aerial, underground, and ~~undersea~~ submarine, including the high-voltage direct current link), stations, and sub-stations and other works used to connect grid injection points and grid exit points to convey electricity

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; ~~lines used or intended to be used to convey electricity, and support structures for lines used or intended to be used to convey electricity, excluding facilities, lines, and support structures that a person—~~

~~(i) uses in connection with the generation of electricity for the person's use; and~~

~~(ii) does not use to generate any electricity for supply to any other person:~~

~~(d) structures for transport on land by cycleways, rail, roads, walkways, or any other means:~~

(d) any part of the electricity network:

(da) structures, facilities, or infrastructure for transport by any means (for example, cycleways, walkways, roads, rail, bridges, or ports):

(e) facilities for the loading or unloading of cargo or passengers transported ~~on land~~ by any means:

(f) any~~-activity or thing~~ infrastructure that regulations made under section 360 prescribe as long-lived infrastructure

national grid has the meaning given in section 5 of the Electricity Industry Act 2010

rule that controls fishing has the meaning given in **section 2B**

specified energy activity means—

(a) the establishment, operation, ~~or~~ maintenance, or upgrade of an activity that produces energy from solar, wind, geothermal, hydro, or biomass sources:

(b) the establishment, operation, ~~or~~ maintenance~~ of the transmission and distribution of electricity through~~, or upgrade of any part of the electricity network:

(c) the establishment, operation, maintenance, or upgrade of the storage or discharge of electricity:

(d) a supporting and subsidiary activity in relation to an activity described in **paragraphs (a) to (c)**

Treaty settlement, in **sections 86H, 88BA, and 123B**, has the meaning given to it by section 4(1) of the **Fast-track Approvals Act 2024**

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 residue~~ 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

5 New section 2B inserted (Rules that control fishing)

After section 2A, insert:

2B Rules that control fishing

(1) In this Act, unless the context otherwise requires, a **rule that controls fishing**—

(a) means a rule that directly controls fishing, 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.

(2) In this section, **fishing** excludes any aquaculture activity.

Amendments to Part 4 of principal Act

5A Section 24A amended (Power of Minister for the Environment to investigate and make recommendations)

Repeal section 24A(e).

5B Section 25 amended (Residual powers of Minister for the Environment)

Before section 25(2)(a), insert:

(aaa) the Minister has investigated the local authority under section 24A(a) or (c); and

(aab) the Minister has made recommendations to the local authority under section 24A(b) or (d); and

6 ~~First amendment to section~~ Section 25A amended (Minister may direct preparation of plan, change, or variation)

(1) In the heading to section 25A, after "**plan,**", insert "**document,**".

(2) After section 25A(2), insert:

(2A) However, the Minister must not issue a direction under subsection (1) or (2) unless—

(a) the Minister has investigated the local authority under section 24A(a) or (c) in relation to the resource management issue; and

(b) the Minister has made recommendations to the local authority under section 24A(b) or (d) in relation to the resource management issue.

(3) If a national policy statement requires a local authority to prepare a document other than a plan or policy statement and the authority has not prepared the document as required, the Minister—

(a) may direct the authority to—

(i) prepare the document; or

(ii) amend the document to meet the requirements of the national policy statement; and

(b) must, in giving a direction, specify ~~in the direction~~ a reasonable period within which the document must be prepared or amended.

(4) The Minister—

(a) may direct a local authority to—

(i) prepare a plan change or variation to address any non-compliance with a national policy statement; and

(ii) use a 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.

(5) However, the Minister must not make a direction under **subsection (3) or (4)** unless—

(a) the Minister has investigated the local authority under section 24A(c) in relation to the non-compliance with the national policy statement; and

(b) the Minister has made recommendations to the local authority under section 24A(d) in relation to that non-compliance.

~~7~~ ~~Second amendment to section 25A (Minister may direct preparation of plan, change, or variation)~~

~~After section 25A(3) (as inserted by **section 6(2)**), insert:~~

~~(4) The Minister—~~

~~(a) may direct a local authority to—~~

~~(i) prepare a plan change or variation to address any non-compliance with a national policy statement; and~~

~~(ii) use a planning process under this Act to prepare the plan change or variation; and~~

~~(b) must specify in the direction a reasonable period within which the plan change or variation must be notified.~~

8 Section 32 amended (Requirements for preparing and publishing evaluation reports)

(1) After section 32(2), insert:

(2A) A proposal that includes rules that control fishing in the coastal marine area must also include an assessment of the impact of the rules on fishing (within the meaning of **section 2B**). The assessment—

(a) must examine whether, and the extent to which, the rules would—

(i) affect the ability of local communities to take fish, aquatic life, or seaweed for non-commercial purposes; and

(ii) affect the ability of persons with a commercial interest in a species or stock to take their annual catch entitlement within the quota

management area for that species or stock and have an impact on quota owners for that species or stock within the quota management area; and

(iii) affect the ability of persons with a fishing permit for non-quota management species or stock to exercise their right to take fisheries resources under the permit; and

(b) ~~may~~ must examine—

(i) the location of the rules within the region; and

(ii) the extent to which the rules will exclude fishing; and

(iii) the extent to which fishing could be carried out in other areas; and

(iv) the extent to which the rules will increase the cost of fishing; and

(v) any other controls on fishing within the region or the relevant quota management area that are imposed under this Act, the Fisheries Act 1996, or other legislation; and

(vi) the overall impact that those other controls and the rules will have on fishing; and

~~(vii) any other relevant factor.~~

(c) may examine any other relevant factor.

(2B) The requirement in **subsection (2A)** for the assessment to examine the matters described in **subsection (2A)(a) and (b)** applies to the extent that information relating to those matters is reasonably available.

(2) In section 32(6), insert in their appropriate alphabetical order:

annual catch entitlement, **quota management area**, and **quota management system** have the meanings given to them by section 2(1) of the Fisheries Act 1996

non-quota management species or stock means any species or stock that the Fisheries Act 1996 applies to and is not subject to the quota management system

~~**9 Section 34A amended (Delegation of powers and functions to employees and other persons)**~~

~~After section 34A(2)(c), insert:~~

~~(d) a decision under **section 77FA(1) or (2)** or **section 77FB(1) or (2)**.~~

10 Section 36 amended (Administrative charges)

(1) After section 36(1)(c), insert:

(caaa) charges payable by a person carrying out a permitted activity, for the carrying out by the local authority of monitoring the person's compliance with any rule in a plan that relates to the permitted activity, but

this paragraph does not apply to a rule in a plan that permits the same activity as is permitted in a national environmental standard:

(caab) charges payable by a person who, in the opinion of an enforcement officer, ~~considers~~ has contravened this Act, a national environmental standard, a regulation, a rule in a plan, or a resource consent, for the carrying out by the local authority of any function necessary to determine whether the contravention has occurred:

(caac) charges payable by a person who is the subject of an abatement notice or an enforcement order, for the carrying out by the local authority of its functions relating to issuing, administering, supervising, or monitoring compliance with the notice or order:

(2) After section 36(1)(cb)(ii), insert:

(iia) the review is carried out under **section 128(1)(aa)**; or

(3) After section 36(1)(cb)(iv), insert:

(v) the review is carried out by a regional council under section 128(1) in accordance with a relevant national environmental standard or national planning standard~~:~~; or

(vi) the review is carried out under **section 165ZZD**:

(3A) In section 36(1)(cd), delete "certified".

(4) After section 36(3), insert:

(3A) However, subsection (3)(a) and (b) does not apply to the Minister of Conservation when exercising the responsibilities, duties, and powers conferred on the Minister by section 31A.

11 Section 37 amended (Power of waiver and extension of time limits)

After section 37(1A), insert:

(1B) A consent authority must not extend, under subsection (1)(a), the time period for processing and deciding an application for a resource consent for a wood processing activity or specified energy activity (*see* **section 88BA**).

12 Section 38 amended (Authorisation and responsibilities of enforcement officers)

(1) In section 38(1)(b), replace "of the new Ministry" with "the Ministry for Primary Industries".

(2) Repeal section 38(3) and (4).

Amendments to Part 5 of principal Act

13 Section 43A amended (Contents of national environmental standards)

~~(1) After section 43A(6)(b), insert:~~

~~(c) if the activity is an aquaculture activity, may state that an application by a consent holder to change or cancel consent conditions must be treated as an application for a resource consent for a controlled activity or a restricted discretionary activity.~~

~~(2) After section 43A(6), insert:~~

~~(6A) However, if a national environmental standard includes a rule that controls fishing in the coastal marine area, **section 71(4)(a) to (c)** applies to the rule.~~

After section 43A(6), insert:

(6A) A national environmental standard may, in relation to an aquaculture activity,—

(a) state that an application by a consent holder to change or cancel conditions must be treated as an application for a resource consent for a controlled or restricted discretionary activity; and

(b) for that purpose, state the matters over which control is reserved or discretion is restricted.

(6B) However, if a national environmental standard has the same effect as a rule that controls fishing in the coastal marine area, **section 71(4)(a) to (c)** applies to the standard as if each reference to a rule in that section were a reference to the standard.

14 Section 55 amended (Local authority recognition of national policy statements)

In section 55(2A)(a) and (2C), replace "the process" with "a process".

15 Section 70 amended (Rules about discharges)

~~(1) In section 70(1), replace "Before" with "Except as provided in **subsection (3)**, before".~~

(2) After section 70(2), insert:

(3) ~~A~~ Despite subsection (1), a regional council may include in a regional plan a rule that allows as a permitted activity a discharge described in subsection (1)(a) or (b) that may allow the effects described in subsection (1)(g) if—

(a) the council is satisfied that there are already effects described in subsection (1)(g) in the receiving waters; and

(b) the rule includes standards for the permitted activity; and

(c) the council is satisfied that those standards or those standards in combination with any other provisions in the plan will contribute to a reduction of the effects described in subsection (1)(g) over a period of time~~ specified in the rule.~~—

(i) no greater than 10 years; and

(ii) commencing on the date that the rule becomes operative.

16 New section 71 inserted (Requirements for rules that control fishing)

After section 70, insert:

71 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 that controls fishing in a regional coastal plan unless—

(a) the rule (a **notified rule**) is included in the proposed regional coastal plan when it is notified; or

(b) the rule applies within an area to which a notified rule applies.

(3) However, a regional council may, after a proposed regional coastal plan is notified, make minor adjustments to the boundaries of an area to which a rule that controls fishing applies.

(4) If a regional council includes a rule that controls fishing in a regional coastal plan,—

(a) the rule must not classify fishing as a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying 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.

(5) *See* also **clause 4B** of Schedule 1, which—

(a) requires a regional council that intends to propose a rule that controls fishing in a regional coastal plan to complete an assessment of the impact of the proposed rule in accordance with **section 32(2A)**; and

(b) restricts the notification of the proposed rule unless the Director-General of the Ministry for Primary Industries concurs with the ~~assessment~~ rule.

(6) This section applies despite section 77A.

~~**17 New sections 77FA and 77FB inserted**~~

~~Before section 77G, insert:~~

~~**77FA Decision of specified territorial authority relating to MDRS**~~

~~*Decision required if MDRS incorporated into district plan*~~

~~(1) A specified territorial authority that has incorporated the MDRS into its district plan (in accordance with section 80E(1)(a)(i)) must decide whether to—~~

~~(a) retain the MDRS in the plan; or~~

~~(b) alter the MDRS in the plan; or~~

~~(c) remove the MDRS from the plan.~~

Decision required if MDRS not incorporated into district plan

(2) A specified territorial authority that has not incorporated the MDRS into its district plan (as required by section 80E(1)(a)(i)) must decide whether to—

(a) progress its IPI; or

(b) request the Minister to approve the withdrawal of all or part of its IPI (*see* **section 80GA**).

When decision must be made

(3) A specified territorial authority must—

(a) make a decision under **subsection (1) or (2)** by resolution no later than 12 months after the commencement of this section; and

(b) notify the Minister in writing of its decision as soon as practicable after it is made.

Consequences of decision

(4) If a specified territorial authority decides (in accordance with **subsection (3)**) to alter the MDRS in its district plan or remove it from the plan, it must commence the preparation of a plan change using the streamlined planning process to—

(a) give effect to the decision; and

(b) make any changes necessary to give effect to the revised NPS-UD.

(5) If a specified territorial authority decides (in accordance with **subsection (3)**) to request the Minister to approve a withdrawal of all or part of its IPI, **section 80GA** applies.

(6) If the Minister approves the withdrawal under **section 80GA**,—

(a) the withdrawal does not take effect until the date that the specified territorial authority gives public notice of the withdrawal in accordance with clause 8D of Schedule 1; and

(b) the authority must use the streamlined planning process to make any changes necessary to give effect to the revised NPS-UD.

(7) If the Minister declines to approve the withdrawal under **section 80GA**, the specified territorial authority must continue to progress its IPI.

