

## **Legislative statement for Resource Management (Consenting and Other System Changes) Amendment Bill**

First Reading, December 2024

Legislative Statement presented in accordance with Standing Order 272

### **Overview**

The Resource Management (Consenting and Other System Changes) Amendment Bill (RM (COSC) Bill) proposes targeted amendments that align with the longer-term replacement of the RMA.

The objective of the Bill is to deliver on National Party commitments and coalition agreements for renewable energy and infrastructure, housing, and the primary sector. The policy proposals also aim to improve natural hazards and emergency recovery regulations, as well as improvements to simplify the planning system.

### **Infrastructure and energy – key policy proposals**

#### *One-year time limit for processing resource consents for renewable energy generation*

The Bill provides certainty for renewable energy projects by requiring that applications for these consents are decided within one year of being lodged.

It proposes certain parties can request the one-year time limit be extended. Councils must grant the extension (of not more than one additional year) if requested by an applicant, and may grant an extension, if requested by a Treaty settlement entity, iwi authority or a recognised customary rights group.

Councils must also grant the extension if the consent is the establishment of a new hydro or geothermal energy activity, and the request is from a Treaty settlement entity, iwi authority, or a recognised customary rights group.

#### *Maximum consent duration for renewable energy and certain long-lived infrastructure consents, and longer lapse period for renewable energy consents*

The Bill provides certainty about consent duration by requiring that resource consents for renewable energy generation and certain types of long-lived infrastructure have a 35-year duration by default. Limited exemptions are provided for the applicant, to uphold treaty settlements and other arrangements, and to enable national direction to specify a different duration.

The Bill targets long-lived infrastructure that delivers public benefit and is expected to last at least 50 years. This includes telecommunications networks, electricity transmission and gas transmission, as well as ports, roads, and railways.

The Bill proposes to extend the default lapse period for consents for renewable energy activities from 5 to 10 years.

#### *Proposals for Ports*

Port operators rely on coastal permits issued under section 384A of the RMA. These occupation permits will expire in September 2026 and operators would need new consents prior to this date to continue operating. The Bill proposes to extend section 384A coastal permits by a further 20 years, to 30 September 2046.

Consent authorities may review the conditions of these permits and apply new conditions or modify existing conditions, but must not change the size or location of the permit area or otherwise prevent the permit holder from carrying out their commercial activities.

The Bill proposes the country's 13 major port authorities be included in the definition of 'network utility operator' enabling them to designate the landward part of existing coastal ports and possible extensions to them. Inland ports would also be able to be designated. Designations are able to override the existing district plan rules in the area they apply.

This proposal also enables these port operators to acquire land under the Public Works Act.

#### Increase certainty for requiring authorities

The Bill provides more efficient and less costly processes for requiring authorities by simplifying the assessment of alternatives test and other requirements. This includes changes to:

- a) specify that notices of requirement must be proportionate to the nature and significance of work being carried out, and
- b) enable designating authorities, where they have an interest in land sufficient to give effect to a proposed designation, to 'describe' alternative locations and methods for the activity in a similar manner to existing resource consenting processes. This reduces existing requirements to justify the need for the designation and undertake detailed assessment of alternatives.

The Bill also increases the default lapse period of designations from 5 to 10 years. This allows