(8) In this section,—

revised NPS-UD means the NPS-UD that is in force immediately before the commencement of this section

streamlined planning process means the process set out in subpart 5 of this Part and Part 5 of Schedule 1.

~~**77FB Later decisions of specified territorial authority**~~

~~(1) If a specified territorial authority decides in accordance with **section 77FA(3)** to retain the MDRS in its district plan or progress its IPI and later wants to alter the MDRS in the district plan or remove it from the plan,—~~

~~(a) the authority must—~~

~~(i) decide by resolution to alter the MDRS in the plan or remove it from the plan; and~~

~~(ii) notify the Minister in writing of its decision as soon as practicable after it is made; and~~

~~(b) **section 77FA(4)** applies with all necessary modifications.~~

~~(2) If a specified territorial authority decides in accordance with **section 77FA(3)** to progress its IPI and later wants to withdraw all or part of its IPI,—~~

~~(a) the authority must—~~

~~(i) decide by resolution to request the Minister to approve the withdrawal; and~~

~~(ii) notify the Minister in writing of its decision as soon as practicable after it is made; and~~

~~(b) **sections 80GA and 77FA(6) and (7)** apply.~~

~~**18 Section 77G amended (Duty of specified territorial authorities to incorporate MDRS and give effect to policy 3 or 5 in residential zones)**~~

~~(1) Replace section 77G(1) with:~~

~~(1) A relevant residential zone of a specified territorial authority may have the MDRS incorporated into that zone.~~

~~(2) In section 77G(5)(a), replace "must" with "may".~~

~~(3) Repeal section 77G(8).~~

18A New section 77GA inserted (Application of section 77G to Auckland Council and Christchurch City Council)

After section 77G, insert:

77GA Application of section 77G to Auckland Council and Christchurch City Council

(1) The application of section 77G to Auckland Council is subject to **clause 6 of Schedule 3C**.

(2) The application of section 77G to Christchurch City Council is subject to **clause 12 of Schedule 3C**.

19 Section 80B amended (Purpose, scope, application of Schedule 1, and definitions)

(1) In section 80B(3), insert in their appropriate alphabetical order:

Auckland housing planning instrument has the meaning given in **clause 1 of Schedule 3C**

~~**housing planning instrument** means a plan change that —~~

~~(a) a specified territorial authority must progress under **section 77FA(4) or (6)(b)**; and~~

~~(b) may include amendments or provisions of a kind described in section 80E(1)(b)~~

independent commissioner means a person who is accredited under section 39A

listed planning instrument means—

(a) ~~a~~ an Auckland housing planning instrument; or

(b) a plan change that a local authority is required, by direction from the Minister under **section 25A(4)**, to prepare using the streamlined ~~planning~~ planning process

~~**revised NPS-UD** has the meaning given by **section 77FA(8)**~~

SPP panel means an independent hearings panel of 1 or more independent commissioners established under **clause 83** of Schedule 1

(2) In section 80B(2)(b), after "13,", insert "17 to 20, and".

(3) After section 80B(3), insert:

(4) *See also* **Part 1 of Schedule 3C**, which provides a process for Auckland Council to prepare an Auckland housing planning instrument using the streamlined planning process.

20 Section 80C amended (Application to responsible Minister for direction)

(1) In the heading to section 80C, after "**direction**", insert "**relating to planning instrument**".

(2) In section 80C(2), after "not a", insert "listed planning instrument or".

(3) After section 80C(2)(e), insert:

(ea) the proposed planning instrument will remove or enable the removal of heritage protection (other than that provided by a heritage order) from buildings or structures that are listed in a heritage list in a plan:

(4) In section 80C(2)(f), replace "(e)" with "**(ea)**".

(5) After section 80C(4), insert:

~~(5) In this section, **heritage list** means a schedule or other part of a plan that lists any buildings or structures that are subject to heritage protection under the plan.~~

(5) In this section and **clause 78(3B)** of Schedule 1,—

building has the meaning given in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014

heritage list means a schedule or other part of a plan that lists any buildings or structures that are subject to heritage protection under the plan.

21 New sections 80CA and 80CB inserted

After section 80C, insert:

80CA Notice to responsible Minister for direction relating to listed planning instrument

If a local authority is required ~~under **section 77FA(4) or (6)(b)** or~~ by direction given under **section 25A(4)** to prepare a listed planning instrument, it must notify the responsible Minister in accordance with **clause 75A** of Schedule 1 for a direction to use the streamlined planning process to prepare the instrument ~~proceed under this subpart~~.

80CB Local authority may apply to use same streamlined planning process to progress matters in different instruments

A local authority that notifies the responsible Minister for a direction to prepare a listed planning instrument using the streamlined planning process (under **section 80CA** or **clause 5(1) of Schedule 3C**) may also apply to the Minister (under section 80C) for a direction to prepare another planning instrument using that same streamlined planning process. ~~A local authority may use the same streamlined planning process to progress 1 or more matters in a listed planning instrument and 1 or more matters in another planning instrument.~~

21A New section 80DA inserted (Process for Auckland Council and Christchurch City Council to withdraw IPIs)

After section 80D, insert:

80DA Process for Auckland Council and Christchurch City Council to withdraw IPIs

(1) **Part 1 of Schedule 3C** sets out a process by which Auckland Council may withdraw its IPI.

(2) **Part 2 of Schedule 3C** sets out a process for the responsible Minister to approve the withdrawal of Christchurch City Council's IPI.

~~**22 Section 80E amended (Meaning of intensification planning instrument)**~~

~~After section 80E(2)(g), insert:~~

~~(h) natural hazards:~~

~~(i) business or commercial zones:~~

~~(j) matters relating to increasing or reducing the ability to develop a site (which may or may not be due to a requirement to recognise and provide for matters of national importance).~~

23 Section 80G amended (Limitations on IPIs and ISPP)

In section 80G(1)(c), after "IPI", insert "other than in accordance with~~ **section 80GA** **clause 2 or 11 of Schedule 3C**".

~~24 New section 80GA inserted (Request for approval to withdraw intensification planning instrument)~~

~~After section 80G, insert:~~

~~80GA Request for approval to withdraw intensification planning instrument~~

~~(1) This section applies if a specified territorial authority decides by resolution under **section 77FA or 77FB** to request the Minister to approve a withdrawal of all or part of its IPI.~~

~~(2) A request for approval to withdraw must—~~

~~(a) specify any parts of the IPI sought to be withdrawn; and~~

~~(b) describe the extent to which policy 3(a), (b), and (c) of the NPS-UD has been given effect by the IPI being made operative; and~~

~~(c) describe any circumstances at the time of the request in which it was not practicable for the specified territorial authority to give effect to any of those policies; and~~

~~(d) provide evidence of the matters referred to in **paragraphs (b) and (c)**.~~

~~(3) The Minister—~~

~~(a) must consider the specified territorial authority's progress in giving effect to policy 3(a), (b), and (c) of the NPS-UD (as required under sections 55 and 77G(2)) as demonstrated by any provisions of the IPI that have been made operative; and~~

~~(b) may take into account any circumstances in which it was not practicable for the specified territorial authority to give effect to any of those policies.~~

~~(4) The Minister may approve the request only if satisfied that the specified territorial authority has given effect to policy 3(a), (b), and (c) of the NPS-UD as far as is practicable.~~

~~(5) If the Minister approves the request, the Minister must notify the specified territorial authority in writing and the authority may withdraw all or part of its IPI in accordance with clause 8D of Schedule 1.~~

~~(6) If the Minister declines the request, the Minister must notify the specified territorial authority in writing and give reasons.~~

~~(7) A request for approval to withdraw may be made more than once.~~

25 Section 86B amended (When rules in proposed plans have legal effect)

(1) After section 86B(3)(e), insert:

(f) relates to natural hazards.

(2) After section 86B(4), insert:

(4A) However, a rule described in subsection (3)(a), (b), or (c) does not have immediate legal effect if, and to the extent that, it is a rule that controls fishing in a coastal marine area.

25A Section 86D amended (Environment Court may order rule to have legal effect from date other than standard date)

In section 86D(1)(b), replace "86B(3)(a) to (e)" with "86B(3)(a) to **(f)**".

26 New section 86H inserted (Rules that control fishing do not apply to Māori customary non-commercial fishing rights in ~~certain secondary~~ specified legislation ~~under Fisheries Act 1996~~)

After section 86G, insert:

86H Rules that control fishing do not apply to Māori customary non-commercial fishing rights in ~~certain secondary~~ specified legislation ~~under Fisheries Act 1996~~

(1) A rule that controls fishing does not apply to customary non-commercial fishing provided for in ~~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.~~

(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.

(2) In this section, a **rule that controls fishing** means—

(a) a rule that controls fishing within the meaning of **section 2B**; or

(b) ~~a rule in~~ a national environmental standard that classifies fishing as a prohibited or permitted activity.

Amendments to Part 6 of principal Act

27 Section 87A amended (Classes of activities)

In section 87A(2)(a)(i), after "106", insert "or **106A**".

28 Section 88 amended (Making an application)

After section 88(2), insert:

(2AA) An applicant must ensure that information required by subsection (2)(b) is provided at a level of detail that is proportionate to the ~~nature and significance of the activity~~ scale and significance of the effects that the activity may have on the environment.

(2AB) A consent authority may accept an application that does not fully comply with subsection (2)(b) if the authority is satisfied that the information provided by the applicant is proportionate to the ~~nature and significance of the activity~~ scale and significance of the effects that the activity may have on the environment.

29 New section 88BA inserted (Certain consents must be processed and decided no later than 1 year after lodgement)

After section 88B, insert:

88BA Certain consents must be processed and decided no later than 1 year after lodgement

(1) The time period in which a consent authority must process and decide an application for a resource consent for a specified energy activity or wood processing activity (the **time period**) is 1 year after the date the application is lodged.

(2) An extension of the time period for a further period not exceeding 1 year—

(a) must be granted by the consent authority if—

(i) the extension is requested by the applicant; or

(ii) the application is for the establishment of a hydro-electricity activity or geothermal activity and the extension is requested under **subsection ~~(3)~~ (3A)**; and

(b) may be granted by the consent authority no more than once in relation to any other activity if the extension is requested under **subsection ~~(3)~~ (3A)**.

~~(3) A Treaty settlement entity, iwi authority, or a recognised customary rights group may request an extension of the time period for the purpose of recognising or providing for a Treaty settlement or other arrangement under—~~

~~(a) a Mana Whakahono ā Rohe or Joint Management Agreement; or~~

~~(b) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019; or~~

~~(c) the Marine and Coastal Area (Takutai Moana) Act 2011.~~

(3) When deciding a request for an extension to which **subsection (2)(b)** applies, the consent authority must—

(a) consider all requests of that kind received before the expiry of the time period; and

(b) if the time period has been extended under **subsection (2)(a)**, consider all requests for extension from the applicant received before the expiry of the extended time period.

(3A) The following groups may request an extension of the time period for the purpose of recognising or providing for a Treaty settlement or other arrangement:

(a) iwi authorities:

(b) post-settlement governance entities:

(c) ngā hapū o Ngāti Porou as defined in section 10 of the Ngā Rohe Moana o Ngā Hāpu o Ngāti Porou Act 2019:

(d) iwi or hapū who are party to a Mana Whakahono a Rohe or joint management agreement that applies in the region:

(e) customary marine title groups (within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011):

(f) protected customary rights groups (within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011):

(g) applicant groups (within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011).

(4) A request for extension must be made to the consent authority before the expiry of the time period or extended time period and may be made more than once.

(5) If the time period is extended, the total time in which a consenting authority must process and decide an application under this section must not exceed 2 years after the date the application is lodged.

(5A) The processing and deciding of an application must be paused by the consent authority at the applicant's request.

(5B) The time during which processing and deciding of an application is paused under **subsection (5A)** does not count towards the time period or extended time period.

(6) This section applies despite sections 88B, 88C, and 88E to 88I.

~~(7) In this section, **Treaty settlement entity** has the meaning given in section 4(1) of the **Fast-track Approvals Act 2024**.~~

30 Section 92 amended (Further information, or agreement, may be requested)

After section 92(2A), insert:

(2B) Before requesting further information, a consent authority must consider whether—

(a) it needs the information for the purpose of section 104~~(1)(b) or (c) or any other provision of this Act that relates to the application~~; and

~~(b) it can assess the effects of the proposal from the information currently available; and~~

(c) any information that it seeks is proportionate to the ~~nature and significance of the proposal~~ scale and significance of the effects that the activity may have on the environment.

31 Section 92A amended (Responses to request)

In section 92A(3), replace "must" with "may".

32 New section 92AA inserted (Consequences of applicant's failure to respond to requests, etc)

After section 92A, insert:

92AA Consequences of applicant's failure to respond to requests, etc

(1) A consent authority may determine an application for a resource consent is incomplete if—

(a) the applicant was required to provide one of the following responses ~~by an agreed date~~:

(i) to provide further information in response to a request under section 92(1)~~; or~~ —

(A) within 15 working days under section 92A(1)(a); or

(B) within the time set by the consent authority under section 92A(2); or

(ii) to tell the consent authority in a written notice whether the applicant agrees to the commissioning of a report within 15 working days under section 92B(1) (after receiving notification under section 92(2)(b)); or

(iii) to pay an additional charge to the consent authority required under section 36(5) and specified in a written notice by an agreed date; or

(iv) to give the consent authority written approval for a proposed activity under section 95E(3)(a) by an agreed date; and

(b) 3 months after the ~~agreed date~~ expiry of the applicable time frame specified in paragraph (a), the applicant has not provided the required response~~.~~; and

(c) the consent authority has notified the applicant, by a method specified in section 352(1), of its intention to return the application.

~~(2) A consent authority must notify the applicant of its intention to return the application by writing to the email address that is used by the applicant.~~

(3) After determining an application as incomplete under this section, the consent authority may return the application to the applicant with written reasons for the determination.

(4) If, after an application has been returned as incomplete under this section, that application is lodged again with the consent authority, that application is to be treated as a new application.

(5) In this section, **agreed date** means a date agreed between the applicant and the consent authority.

33 Section 92B amended (Responses to notification)

In section 92B(2), replace "must" with "may".

~~34 Section 100 replaced (Obligation to hold a hearing)~~

~~Replace section 100 with:~~

~~100 Consent authority must not hold hearing unless it determines further information needed~~

~~(1) A consent authority must not hold a hearing on an application for a resource consent if it determines that it has sufficient information to decide the application.~~

~~(2) A consent authority must determine whether it has sufficient information to decide the application without holding a hearing—~~

~~(a) after the time for submissions has closed; and~~

~~(b) before deciding the application.~~

~~(3) If a Treaty settlement recognises the right of an iwi or other Māori group to participate in a hearing if one is held, the consent authority must consult the iwi or group before making a determination under **subsection (2)**.~~

~~35 New section 103BA inserted (Requirement to provide report or other evidence if hearing not held)~~

~~After section 103B, insert:~~

~~103BA Requirement to provide report or other evidence if hearing not held~~

~~If a hearing is not held on an application for a resource consent, the consent authority must provide the following evidence to the applicant and to every person who made a submission:~~

~~(a) a copy of any written report prepared under section 42A; and~~

~~(b) briefs of any other evidence; and~~

~~(c) any report commissioned under section 92(2).~~

36 Section 104 amended (Consideration of applications)

(1) After section 104(2E), insert:

(2EA) When considering a resource consent application, a consent authority may ~~take account of~~ have regard to any previous or current abatement notices, enforcement orders, infringement notices, or convictions under this Act received by the applicant, if the applicant is not a natural person or, if the applicant is a natural person, received by the applicant within the previous 7 years.

(2) After section 104(6), insert:

~~(6A) A consent authority may decline an application for a resource consent if the applicant has a record of ongoing, significant, or repeated non-compliance with a requirement under this Act that has been or is the subject of an enforcement order or a conviction under this Act.~~

(6A) A consent authority may decline an application for a resource consent if the applicant has a record of significant non-compliance with a requirement of this Act—

(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 or a conviction under this Act or, if the applicant 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.

36A Section 106 amended (Consent authority may refuse subdivision consent in certain circumstances)

Replace section 106(1A) with:

(1A) For the purpose of subsection (1)(a), 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 in respect of which the consent is sought, other land, or structures that would result from natural hazards:

(c) any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in **paragraph (b)**.

37 New section 106A inserted (Consent authority may refuse land use consent in certain circumstances)

After section 106, insert:

106A Consent authority may refuse land use consent in certain circumstances

(1) A consent authority may refuse to grant a land use consent, or may grant the consent subject to conditions, if it considers that ~~the activity for which consent is sought will —~~ there is a significant risk from natural hazards.

~~(a) create a significant risk from natural hazards if there is no existing risk from natural hazards; or~~

~~(b) increase an existing risk from natural hazards to a significant risk; or~~

~~(c) increase an existing significant risk from natural hazards.~~

(2) 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) ~~; and~~:

(b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards ~~; and~~:

(c) whether the proposed use of the land would accelerate, worsen, or result in material damage of the kind referred to in **paragraph (b)** ~~; and~~:

(d) whether the proposed use of the land would result in adverse effects on the ~~safety or health~~ health or safety of people.

(3) Conditions imposed under **subsection (1)** must be—

(a) for the purposes of avoiding or mitigating the effects ~~of any significant risk from natural hazards~~ referred to in **subsection (1)**; and

(b) of a type that could be imposed under section 108.

(4) This section does not apply to land use consents if the use of the land for which the consent is sought is—

(a) construction, upgrade, maintenance, or operation of infrastructure; or

(b) primary production activities, as described in the national planning standards.

38 New section 107G inserted (Review of draft conditions of consent)

After section 107F, insert:

107G Review of draft conditions of consent

(1) An applicant for a resource consent—

(a) may request the consent authority to provide them with any draft conditions of the resource consent; and

(b) must make the request before whichever of the following the consent authority does first:

(i) the authority issues its decision on the application; or

(ii) the authority provides a report under section 42A in accordance with section 42A(3); but

(c) may make the request only once.

~~(2) If a request is made, a consent authority—~~

~~(a) may suspend the processing of the application but no more than once; and~~

~~(b) must provide the draft conditions to the applicant and, if the application was notified, to submitters; and~~

~~(c) may provide the draft conditions to submitters who received a copy of a report provided under section 42A.~~

(2) If a request is made, a consent authority—

(a) must provide the draft conditions to the applicant and, if the application was notified, to submitters; and

(b) may suspend the time frame that applies to the processing of the application to allow the applicant and any submitters to consider the draft conditions.

(2A) **Subsection (2)(b)**—

(a) does not prevent a consent authority from continuing to process the application while the time frame is suspended; and

(b) may be applied only once during an application process.

(3) An applicant and any submitters must provide their comments on the draft conditions to the consent authority within a reasonable time specified by the consent authority.

(4) A consent authority may take those comments into account only to the extent they cover technical or minor matters.

(5) A consent authority may provide draft conditions to the persons specified in ~~**subsection (2)(b) or (c)** more than once.~~ **subsection (2)(a)**—

(a) more than once; and

(b) whether or not the applicant requests the draft conditions under **subsection (1)**; and

(c) whether or not the time frame that applies to the processing of the application is suspended under **subsection (2)(b)**.

39 Section 108 amended (Conditions of resource consents)

After section 108(2)(d), insert:

(da) a condition to mitigate any risk that the resource consent may not be complied with ~~in light of~~ having regard to any previous non-compliance by the applicant that is the subject of an abatement order, enforcement

order, infringement notice, or conviction under this Act referred to in **section 104(2EA)**:

40 Section 108AA amended (Requirements for conditions of resource consents)

In section 108AA(3), after "circumstances),", insert "**106A** (consent authority may refuse land use consent in certain circumstances),".

41 Section 123 amended (Duration of consent)

In section 123, after "123A", insert ", **123B**,".

42 New section 123B inserted (Duration of consent for renewable energy and long-lived infrastructure)

After section 123A, insert:

123B Duration of consent for renewable energy and long-lived infrastructure

(1) A resource consent authorising a renewable energy or long-lived infrastructure activity must specify the period for which it is granted.

(2) The period specified under **subsection (1)** is 35 years from the date of commencement of the consent under section 116A unless—

(a) the applicant requests a shorter period; or

(b) a national environmental standard, a national policy statement, or a national planning standard expressly allows a shorter period; or

(c) the consent 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 environment.

(3) In making a decision under **subsection (2)(c)**, ~~a~~ the consent authority must consider—

(a) the need to provide for adequate management of any adverse effects on the environment; and

(b) the benefits of providing certainty of long-term consent duration.

(4) This section applies subject to section 125.

(4A) To avoid doubt, this section does not apply to a land use consent under section 9.

(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 resource consents 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.

43 Section 125 amended (Lapsing of consents)

~~After section 125(1B), insert:~~

~~(1C) Despite subsection (1), if a resource consent authorises a renewable energy activity,—~~

~~(a) the consent lapses on the date specified in the consent; and~~

~~(b) if no date is specified, the consent lapses 10 years after the date of commencement of the consent.~~

(1) In section 125(1)(a), after "area", insert "or does not authorise a renewable energy activity".

(2) After section 125(1)(b), insert:

(c) 10 years after the date of commencement if the consent authorises a renewable energy activity.

(3) After section 125(1A)(b), insert:

(c) in the case of a consent authorising a renewable energy activity, the consent authority decides at the consent holder's request to shorten the period after which the consent lapses under **subsection (1)(c)**.

44 Section 127 amended (Change or cancellation of consent condition on application by consent holder)

(1) In section 127(3)(a), after "activity", insert "(but *see* **subsection (3B)**)".

(2) After section 127(3A), insert:

~~(3B) If the application relates to an aquaculture activity, subsection (3)(a) does not apply if a national environmental standard specifies that an application by a consent holder to change or cancel consent conditions must be treated as an application for a resource consent for a controlled or restricted discretionary activity.~~

(3B) Subsection (3)(a) does not apply if—

(a) the application relates to an aquaculture activity; and

(b) a provision in a national environmental standard—

(i) applies to applications of that kind; and

(ii) states that an application by a consent holder to change or cancel consent conditions must be treated as an application for a resource consent for a controlled or restricted discretionary activity.

45 Section 128 amended (Circumstances when consent conditions can be reviewed)

After section 128(1)(a), insert:

(aa) if the consent authority determines that the holder of the consent has contravened a condition of the consent; or

Amendments to Part 6AA of principal Act

46 Section 149N amended (Process if section 149M applies or proposed plan or change not yet prepared)

After section 149N(8)(a)(iv), insert:

(v) relates to natural hazards:

Amendments to Part 7A of principal Act

47 New subpart 5 of Part 7A inserted

After section 165ZZA, insert:

Subpart 5—Duration and review of section 384A coastal permits

165ZZB Interpretation

In this subpart, unless the context otherwise requires,—

holder means a port company that holds a section 384A 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 384A coastal permit and **permit** means a coastal permit that—

(a) authorises a port company to occupy an area specified in the permit to manage and operate the port related commercial undertakings acquired under the Port Companies Act 1988; and

(b) was approved before the commencement of this subpart by the Minister of Transport under section 384A as a coastal permit; and

(c) is in force and has not been surrendered.

Duration of section 384A coastal permits extended

165ZZC Extension of expiry date of section 384A coastal permit

(1) The expiry date of each section 384A coastal permit is extended to 30 September 2046.

(2) The conditions (if any) applying to a section 384A coastal permit that is extended under this section continue to apply, unless the conditions are modified as a result of a review of the permit undertaken by a consent authority under this subpart.

Review of section 384A coastal permits

165ZZD Requirement to undertake review

(1) Each consent authority in whose area of jurisdiction a port company holds a section 384A coastal permit must undertake a review of the permit in accordance with this subpart (*see* **section 165ZZF**).

(2) This section is in addition to—

(a) sections 127 to 129, 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 133, which preserves the power of the Environment Court under Part 12 to change or cancel a coastal permit by an enforcement order.

165ZZE Purpose and scope of review

(1) The purpose of a consent authority's review of a section 384A 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 purpose of the review, for—

(a) new conditions to be included in a section 384A coastal permit; and

(b) existing conditions to be modified.

(3) However, a consent authority—

(a) must not, in relation to a section 384A 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 108 and 108AA apply, subject to this section, to a review of a section 384A coastal permit.

Notice and other procedural requirements

165ZZF 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 384A coastal permit must initiate a review of the permit by serving a limited notice of the review on the parties described in **section 165ZZG**.

(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* **section 165ZZH**).

(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 subpart must be completed, and a decision issued, not later than 2 years after the date on which the consent authority initiates the review.

165ZZG Parties that must be given limited notice

The limited notice required by **section 165ZZF(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 384A 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) iwi and hapū that are party to a Mana Whakahono ā Rohe that applies in the whole or a part of the area of the section 384A 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 ~~a~~ the section 384A coastal permit relates; or

(B) who have applied under that Act for customary marine title but whose applications have not yet been determined~~; and~~:

(vi) iwi or hapū that are party to a joint management agreement; and

(b) the Director-General of Conservation; and

(c) the holder.

165ZZH Submissions on review

If the parties listed in **section 165ZZG** 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 **section 165ZZF**.

165ZZI Decision on review

A consent authority's decisions on its review of a section 384A coastal permit must—

(a) take into account all submissions received under **section 165ZZH**; and

(b) be consistent with the purpose of this Act.

Rights of appeal

165ZZJ 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 384A coastal permit:

(a) the holder of the section 384A coastal permit; and

(b) any person or group notified of the review under **section 165ZZF** and who made a submission under **section 165ZZH**.

(2) Section 121 applies to an appeal made under this section.

165ZZK 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 **section 165ZZJ**.

(2) Sections 299 to 304 apply to any appeal under this section.

Amendments to Part 8 of principal Act

48 Section 166 amended (Definitions)

In section 166, definition of **network utility operator**, after paragraph (ha), insert:

(hb) operates~~ an inland port (not contiguous with the coastal marine area) or the landward operations of a seaward port operated under the Port Companies Act 1988; or~~ __

(i) an inland port (not contiguous with the coastal marine area) associated with a coastal port operated under the Port Companies Act 1988; or

(ii) the landward operations of a seaward port operated under the Port Companies Act 1988; or

(iii) Northport Limited, or an inland port associated with Northport Limited; or

49 Section 168 amended (Notice of requirement to territorial authority)

After section 168(3), insert:

(3A) A notice given under subsections (1) to (3) must include an assessment of any effects that the project or work will have on the environment.

(3B) The assessment of the effects of the project or work on the environment must—

(a) have particular regard to any relevant provisions of—

(i) a national policy statement:

(ii) a New Zealand coastal policy statement:

(iii) a regional policy statement or proposed regional policy statement:

(iv) a plan or proposed plan:

(b) if the requiring authority does not have an interest in the land sufficient for undertaking the work,—

(i) give adequate consideration to any alternative sites, routes, or methods of undertaking the work; and

(ii) explain how the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought:

(c) if the requiring authority has an interest in the land sufficient for undertaking the work, and the work is likely to result in any significant adverse effect on the environment, describe possible alternative locations or methods for undertaking the activity.

(3C) The information required to be provided in the assessment need only be at a level of detail that is proportionate to the nature and significance of any effects of the project or work.

50 Section 168A amended (Notice of requirement by territorial authority)

(1) Replace section 168A(3)(b) and (c) with:

(b) if the requiring authority does not have an interest in the land sufficient for undertaking the work,—

(i) whether adequate consideration has been given to any alternative sites, routes, or methods of undertaking the work; and

(ii) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and

(c) if the requiring authority has an interest in the land sufficient for undertaking the work, and the work is likely to result in any significant adverse effect on the environment, any possible alternative locations or methods for undertaking the activity; and

(2) Replace section 168A(3A) with:

(3A) The effects to be considered under subsection (3)—

(a) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the requirement, as long as those effects result from measures proposed or agreed to by the requiring authority; and

(b) need only be considered at a level of detail that is proportionate to the nature and significance of any effects of the project or work.

51 Section 171 amended (Recommendation by territorial authority)

Replace section 171(1)(b) and (c) with:

(b) if the requiring authority does not have an interest in the land sufficient for undertaking the work,—

(i) whether adequate consideration has been given to any alternative sites, routes, or methods of undertaking the work; and

(ii) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and

(c) if the requiring authority has an interest in the land sufficient for undertaking the work, and the work is likely to result in any significant adverse effect on the environment, any possible alternative locations or methods for undertaking the activity; and

52 Section 184 amended (Lapsing of designations which have not been given effect to)

In section 184(1), replace “5 years” with “10 years”.

53 Section 184A amended (Lapsing of designations of territorial authority in its own district)

In section 184A(2), replace “5 years” with “10 years”.

Amendments to Part 9A of principal Act

53A Section 217A amended (Purpose)

In section 217A, delete "certified".

54 Section 217B amended (Interpretation)

In section 217B, insert in ~~its~~ their appropriate alphabetical order:

approved industry organisation means an industry organisation approved under **section 217KA**

freshwater farm plan means a freshwater farm plan required under section 217D

54A Section 217D amended (Farm must have certified freshwater farm plan if it meets land use threshold)

(1) In the heading to section 217D, delete "**certified**".

(2) Replace section 217D(1) with:

(1) A farm must have a freshwater farm plan if—

(a) 50 or more hectares of the farm is pastoral, arable, or mixed land use; 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 section 217M(1)(b); or

(e) the farm holds a Dairy Supply Number.

(3) In section 217D(2), delete "certified".

54B Section 217E amended (Main duties of farm operators)

(1) Before section 217E(1), insert:

(1AAA) 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) In section 217E(1), delete "certified" in each place.

(3) Repeal section 217E(1)(b).

(4) After section 217E(3), insert:

(4) A farm operator must comply with the same freshwater farm plan certification requirements under this Act as a farm operator referred to in **subsection (1AAA)** if—

(a) the farm operator is not required under **subsection (1AAA)** to have the farm's freshwater farm plan certified; but

(b) the farm operator chooses to have the farm's freshwater farm plan certified.

54C Section 217G amended (Certification of freshwater farm plan)

Replace section 217G(1) with:

(1) A farm operator who must, under **section 217E(1AAA)**, submit a freshwater farm plan for certification must do so within the prescribed time frame.

55 Section 217H amended (Audit of farm for compliance with certified freshwater farm plan)

(1) In the heading to section 217H, delete "**certified**".

(2) In section 217H(1)(a), delete "certified".

(3) Replace section 217H(3) to (5) with:

(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.

56 Section 217I amended (Functions of regional councils)

(1) In section 217I(1)(a),—

(a) replace "their" with "its"; and

(b) replace "them" with "it".

(2) After section 217I(1)(d), insert:

(e) to monitor the delivery of certification or audit services, or both, by approved industry organisations in the council's region for compliance with this Part and with any applicable requirements prescribed in regulations.

(3) Replace section 217I(2) with:

(2) A regional council may do all or any of the following:

(a) require a farm operator to produce a ~~certified~~ freshwater farm plan for inspection:

(b) ~~request~~ require information from an approved industry organisation that the council considers reasonably necessary for carrying out its functions under this section:

(c) notify the Minister of any significant or persistent concerns regarding the performance under this Part of an approved industry organisation operat-

ing in the council's region, including concerns arising in the course of the council's exercise of its functions under **subsection (1)(e)**.

56A Section 217J amended (Records that must be kept by regional council)

Replace section 217J(a) to (c) with:

(a) the date that each farm that is required under **section 217D(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 **section 217E(1AAA) or (4)** 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 the plan was last certified; and

57 Section 217KA replaced (Regional council may approve industry organisation to provide certification or audit services)

Replace section 217KA with:

217KA 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 Part to its members—

(a) if the Minister is satisfied that the organisation meets any applicable eligibility requirements prescribed in regulations; and

(b) after consulting with ~~relevant~~ 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 with ~~relevant~~ 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 **subsection (2)** ceases to the extent that the industry organisation's approval is revoked under **subsection (3)**.

(6) The Minister may request information from an industry organisation that the Minister considers reasonably necessary before deciding to approve the organisation or revoke its approval.

57A Section 217L amended (Relationship between certified freshwater farm plan and specified instruments)

(1) In the heading to section 217L, delete "**certified**".

(2) In section 217L(1), delete "certified".

58 Section 217M amended (Regulations relating to freshwater farm plans)

(1AAA) After section 217M(1)(c), insert:

(ca) prescribe the kinds of farm activities or catchments in respect of which a certified freshwater farm plan is required:

(1AAB) In section 217M(1)(e), replace "must be certified" with "that must be certified is certified".

(1) In section 217M(1)(fa), replace "for approval of industry organisations under section 217KA" with "that must be met for the approval of industry organisations under **section 217KA** or the revocation of their approval".

(2) In section 217M(1)(g), replace "for the purpose of audits of farms for compliance with certified freshwater farm plans, prescribe" with "provide for the form and manner in which a farm must be audited for compliance with a ~~certified~~ freshwater farm plan, including (without limitation) prescribing".

(3) Repeal section 217M(1)(g)(iii).

(4) In section 217M(1)(g)(iv), delete "under section 217H(5)(c)".

(4A) In section 217M(1)(g)(v), delete "certified".

(5) After section 217M(1)(g)(v), insert:

(va) the information that the farm operator must provide to the auditor for the purpose of the audit; and

(6) After section 217M(2), insert:

(2A) Regulations under this section may apply to all certifiers or auditors generally, or may apply only to certifiers and auditors appointed—

(a) by a regional council under section 217K(1); or

(b) by an approved industry organisation under **section 217KA(2)**.

Amendments to Part 12 of principal Act

~~**59 New section 314A inserted (Environment Court may revoke or suspend resource consent)**~~

~~After section 314, insert:~~

~~**314A Environment Court may revoke or suspend resource consent**~~

~~(1) If a local authority or the EPA is satisfied that there has been ongoing, significant, or repeated non-compliance with this Act in relation to a resource consent, it may apply to the Environment Court (in any case) or the District Court (if proceedings for an offence are taken in that court) for an enforcement order—~~

~~(a) revoking the resource consent in whole or in part; or~~

~~(b) suspending the resource consent in whole or in part for a specified period.~~

~~(2) The local authority or EPA must demonstrate in its application that, on the balance of probabilities, the revocation or suspension is in the best interests of the public and will not result in any adverse effects on the environment.~~

~~(3) The local authority or EPA must, within 5 working days after it applies to the court, serve notice of the application on every person directly affected by the application.~~

~~(4) The court may, having regard to the nature of the non-compliance,—~~

~~(a) revoke the resource consent in whole or in part with effect on a specified date; or~~

~~(b) suspend the resource consent in whole or in part for a specified period without conditions or subject to any conditions the court thinks fit.~~

~~(5) **Subsection (4)** does not apply until the holder of the resource consent has been given an opportunity to be heard.~~

~~(6) 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 resource consent under this section.~~

59 Section 314 amended (Scope of enforcement order)

(1) After section 314(1)(e), insert:

(ea) revoke a resource consent (in whole or in part) or suspend a resource consent (in whole or in part for a specified period) 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 consent 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 consent 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:

(2) After section 314(4), insert:

(4A) The court may, having regard to the nature of the non-compliance,—

(a) revoke the resource consent, and any resource consents associated with that consent which enable the same activity, in whole or in part, with effect on a specified date; or

(b) suspend the resource consent, and any resource consents associated with that consent 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.

59A Section 316 amended (Application for enforcement order)

After section 316(2)(a), insert:

(ab) a local authority, a consent authority, or the EPA for an enforcement order under **section 314(1)(ea)**; and

59B Section 319 amended (Decision on application)

After section 319(1), insert:

(1A) 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 resource consent under **section 314(1)(ea)**.

59C Section 320 amended (Interim enforcement order)

After section 320(1), insert:

(1A) Despite subsection (1), no person may apply for an interim enforcement order under **section 314(1)(ea)**.

59D Section 321 amended (Change or cancellation of enforcement order)

After section 321(2), insert:

(3) No person may apply to change or cancel an order that revokes a resource consent on the grounds set out in **section 314(1)(ea)**.

60 Section 322 amended (Scope of abatement notice)

Replace section 322(1)(b) with:

(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 environmental standard, a regulation, a rule in a plan or a proposed plan, or a resource consent; or

(ii) to avoid, remedy, or mitigate any actual or likely adverse effect on the environment—

(A) caused by or on behalf of the person; or

(B) relating to any land of which the person is the owner or occupier:

61 Section 327 amended (Issue and effect of excessive noise direction)

In section 327(3), replace "72 hours" with "8 days".

62 Section 330 amended (Emergency works and power to take preventive or remedial action)

After section 330(3), insert:

(3A) However, if the occupier cannot be found in the place, subsection (3) is satisfied, and the local authority or consent 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 consent 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.

63 Section 330A amended (Resource consents for emergency works)

In section 330A(2), replace "20" with "30".

64 New ~~section~~ sections 331AA and 331AB inserted ~~(Emergency response regulations)~~

After section 331, insert:

331AA 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 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 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 ~~relevant Māori entities,~~ 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):

(fa) have regard to any comments from affected councils and the groups referred to in **paragraph (f)**:

(g) provide a draft of the proposed regulations to the committee of the House of Representatives that is responsible for the review of secondary legislation:

(h) 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)(h)** or written comments provided in response to an invitation from the Minister under **subsection ~~(2)(f) or~~ (3)** must be provided within 5 working days of the draft being provided to the committee or to the invitation being received, respectively, unless the Minister extends that period.

(4A) Written comments provided in response to an invitation from the Minister under **subsection (2)(f)** must be provided within 10 working days of the invitation being received, unless the Minister extends that period.

(5) Emergency response regulations—

(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 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.

(6) Emergency response regulations 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 unitary, regional, and district plan development processes:

(c) apply a temporary stay to types or categories of consent applications (processing and granting of consents):

(d) limit or exclude rights of appeal (other than judicial review) in relation to decisions on resource consents, plan changes, or variations:

(e) extend the time frames for lodging retrospective resource consents for emergency works under section 330:

(f) extend or shorten consent processing time frames.

(7) Emergency response regulations may incorporate material by reference. Schedule 1AA applies as if references in that schedule to a national environmental standard, national policy statement, or New Zealand coastal policy statement were references to regulations under this section.

(8) Emergency response regulations are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

331AB Annual review of emergency response regulations

The Minister must, within 12 months after any regulation made under **section 331AA** comes into force, and once in every 12 months after that while the regulation remains in force,—

(a) carry out a review of the operation and effectiveness of the regulation; 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.

65 Section 339 amended (Penalties)

(1) In section 339(1)(a), replace "2 years" with "18 months".

(2) In section 339(1)(a), replace "$300,000" with "$1,000,000".

(3) In section 339(1)(b), replace "$600,000" with "$10,000,000".

66 New section 342A inserted (Insurance against fines unlawful)

After section 342, insert:

342A 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) 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

(c) 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

(d) 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.

Amendments to Part 14 of principal Act

67 Section 352 amended (Service of documents)

Replace section 352(1) with:

(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 it to the person at an email address that is used by the person; or

(e) complying with a means of service prescribed in regulations made under section 360.

68 New section 359A inserted (Validation of royalties collected for sand, shingle, and other natural material)

After section 359, insert:

359A Validation of royalties collected for sand, shingle, and other natural material

(1) This section applies to royalties collected by a regional council for the removal of sand, shingle, or other natural material by the holder of a coastal permit in accordance with regulation 9 of the Resource Management (Transitional, Fees, Rents, and Royalties) Regulations 1991.

(2) The royalties were and always have been validly imposed.

69 Section 360 amended (Regulations)

(1) After section 360(1)(hq), insert:

(hr) prescribing ~~an activity or thing to be~~ infrastructure as long-lived infrastructure for the purpose of paragraph (f) of the definition of long-lived infrastructure in section 2(1):

(2) After section 360(2F), insert:

(2FA) Regulations made under **subsection (1)(hr)** may be made only on the Minister's recommendation after being satisfied that the infrastructure—

(a) has an expected lifespan of 50 years; and

(b) is suitable for a consent duration of 35 years; and

(c) benefits the public.

Part 2
Amendments to schedules ~~Schedules 1, 4, and 12~~ of principal Act and amendments to other enactments

Amendments to schedules of principal Act

70 Schedule 1 amended

(1) In Schedule 1, after clause 4A, insert:

4B Pre-notification requirement for proposed rule that controls fishing

(1) If a regional council intends to propose in a regional coastal plan a rule (**proposed rule**) that controls fishing in an area,—

(a) the council must complete the assessment required under **section 32(2A)** and give it to the Director-General; and

(b) the Director-General must, within ~~a reasonable time frame~~ 40 working days, advise the council of their decision on whether they concur with the ~~assessment~~ proposed rule.

(1A) In deciding whether to concur with a proposed rule that controls fishing, the Director-General must have regard only to the matters described in **section 32(2A)**.

~~(2) The Director-General may concur with the assessment (or a revised assessment) only if they—~~

~~(a) are satisfied that the assessment has given appropriate consideration to the impacts of the rule on fishing in accordance with the requirements of **section 32(2A)**; and~~

~~(b) are satisfied with the quality, clarity, and accuracy of the information provided in the assessment; and~~

~~(c) have consulted Te Ohu Kai Moana about their proposed decision.~~

(2) The Director-General must concur with the proposed rule only if they—

(a) are satisfied that the rule will not have an undue adverse effect on the matters described in **section 32(2A)(a)**; and

(b) have consulted Te Ohu Kai Moana about their proposed decision.

(3) If the Director-General concurs with the ~~assessment~~ proposed rule,—

(a) the Director-General must advise the regional council in writing of their decision; and

(b) the council may notify the rule.

(4) If the Director-General does not concur with the ~~assessment~~ proposed rule,—

(a) the Director-General must—

(i) advise the regional council in writing of their decision; and

(ii) include reasons for their decision ~~and recommendations on how the assessment may be corrected~~; and

(b) the council must not notify the rule in the plan unless—

(i) the council revises the ~~assessment~~ rule to address the Director-General's concerns as set out in their decision; and

(ii) the Director-General advises the council in writing that they concur with the revised ~~assessment~~ rule.

(5) In this section,—

adverse effect has the meaning given in section 186C of the Fisheries Act 1996

Director-General means the Director-General of the Ministry for Primary Industries

Te Ohu Kai Moana has the meaning given in section 5(1) of the Maori Fisheries Act 2004.

(2) In Schedule 1, after clause 6A, insert:

6B Submissions relating to rules that control fishing

(1) After a rule that controls fishing in an area is notified in a proposed regional coastal plan,—

(a) a person may make a submission on the content of the rule; but

(b) a regional council must not accept a submission on the rule to the extent that the submission seeks to—

(i) enlarge the area to which the rule applies; or

(ii) add any other area to which the rule would apply.

(2) *See* also **section 71**.

~~(3) In Schedule 1, repeal clause 25(4A).~~

Amendments to streamlined planning process

(3A) In Schedule 1, after clause 75(b)(iv), insert:

(iva) the number of independent commissioners that the authority wants on the SPP panel and the expertise required of the panel; and

(4) In Schedule 1, after clause 75, insert:

75A Content of notice for direction relating to listed planning instrument

(1) This clause applies to a notice by a local authority to a Minister for a direction under **section 80CA** or **clause 5(1) of Schedule 3C** to use the streamlined planning process to prepare a listed planning instrument.

(2) The notice must be in writing and must describe—

(a) the matters that the listed planning instrument will address~~:~~; and

(b) the process that the local authority wishes to use and the time frames that it proposes for the steps in that process~~:~~; and

(c) the persons that the authority considers are likely to be affected by the listed planning instrument~~:~~; and

(d) the number of independent commissioners that the authority wants on the SPP panel and the expertise required of the panel~~.~~; and

(e) the implications of using the process that the local authority wishes to use for any relevant iwi participation legislation or Mana Whakahono a Rohe entered into under subpart 2 of Part 5 of this Act.

(3) If the listed planning instrument is ~~a~~ an Auckland housing planning instrument, the notice must also contain information on how the instrument complies with **clause 4 of Schedule 3C** ~~quantity and location of development capacity that is enabled by the instrument will give effect to the revised NPS-UD~~.

(5) In Schedule 1, heading to clause 76, replace "**request**" with "**application or notice**".

(6) In Schedule 1, replace clause 76(1) with:

(1) This clause applies if the Minister receives—

(a) an application under section 80C from a local authority to use the streamlined planning process to prepare a planning document; or

(b) a notice under **section 80CA** or **clause 5(1) of Schedule 3C** from a local authority for a direction to use the streamlined planning process~~.~~ to prepare a listed planning document; or

(c) an application under section 80C and a notice under **section 80CA** or **clause 5(1) of Schedule 3C** to prepare a planning document and a listed planning document using the same streamlined planning process.

(7) In Schedule 1, clause 76(2)(a) and (b), replace "request" with "application or notice (or both)".

(7A) In Schedule 1, after clause 76(2)(e), insert:

(f) if **subclause (1)(c)** applies, the appropriateness of using the same streamlined planning process to prepare the planning instrument and listed planning instrument.

(8) In Schedule 1, clause 76(3), replace "request" with "application or notice (or both)".

(9) In Schedule 1, after clause 76(4), insert:

(4A) However, if the Minister receives a notice under **section 80CA** or **clause 5(1) of Schedule 3C**, subclauses (4)(b) to (d) do not apply in relation to the notice.

(9A) In Schedule 1, heading to clause 77, after "**decision**", insert "**on application under section 80C**".

(9B) In Schedule 1, clause 77(1), after "application", insert "under section 80C".

(9C) In Schedule 1, after clause 77(2), insert:

(3) If the Minister has received an application and a notice of a kind referred to in **clause 76(1)(c)**,—

(a) this clause applies to the Minister's decision on the application; and

(b) **clause 77A** applies in relation to the notice.

(9D) In Schedule 1, after clause 77, insert:

77A Responsible Minister must give direction relating to listed planning instrument

(1) The responsible Minister must give a direction under clause 78 in response to a notice under **section 80CA** or **clause 5(1) of Schedule 3C**.

(2) The responsible Minister's direction must be—

(a) given in writing with reasons; and

(b) served by the Minister on the relevant local authority.

(10) In Schedule 1, clause 78(1), after "80C", insert ", or to which a notice under **section 80CA** or **clause 5(1) of Schedule 3C** relates, or both,".

(11) In Schedule 1, clause 78(2)(a), replace "request" with "application or notice (or both)".

(12) In Schedule 1, after clause 78(3), insert:

(3A) If the direction relates to ~~a~~ an Auckland housing planning instrument, the Minister's statement of expectations may include expectations about how the instrument will comply with **clause 4 of Schedule 3C**. ~~for the local authority—~~

~~(a) must be consistent with any requirements for development in the revised NPS-UD; and~~

~~(b) may include expectations about the quantity and location of development capacity that will be enabled by that instrument.~~

(3B) If the direction relates to the removal, or enabling the removal, of heritage protection from buildings (within the meaning of **section 80C(5)**) or structures that are listed in a heritage list (within the meaning of **section 80C(5)**), the Minister's statement of expectations must include the following criteria:

(a) heritage significance:

(b) physical condition, including degree of seismic risk:

(c) current or proposed use of the building or structure and the economic viability of any proposed use:

(d) whether the owner agrees to the removal of the heritage protection.

(13) In Schedule 1, after clause 78(4), insert:

(4A) If the direction relates to ~~a~~ an Auckland housing planning instrument, the Minister may include in the direction a requirement for Auckland Council ~~the local authority~~ to—

(a) publish the information provided to the Minister under **clause 75A(3)** ~~**75A(2)**~~ at the same time as it publicly notifies the instrument under clause 5 of this schedule; or

(b) update the information before publishing it, if there has been a significant change of circumstances in Auckland ~~the district or region~~.

(4B) A direction may also provide for—

(a) the composition of the SPP panel; and

(b) the expertise required of the panel; and

(c) the Minister to appoint up to half the members of the panel.

(4C) The direction must specify the number of members on the SPP panel that the Minister will appoint.

(13A) In Schedule 1, after clause 78(6), insert:

(6A) If the local authority has applied under section 80C and given notice under **section 80CA** or **clause 5(1) of Schedule 3C**, and seeks to use the same streamlined planning process to prepare the planning instrument and listed planning instrument, the direction may require the local authority to—

(a) use the same streamlined planning process to prepare those documents; or

(b) use different streamlined planning processes to prepare those documents.

(13B) In Schedule 1, replace clause 80(4) with:

(4) Unless an amendment made under this clause has no more than a minor effect or is made to correct a technical error, the following clauses apply:

(a) clause 76(2) to (6); and

(b) clause 77(2) or **77A(2)** (as the case requires); and

(c) clause 78(3) to (5).

(14) In Schedule 1, replace clause 82(1)(b) with:

(b) must have particular regard to the statement of expectations and, if the direction is of the kind described in **clause 78(3B)**, must also have particular regard to the criteria in that clause.

(15) In Schedule 1, replace clauses 83 to 87 with:

83 Establishment of SPP panel

(1) A local authority must—

(a) establish an SPP panel to receive submissions and make recommendations to the local authority; and

(b) appoint 1 member of the panel to be the chairperson of the panel; and

(c) delegate the necessary functions to the panel.

(2) The Minister and the local authority must not appoint to the SPP panel an independent commissioner who is an elected member of the local authority.

(3) In this clause, **necessary functions**—

(a) means the functions, powers, or duties that the SPP panel requires to carry out its role under **subclause (1)**; and

(b) includes the functions, powers, or duties that a local authority requires in order to hold a hearing under clause 8B; but

(c) does not include—

(i) the approval of a proposed policy statement or plan under clause 17:

(ii) this power of delegation.

84 Powers, functions, and duties of SPP panel

(1) Clauses 97~~ and 98~~ to 100 apply to an SPP panel with all necessary modifications as if~~ a reference to an independent hearings panel were a reference to an SPP panel.~~—

(a) a reference to an independent hearings panel were a reference to an SPP panel; and

(b) a reference to a specified territorial authority were a reference to a local authority; and

(c) a reference to an IPI were a reference to a planning instrument.

~~(2) Clauses 99 and 100 apply to an SPP panel carrying out its functions as if—~~

~~(a) a reference to a specified territorial authority were a reference to a local authority; and~~

~~(b) a reference to an IPI were a reference to a planning instrument.~~

(3) An SPP panel must have particular regard to the responsible Minister's statement of expectations included in the direction given under clause 78 and, if the direction is a kind described in **clause 78(3B)**, the panel must also have particular regard to the criteria in that clause.

(4) In addition to the matters required under clause 100(2), a report of an SPP panel must—

(a) include recommendations on any provision included in the proposed plan under clause 4(5) and (6) (which relates to designations and heritage orders); but

(b) not include recommendations on any existing designations or heritage orders that are included in the proposed plan without modification and on which no submissions are received.

(5) A report of an SPP panel must also state how the panel has complied with **subclause (3)**.

Compare: 2010 No 37 s 144(4), (6)

85 Local authority to consider recommendations and notify decisions on them

Local authority to decide on recommendations of SPP panel

(1) The relevant local authority must—

(a) decide whether to accept or reject each recommendation of the SPP panel; and

(b) for each rejected recommendation that is within the scope of submissions, decide an alternative solution, which—

(i) must be within the scope of the submissions; and

(ii) may include elements of both the planning instrument notified and the recommendations in respect of that part of the planning instrument; and

(c) for each rejected recommendation that is outside the scope of submissions, decide an alternative solution, which may be within or outside the scope of submissions; and

(d) include an assessment of each alternative solution to a rejected recommendation in the further evaluation report required under section 32AA.

(2) The local authority must make decisions under **subclause (1)** in a manner that is consistent with any relevant iwi participation legislation, Mana Whakahono a Rohe, or joint management agreement.

(3) When making decisions under **subclause (1)**, the local authority—

(a) is not, subject to **subclause (2)**, required to consult any person or consider submissions or other evidence from any person; and

(b) must not consider any submission or other evidence unless it was made available to the SPP panel before they made the recommendation; and

(c) may, to avoid doubt, accept recommendations that are beyond the scope of the submissions made on the planning instrument.

Recommendations and decisions relating to requirement, designation, or heritage order

(4) The following applies if a planning instrument includes a requirement, designation, or heritage order and the SPP panel makes recommendations relating to the requirement, designation, or heritage order:

(a) if the local authority accepts a recommendation relating to the requirement, designation, or heritage order,—

(i) the recommendation becomes an approved recommendation; and

(ii) the local authority must serve the approved recommendation on the relevant requiring authority or heritage protection authority, and clauses 9, 11(2) and (3), and 13 apply:

(b) if the local authority rejects a recommendation relating to a requirement, the recommendation must be treated as a recommendation to withdraw the requirement:

(c) if the local authority rejects a recommendation relating to an existing designation or heritage order, the recommendation must be treated as a recommendation to confirm the existing designation or heritage order without change.

Notification of decisions on recommendations

(5) The local authority must, within the time frame specified in the direction, publicly notify its decisions under **subclause (1)** and the recommendations under **subclause (4)** in a way that sets out the following information:

(a) each recommendation that it accepts:

(b) each recommendation that it rejects and the reasons for doing so:

(c) the alternative solution for each rejected recommendation.

~~(6) On and from the date that the decisions are publicly notified, the planning instrument is amended in accordance with the decisions.~~

(7) After the local authority publicly notifies its decisions, it must comply with clause 11 as if the decisions were made under clause 9(2) and notified under clause 10(4)(b).

(8) A local authority must publicly notify the availability of the report of the SPP panel, the local authority's decisions, and where the report and the decisions may be viewed or accessed.

(9) In this clause, **direction** means the direction made under clause 78.

Compare: 1991 No 69 Schedule 1 cl 52

~~**86 Recommendations accepted by local authority become operative**~~

~~(1) This clause applies when a local authority gives public notice (in accordance with **clause 85(5)**) of its decisions on the recommendations made by the SPP panel.~~

~~(2) If the local authority accepts a recommendation, the recommendation becomes operative in accordance with clause 20 and the provisions of that clause apply.~~

~~(3) Not later than 5 working days after the date that the local authority gives public notice of its decisions under **clause 85(5)**, the local authority must serve the public notice on—~~

~~(a) all submitters; and~~

~~(b) if relevant, the person who requested a private plan change to be included in the planning instrument; and~~

~~(c) if relevant, the requiring authority or heritage protection authority whose requirement, designation, or heritage order is included in the planning instrument; and~~

~~(d) in the case of a territorial authority's own requirement, designation, or heritage order, the landowners and occupiers who, in the opinion of the territorial authority, are directly affected by the decision.~~

~~(4) The local authority must also—~~

~~(a) make a copy of the public notice and the reports of the SPP panel prepared under clause 100 publicly available (whether physically or by~~

~~electronic means) at all of its offices and at all public libraries in the district (if it relates to a district plan) or region (in all other cases); and~~

~~(b) include with the notice a statement of the places where a copy of the decision is available; and~~

~~(c) send or provide, on request, a copy of the decision within 3 working days after the request is received.~~

86 Proposed planning instrument treated as approved or adopted on and from certain dates

(1) This clause applies when a local authority gives public notice (in accordance with **clause 85(5)**) of its decisions on the recommendations made by the SPP panel.

(2) Each part of the proposed plan (other than any parts relating to the coastal marine area, requirements, designations, and heritage orders)—

(a) is amended in accordance with the decisions of the local authority; and

(b) for recommendations accepted by the local authority, is treated as approved by the local authority under clause 17(1); and

(c) for alternative solutions decided by the local authority (in response to rejected recommendations), is treated as approved by the local authority under clause 17(1) on and from—

(i) the date on which the appeal period expires, if no appeals relating to that part of the proposed plan are made under **clause 93A**; or

(ii) the date on which all appeals, including further appeals, relating to that part are made under **clause 93A**.

(3) Each part of the proposed plan relating to the coastal marine area—

(a) is amended in accordance with the decisions of the local authority; and

(b) for recommendations accepted by the local authority, is treated as adopted by the local authority under clause 18(1); and

(c) for alternative solutions decided by the local authority (in response to rejected recommendations), is treated as adopted by the local authority under clause 18(1) on and from—

(i) the date on which the appeal period expires, if no appeals relating to that part of the proposed plan are made under **clause 93A**; or

(ii) the date on which all appeals, including further appeals, relating to that part are made under **clause 93A**; and

(d) must be sent to the Minister for Conservation for their approval under clause 19.

(4) The part of the proposed plan relating to a requirement, designation, or heritage order—

(a) is amended in accordance with the decision about the requirement, designation, or heritage order—

(i) notified by the requiring authority under clause 13, for a requirement, designation, or heritage order of a requiring authority other than the territorial authority; or

(ii) notified by the territorial authority under clause 11(2), for a requirement, designation, or heritage order of the territorial authority; and

(b) for a recommendation relating to a requirement that is rejected by the territorial authority, is treated as a recommendation to withdraw the requirement on and from—

(i) the date on which the appeal period expires, if no appeals relating to the requirement are made under clause 92 or 93; or

(ii) the date on which all appeals, including further appeals, relating to the requirement are determined, if appeals are made under those clauses; and

(c) for a recommendation relating to an existing designation or heritage order that is rejected by the territorial authority, is treated as a recommendation to confirm the existing designation or heritage order on and from—

(i) the date on which the appeal period expires, if no appeals relating to the designation or heritage order are made under clause 92 or 93; or

(ii) the date on which all appeals, including further appeals, relating to the designation or heritage order are determined, if appeals are made under those clauses.

(5) However, the parts of the proposed plan relating to any existing designations or heritage orders that were included in the proposed plan without modification, and on which no submissions were received, are treated as approved by the territorial authority under clause 17(1) on and from the date on which the authority publicly notifies its decisions under **clause 85(5)**.

(6) To avoid doubt, any of following decisions of a local authority that have been the subject of an appeal under section 92, 93, or **93A** is the decision as modified by the decision of the court on appeal:

(a) an alternative solution referred to in **subclause (2)(c) or (3)(c)**:

(b) a rejected recommendation relating to a requirement referred to in **subclause (4)(b)**:

(c) a rejected recommendation relating to an existing designation or heritage order referred to in **subclause (4)(c)**.

(7) The local authority must notify the date on which the planning instrument or each part of the instrument, as the case may be, will become operative in accordance with clause 20.

(15A) In Schedule 1, replace clause 88(1) and (2) with:

(1) If a local authority that is subject to a direction under clause 78 has initiated the preparation of a policy statement or plan, the local authority may withdraw the proposed planning instrument set out in the direction—

(a) at any time before it is made operative under clause 20; but

(b) in the case of provisions relating to the coastal marine area, at any time before the Minister of Conservation makes a decision under clause 19.

(2) A person who has requested a private plan change may withdraw the request in accordance with **subclause (1)(a) or (b)** (which applies with any necessary modifications).

(16) In Schedule 1, repeal clause 90 and the cross-heading above clause 90.

(17) In Schedule 1, clause 91(1), after "local authority", insert "in relation to a recommendation it has accepted under **clause 85(1)(a)**".

(18) In Schedule 1, clause 91(1), replace "and 93" with ", 93, and **93A**".

(19) In Schedule 1, clause 92(1), replace "85(2) or (3)" with "**85~~(5)~~(4)**".

(20) In Schedule 1, clause 93(1), replace "85(2) or (3)" with "**85~~(5)~~(4)**".

(21) In Schedule 1, after clause 93, insert:

93A Right of appeal in relation to rejected recommendation

(1) A person who made a submission on a planning instrument may appeal to the Environment Court in respect of a provision or matter—

(a) that relates to the planning instrument; and

(b) that the person had addressed in their submission; and

(c) in relation to which a local authority rejected a recommendation of the SPP panel and decided an alternative solution that resulted in—

(i) a provision or matter being included in the planning instrument; or

(ii) a provision or matter being excluded from the planning instrument.

(2) If the local authority's alternative solution included elements of the recommendation, the right of appeal is limited to the effect of the differences between the alternative solution and the recommendation.

(3) Except as provided in this clause, the following provisions apply with all necessary modifications:

(a) Parts 11 and 11A but not section 308; and

(b) clauses 14(4) and (5) and 15(1) and (2) of this schedule.

(4) To avoid doubt, no further appeal lies to the Court of Appeal or Supreme Court (by leave or otherwise).

(21A) In Schedule 1, clause 94(1), replace "or 93" with ", 93, or **93A**".

(21B) In Schedule 1, after clause 94(1)(b), insert:

(c) if the subject matter of the notice of appeal relates to the coastal marine area, be served on the Minister of Conservation not later than 5 working days after the notice is lodged.

(22) In Schedule 1, after clause 95(2)(n), insert:

(na) clause 8D (which relates to the withdrawal of proposed policy statements and plans):

(23) In Schedule 1, after clause 105(2)(b)(iii), insert:

(iv) if the specified territorial authority is Auckland Council or Christchurch City Council,—

(A) whether that territorial authority has withdrawn any part of its IPI in accordance with **Schedule 3C**; and

(B) any advice from that territorial authority that it intends to withdraw, or seek approval to withdraw, any part of its IPI in accordance with **Schedule 3C**.

70A New Schedule 3C inserted

After Schedule 3B, insert the **Schedule 3C** set out in **Schedule 1** of this Act.

71 Schedule 4 amended

In Schedule 4, clause 1, insert as subclause (2):

(2) However, the requirements in this schedule are subject to section 88(2), **(2AA), and (2AB)**.

72 Schedule 12 amended

In Schedule 12,—

(a) insert the Part set out in ~~the~~ **Schedule 2** of this Act as the last Part; and

(b) make all necessary consequential amendments.

Amendment to Conservation Act 1987

73 Principal Act

Section 73 amends the Conservation Act 1987.

74 Section 39 amended (Other offences in respect of conservation areas)

Replace section 39(6) with:

(6) A person who is convicted of an offence under subsection (4) is liable to imprisonment for a term not exceeding 2 years or a fine not exceeding

\$100,000, or both, and to a further fine of \$10,000 per day if the offence is a continuing one, unless a defence listed in **subsection (6A)** applies.

(6A) It is a defence to a charge under subsection (4) if the defendant can show that the discharge of the contaminant was—

(a) done in accordance with the conditions of a current discharge permit granted under the Resource Management Act 1991; or

(b) allowed by a national environmental standard as defined in section 2(1) of the Resource Management Act 1991; or

(c) authorised by any secondary legislation (including by way of an exemption) made under the Resource Management Act 1991; or

(d) a permitted activity in the relevant regional plan and any proposed regional plan, if there is one, under the Resource Management Act 1991.

(6B) For the purpose of a defence under **subsection (6A)**, it is sufficient for the defendant to produce a certificate from the regional council in the area for which the permit was purported to be granted or the activity was otherwise permitted to the effect that a defence listed in **subsection (6A)** applies.

Amendments to Resource Management (Forms, Fees, and Procedure) Regulations 2003

74A Principal regulations

Sections 74B to 74D amend the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

74B Schedule 1, form 9 amended

In Schedule 1, form 9, after paragraph 14, insert:

15 *For this paragraph select one of the following statements, if applicable.*

I declare that I am not a natural person and that I have been the subject of the following abatement notices, enforcement orders, infringement notices, and convictions under the Resource Management Act 1991: [*list all matters and the date of each*]

or

I declare that I am a natural person and that in the past 7 years I have been the subject of the following abatement notices, enforcement orders, infringement notices, and convictions under the Resource Management Act 1991: [*list all matters and the date of each*]

74C Schedule 1, form 18 amended

(1) In Schedule 1, form 18, replace "The effects that the public work (*or* project or work) will have on the environment, and the ways in which any adverse effects will be mitigated, are: [*give details*]" with:

The effects that the public work (or project or work) will have on the environment, are:

[*give details, including with regard to any relevant provisions of a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, and a plan or proposed plan*].

(2) In Schedule 1, form 18, replace "Alternative sites, routes, and methods have been considered to the following extent: [*give details*]" with:

*Alternative sites, routes, and methods have been considered to the following extent:

[*give details*].

*Delete if the requiring authority has an interest in the land sufficient for undertaking the work.

(3) In Schedule 1, form 18, replace "The public work (*or* project or work) and designation (*or* alteration) are reasonably necessary for achieving the objectives of the requiring authority because: [*give details*]." with:

*The public work (or project or work) and designation (or alteration) are reasonably necessary for achieving the objectives of the requiring authority because:

[*give details*].

*Delete if the requiring authority has an interest in the land sufficient for undertaking the work.

(4) In Schedule 1, form 18, before the paragraph beginning "*The following resource consents", insert:

*Possible alternative locations or methods for undertaking the [*activity/work*] are:

[*give details*].

*Required if the requiring authority has an interest in the land sufficient for undertaking the work and the work is likely to result in any significant adverse effect on the environment.

74D Schedule 1, form 20 amended

(1) In Schedule 1, form 20, replace "The effects that the public work (or project or work) will have on the environment, and the ways in which any adverse effects will be mitigated, are: [*give details*]." with:

The effects that the public work (or project or work) will have on the environment, are:

[*give details, including with regard to any relevant provisions of a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, and a plan or proposed plan*].

(2) In Schedule 1, form 20, replace "Alternative sites, routes, and methods have been considered to the following extent: [*give details*]." with:

*Alternative sites, routes, and methods have been considered to the following extent:

[*give details*].

*Delete if the requiring authority has an interest in the land sufficient for undertaking the work.

(3) In Schedule 1, form 20, replace "The public work and designation (or alteration) are reasonably necessary for achieving the objectives of the territorial authority because: [*give details*]." with:

*The public work and designation (or alteration) are reasonably necessary for achieving the objectives of the territorial authority because:

[*give details*].

*Delete if the requiring authority has an interest in the land sufficient for undertaking the work.

(4) In Schedule 1, form 20, before the paragraph beginning "*The following resource consents", insert:

*Possible alternative locations or methods for undertaking the [*activity/work*] are:

[*give details*].

*Required if the requiring authority has an interest in the land sufficient for undertaking the work and the work is likely to result in any significant adverse effect on the environment.

Amendments to Resource Management (Transitional, Fees, Rents, and Royalties) Regulations 1991

75 Principal regulations

Sections 76 to 81 amend the Resource Management (Transitional, Fees, Rents, and Royalties) Regulations 1991.

76 Regulation 2 amended (Interpretation)

In regulation 2, definition of **commercial activity**, replace "on land of the Crown in the coastal marine area" with "in the common marine and coastal area".

77 Regulation 7A amended (Review of charges and fees for occupation of land of the Crown in coastal marine area)

(1) In the heading to regulation 7A, replace "**land of the Crown in coastal marine area**" with "**common marine and coastal area**".

(2) In regulation 7A(1), replace "land of the Crown in the coastal marine area" with "common marine and coastal area".

78 Regulation 7B amended (Review of charges and fees for removal of sand, etc, from land of the Crown in coastal marine area)

(1) In the heading to regulation 7B, replace "**land of the Crown in coastal marine area**" with "**common marine and coastal area**".

(2) In regulation 7B(1), replace "land of the Crown in the coastal marine area" with "common marine and coastal area".

79 Regulation 8 amended (Rent for occupation of Crown land in coastal marine area)

(1) In the heading to regulation 8, replace "**Crown land in coastal marine area**" with "**common marine and coastal area**".

(2) In regulation 8(1), replace "land of the Crown in the coastal marine area" with "common marine and coastal area".

80 Regulation 9 amended (Royalty for extraction of sand, gravel, etc, from land of the Crown in coastal marine area)

(1) In the heading to regulation 9, replace "**land of the Crown in coastal marine area**" with "**common marine and coastal area**".

(2) In regulation 9(1), replace "land of the Crown in the coastal marine area" with "common marine and coastal area".

81 Schedule 2 amended

(1) In Schedule 2, ~~Part heading "Rent payable for occupation of land of the Crown for commercial activities",~~ in the Part 1 heading, replace "**land of the Crown**" with "**common marine and coastal area**".

(2) In Schedule 2, ~~Part heading "Rent payable for occupation of land of the Crown for non-commercial activities",~~ in the Part 2 heading, replace "**land of the Crown**" with "**common marine and coastal area**".

(3) In Schedule 2, ~~Part headed "Rent payable for occupation of land of the Crown for other activities (whether commercial or non-commercial)"~~ Part 3,—

(a) ~~Part~~ in the Part 3 heading, replace "**land of the Crown**" with "**common marine and coastal area**"; and

(b) clause 1(2), replace "land of the Crown in the coastal marine area" with "the common marine and coastal area".

Schedule 1
New Schedule 3C inserted

s 70A

Schedule 3C
Alternative intensification provisions for Auckland and Christchurch

s 80DA

1 Interpretation

In this schedule,—

Auckland housing planning instrument means a change to the Auckland Unitary Plan—

(a) to comply with **clause 4**; and

(b) that may include provisions of a kind permitted under **clause 5(3)**

Auckland Unitary Plan means the Auckland combined plan as that term is defined in section 116(1) of the Local Government (Auckland Transitional Provisions) Act 2010

community services means—

(a) community facilities; and

(b) educational facilities; and

(c) those commercial activities that service the needs of the community

housing capacity, in relation to the Auckland Unitary Plan or Christchurch district plan, means the housing that the plan enables as a permitted activity, controlled activity, or restricted discretionary activity

listed planning instrument has the meaning given in **section 80B**

Maungawhau (Mount Eden), Kingsland, and Morningside Stations means the railway stations at those places on the North Auckland Line

Plan Change 14 means the intensification planning instrument for Christchurch City Council notified on 17 March 2023

Plan Change 78 means the intensification planning instrument for Auckland Council notified on 18 August 2022

SPP panel has the meaning given in **section 80B**.

Part 1
Process for Auckland Council to withdraw Plan Change 78

Auckland Council may withdraw Plan Change 78

2 Auckland Council may withdraw Plan Change 78

(1) Auckland Council—

(a) may withdraw all or part of Plan Change 78; and

(b) may withdraw different parts of Plan Change 78 at different times.

(2) However, Auckland Council may not withdraw any part of Plan Change 78—

(a) that has become operative; or

(b) in relation to which the Minister has notified the Council under clause 105(3) of Schedule 1 of a decision on a recommendation (whether or not the Council has notified that decision under clause 106(1) of Schedule 1).

(3) Auckland Council must give public notice of any withdrawal, including the reasons for the withdrawal.

Consequences if Plan Change 78 withdrawn

3 Consequences if Plan Change 78 withdrawn

If Auckland Council withdraws all or part of Plan Change 78, **clauses 4 to 6, 8, and 9** apply from the date of that withdrawal.

4 Requirements for Auckland Unitary Plan if Plan Change 78 withdrawn

(1) Auckland Council must amend the Auckland Unitary Plan to—

(a) provide at least the same amount of housing capacity that Plan Change 78 (as notified) would have provided if made operative; and

(b) enable, within at least a walkable catchment of the Maungawhau (Mount Eden), Kingsland, and Morningside Stations,—

(i) heights and densities commensurate with the greater of—

(A) demand for housing and business use in those locations; or

(B) the amount of housing and business use that is appropriate given the level of accessibility to commercial activity and community services in those locations; and

(ii) in all cases, building heights of at least 6 storeys in those locations; and

(c) give effect to policy 3.

(2) However, Auckland Council may amend the Auckland Unitary Plan to enable less development than that required by **subclause (1)(b)** or policy 3 if authorised to do so by **clause 8**.

5 Auckland housing planning instrument

(1) Auckland Council must notify the responsible Minister in accordance with **clause 75A** of Schedule 1 for a direction to use the streamlined planning process to prepare an Auckland housing planning instrument.

(2) Auckland Council must publicly notify its Auckland housing planning instrument no later than 10 October 2025.

(3) The Auckland housing planning instrument may also include provisions to address any matter that Auckland Council is satisfied meets at least 1 of the criteria in section 80C(2)(a), (b), (c), (d), **(ea)**, or (f).

(4) Auckland Council must not—

(a) notify more than 1 Auckland housing planning instrument; or

(b) withdraw the Auckland housing planning instrument.

(5) However, Auckland Council may withdraw part of the Auckland housing planning instrument if that part—

(a) relates solely to a matter referred to in **subclause (3)**; and

(b) is not required to comply with **clause 4**.

(6) An SPP panel making recommendations on the Auckland housing planning instrument must ensure that its recommendations comply with **clause 4**.

(7) Auckland Council must, when making decisions on the Auckland housing planning instrument, ensure that its decisions comply with **clause 4**.

6 Application of certain provisions if Plan Change 78 withdrawn

(1) From the date that all or part of Plan Change 78 is withdrawn,—

(a) the Council must continue to progress any parts of Plan Change 78 that are not withdrawn; and

(b) clause 25(4A) of Schedule 1 ceases to apply to the Council; and

(c) section 77G ceases to apply to the Council, except in relation to—

(i) any parts of Plan Change 78 that are not withdrawn; and

(ii) any private plan change that was adopted or accepted by the Council (under clause 25 of Schedule 1) before the earliest date that any part (or all) of Plan Change 78 was withdrawn; and

(d) any direction made under sections 80L and 80M that applied to the Council before any part of Plan Change 78 was withdrawn ceases to apply to the Council, except in relation to any parts of Plan Change 78 that are not withdrawn; and

(e) **clause 7** applies to the Council, except in relation to—

(i) any parts of Plan Change 78 that are not withdrawn; and

(ii) any private plan change that was adopted or accepted by the Council (under clause 25 of Schedule 1) before the earliest date that any part (or all) of Plan Change 78 was withdrawn.

(2) If section 77G continues to apply in relation to any part of Plan Change 78 or private plan change under **subclause (1)(c)**, then if that relevant part or plan change becomes operative,—

(a) section 77G ceases to apply in relation to the part or plan change; and

(b) **clause 7** applies in relation to the operative provisions.

7 Alternative requirements to section 77G if Plan Change 78 withdrawn

(1) This clause applies to Auckland Council in accordance with **clause 6**.

(2) A relevant residential zone of the Auckland Unitary Plan may have the MDRS incorporated into that zone.

(3) In carrying out its functions under this section, Auckland Council may create new residential zones or amend existing residential zones in the Auckland Unitary Plan.

(4) Auckland Council may include in the Auckland Unitary Plan—

(a) the objectives and policies set out in clause 6 of Schedule 3A:

(b) objectives and policies in addition to those set out in clause 6 of Schedule 3A , including objectives and policies that—

(i) provide for matters of discretion to support the MDRS; and

(ii) link to any incorporated density standards to reflect how the Council has chosen to modify the MDRS.

(5) Auckland Council may incorporate the MDRS into a relevant residential zone irrespective of any inconsistent objective or policy in the regional policy statement provisions of the Auckland Unitary Plan.

8 Qualifying matters for Auckland housing planning instrument

(1) Auckland Council may modify the requirements of **clause 4(1)(b)** and policy 3 in an urban zone to be less enabling of development than provided in that clause or policy only to the extent necessary to accommodate 1 or more of the following qualifying matters that are present:

(a) a matter specified in section 77I(a) to (i):

(b) any other matter that makes higher density, as specified by **clause 4(1)(b)** or policy 3, inappropriate in an area, but only if **subclause (4)** is satisfied.

(2) The evaluation report must, in relation to a proposed amendment to accommodate a qualifying matter under **subclause (1)(a) or (b)**,—

(a) demonstrate why Auckland Council considers—

(i) that the area is subject to a qualifying matter; and

(ii) that the qualifying matter is incompatible with the level of development provided by **clause 4(1)(b)** or policy 3 for that area; and

(b) assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity; and

(c) assess the costs and broader impacts of imposing those limits.

(3) The requirements set out in **subclause (2)(a)** apply only in the area for which Auckland Council is proposing to make an allowance for a qualifying matter.

(4) The evaluation report must, in relation to a proposed amendment to accommodate a qualifying matter under **subclause (1)(b)**, also—

(a) identify the specific characteristic that makes the level of development specified by **clause 4(1)(b)** or policy 3 inappropriate in the area; and

(b) justify why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and

(c) include a site-specific analysis that—

(i) identifies the site to which the matter relates; and

(ii) evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and

(iii) evaluates an appropriate range of options to achieve the greatest heights and densities specified by **clause 4(1)(b)** or policy 3 while managing the specific characteristics.

(5) In this clause, **evaluation report** means the evaluation report required under section 32.

9 Withdrawal when recommendations for Plan Change 78 are before Minister

(1) This clause applies if Auckland Council withdraws any part of Plan Change 78 that relates to 1 or more recommendations that—

(a) the Council has referred to the Minister under clause 101(2) of Schedule 1; but

(b) the Minister has not yet decided under clause 105(1) of Schedule 1.

(2) Auckland Council—

(a) must advise the Minister of the affected recommendations; and

(b) may amend any alternative recommendation that has been referred under clause 101(1)(b) of Schedule 1 to reflect the withdrawal.

(3) Clause 101(3) and (4) of Schedule 1 applies to any alternative recommendation, except that Auckland Council may also consider the impact of the withdrawal.

(4) The Minister is not required to decide a recommendation under clause 105(1) of Schedule 1 to the extent that it relates to a part of Plan Change 78 that has been withdrawn.

Part 2
Process for Christchurch City Council to withdraw Plan Change 14

10 Minister may approve withdrawal of Plan Change 14

(1) Christchurch City Council may request the Minister to approve the withdrawal of Plan Change 14.

(2) The Minister may approve a request to withdraw if satisfied that the operative Christchurch district plan meets the key requirement.

(3) The **key requirement** is that the Christchurch district plan has enough feasible housing capacity to meet 30 years of adjusted demand.

(4) A request for approval to withdraw—

(a) must provide evidence to demonstrate that the operative Christchurch district plan satisfies the key requirement; but

(b) is not required to specify whether Christchurch City Council intends to withdraw all or only part of Plan Change 14.

(5) If the Minister approves a request, the Minister must notify Christchurch City Council in writing.

(6) If the Minister declines a request, the Minister must notify Christchurch City Council in writing and give reasons.

(7) In this clause,—

30 years of adjusted demand means—

(a) the expected demand for housing in Christchurch over a 30-year period, based on—

(i) the most recent high-growth household growth projections for Christchurch City published by Statistics New Zealand; and

(ii) any reasonable extrapolations necessary to reflect a 30-year period; and

(b) an additional 20% of demand, over and above the expected demand described in **paragraph (a)**

feasible means—

(a) for the short and medium term, commercially viable for a developer based on the current relationship between costs and revenue; and

(b) for the long term, commercially viable for a developer based on the current relationship between costs and revenue or on any reasonable adjustment to that relationship

long term means between 10 and 30 years

short and medium term means within the next 10 years.

11 Christchurch City Council may withdraw Plan Change 14 if Minister approves

(1) If the Minister approves the withdrawal of Plan Change 14 under **clause 10**, from the date of that approval, Christchurch City Council—

(a) may withdraw all or part of Plan Change 14; and

(b) may withdraw different parts of Plan Change 14 at different times.

(2) However, Christchurch City Council may not withdraw any part of Plan Change 14—

(a) that has become operative; or

(b) in relation to which the Minister has notified the Council under clause 105(3) of Schedule 1 of a decision on a recommendation (whether or not the Council has notified that decision under clause 106(1) of Schedule 1).

(3) Christchurch City Council must give public notice of any withdrawal, including the reasons for the withdrawal.

12 Consequences if Plan Change 14 withdrawn

(1) From the date that all or part of Plan Change 14 is withdrawn,—

(a) Christchurch City Council must continue to progress any parts of Plan Change 14 that are not withdrawn; and

(b) clause 25(4A) of Schedule 1 ceases to apply to the Council; and

(c) section 77G ceases to apply to the Council, except in relation to—

(i) any parts of Plan Change 14 that are not withdrawn; and

(ii) any private plan change that was adopted or accepted by the Council (under clause 25 of Schedule 1) before the earliest date that any part (or all) of Plan Change 14 was withdrawn; and

(d) any direction made under sections 80L and 80M that applied to the Council before any part of Plan Change 14 was withdrawn ceases to apply to the Council, except in relation to any parts of Plan Change 14 that are not withdrawn; and

(e) **clause 13** applies to the Council, except in relation to—

(i) any parts of Plan Change 14 that are not withdrawn; and

(ii) any private plan change that was adopted or accepted by the Council (under clause 25 of Schedule 1) before part of Plan Change 14 was withdrawn.

(2) If section 77G continues to apply in relation to any part of Plan Change 14 or private plan change under **subclause (1)(c)**, then, if that relevant part or plan change becomes operative,—

(a) section 77G ceases to apply in relation to the part or plan change; and

(b) **clause 13** applies in relation to the operative provisions.

13 Alternative requirements to section 77G if Plan Change 14 withdrawn

(1) This clause applies to Christchurch City Council in accordance with **clause 12**.

(2) A relevant residential zone of the Christchurch district plan may have the MDRS incorporated into that zone.

(3) Every residential zone in an urban environment in the Christchurch district plan must give effect to policy 3 in that zone.

(4) In carrying out its functions under this section, Christchurch City Council may create new residential zones or amend existing residential zones in the Christchurch district plan.

(5) Christchurch City Council may include in the Christchurch district plan—

(a) the objectives and policies set out in clause 6 of Schedule 3A:

(b) objectives and policies in addition to those set out in clause 6 of Schedule 3A, including objectives and policies that—

(i) provide for matters of discretion to support the MDRS; and

(ii) link to any incorporated density standards to reflect how the Council has chosen to modify the MDRS.

(6) Christchurch City Council may make the requirements in policy 3 less enabling of development than provided for by policy 3 if authorised to do so under section 77I.

(7) Christchurch City Council may incorporate the MDRS into a relevant residential zone irrespective of any inconsistent objective or policy in a regional policy statement.

14 Withdrawal if recommendations for Plan Change 14 are before Minister

(1) This clause applies if Christchurch City Council withdraws any part of Plan Change 14 that relates to 1 or more recommendations that—

(a) the Council has referred to the Minister under clause 101(2) of Schedule 1; but

(b) the Minister has not yet decided under clause 105(1) of Schedule 1.

(2) Christchurch City Council—

(a) must advise the Minister of the affected recommendations; and

(b) may amend any alternative recommendation that has been referred under clause 101(1)(b) of Schedule 1 to reflect the withdrawal.

(3) Clause 101(3) and (4) of Schedule 1 applies to any alternative recommendation, except that Christchurch City Council may also consider the impact of the withdrawal.

(4) The Minister is not required to decide a recommendation under clause 105(1) of Schedule 1 to the extent that it relates to a part of Plan Change 14 that has been withdrawn.

Schedule 2
New Part 8 inserted into Schedule 12

s 72

Part 8
Provisions relating to Resource Management (Consenting and Other System Changes) Amendment Act 2024

48 Interpretation

In this Part,—

amendment Act means the Resource Management (Consenting and Other System Changes) Amendment Act **2024**

commencement means the day after the amendment Act receives Royal assent.

~~(a) means the day after the amendment Act receives Royal assent; but~~

~~(b) in **clauses 55 to 58**, means the date on which **section 17** of the amendment Act comes into force~~

~~**former section 77G** means section 77G as it was as immediately before the commencement of **section 17** of the amendment Act.~~

Consenting

49 Applications for resource consent lodged before commencement

Except as otherwise provided in this Part, this Act as it was immediately before commencement applies to an application for a resource consent that—

(a) is lodged with a consent authority before commencement; and

(b) is determined by the consent authority to be complete in accordance with section 88 regardless of when the determination is made.

49A Application of section 70(3) (Rules about discharges)

Section 70(3) applies to plans notified before, on, or after commencement, including any plan notified before commencement that is the subject of an appeal and any ongoing court proceedings.

49B Application of section 92AA (Consequences of applicant's failure to respond to requests, etc)

Section 92AA applies to an application for a resource consent that is lodged with a consent authority before commencement—

(a) if the consent authority has not, before commencement, served notice of its decision on the application; and

(b) as if the reference to 3 months in **section 92AA(1)(b)** were a reference to 1 year.

50 Application of section 123B (duration of consent for renewable energy and long-lived infrastructure)

(1) In this clause, **application** means—

(a) an application for a resource consent made under this Act; or

(b) an application for a resource consent made under this Act for the purposes of the **Fast-track Approvals Act 2024**.

(2) **Section 123B** applies to an application that is lodged with a consent authority on or after commencement.

(3) **Section 123B** applies to an application that is lodged before commencement if the consent authority has not, before commencement, served notice of its decision on the application.

(4) However, **section 123B** does not apply to an application described in **subclause (3)** if, before the consent authority served notice of its decision, a hearing was held in relation to the application and had concluded.

51 Amendment to section 125 (lapsing of consents)

The amendment to section 125 made by **section 43** of the amendment Act applies to a resource consent granted on or after commencement.

52 Amendments to section 128 (circumstances when consent conditions can be reviewed)

The amendments to section 128 made by **section 45** of the amendment Act apply—

(a) to a resource consent granted before, on, or after commencement; and

(b) only in relation to any contravention of a condition of the consent that occurred after commencement.

Designations

53 When certain amendments relating to designations and notices of requirement apply

The amendments to sections 166, 168, 168A, and 171 made by **sections 48 to 51** of the amendment Act apply to—

(a) an application under section 167 for approval to become a requiring authority made on or after commencement; and

(b) a notice of requirement under section 168 or 168A given or issued on or after commencement.

54 Designations giving effect to notices of requirement made before commencement

The amendments to sections 184 and 184A made by **sections 52 and 53** of the amendment Act ~~(extending the lapse period from 5 to 10 years)~~ do not apply to—

(a) a designation made in a district plan that gives effect to a notice of requirement under section 168 if the notice of requirement was made before commencement; or

(b) a designation made in a district plan that gives effect to a notice of requirement under section 168A if the notice of requirement was made before commencement; or

(c) a designation included in a district plan before or on commencement; or

(d) a designation made in a district plan that gives effect to a notice of requirement or designation if the notice of requirement or designation was included in the proposed district plan before commencement.

~~*Housing*~~

~~**55 Obligations of territorial authority under former section 77G**~~

~~(1) If a specified territorial authority has not made its IPI operative by commencement, former section 77G—~~

~~(a) continues to apply to the authority; and~~

~~(b) ceases to apply to the authority on the earlier of—~~

~~(i) the date that its IPI becomes operative; and~~

~~(ii) the date of withdrawal, if the Minister has approved a request under **section 80GA**.~~

~~(2) However, if a specified territorial authority withdraws only part of its IPI,—~~

~~(a) former section 77G ceases to apply to the authority only in respect of the part that is withdrawn; and~~

~~(b) the authority must continue in accordance with former section 77G to progress any remaining parts of the IPI using the ISPP.~~

~~(3) Section 77G as amended by the amendment Act applies to the specified territorial authority—~~

~~(a) on the date that former section 77G ceases to apply to it in accordance with **subclause (1)(b)**; or~~

~~(b) on the date, and to the extent that, former section 77G ceases to apply to it under **subclause (2)**.~~

~~(4) If the specified territorial authority withdraws all of its IPI, any direction made under sections 80L and 80M that applies to the authority ceases to apply to the authority on and from the date of withdrawal.~~

~~(5) In this clause, **date of withdrawal** means the date on which the authority withdraws all or part of its IPI in accordance with clause 8D of Schedule 1.~~

~~**56 Effect of amendments to section 80E**~~

~~(1) If under **section 80GA**, the Minister approves the withdrawal of part of a specified territorial authority's IPI, then section 80E(1)(a) applies to the authority only to the extent of the remaining parts of the IPI.~~

~~(2) A specified territorial authority is not required to make any changes to the remaining parts of its IPI as a result of the amendments to section 80E made by **clause 22** of the amendment Act.~~

Streamlined planning process

57 Plan changes

If a local authority has applied under section 80C before commencement to use the streamlined planning process for a proposed planning instrument, this Act as it was immediately before commencement, continues to apply to the instrument until it becomes operative.

~~**58 Private plan changes**~~

~~If any private plan changes have been accepted or adopted under clause 25 of Schedule 1 before commencement, former section 77G continues to apply to the private plan change until it becomes operative.~~

Natural hazards

59 Application of amendments relating to immediate legal effect of natural hazards rules

The amendments made by **sections 25(1), 25A, ~~27, 37, 40,~~ and 46** of the amendment Act apply to proposed plans, plan changes, and variations that are notified on or after commencement.

Rules that control fishing

60 Application of certain provisions relating to rules that control fishing

Sections 2B, 32(2A), 71, and 86B(4A) apply to any rules in a plan that is notified after commencement.

Legislative history

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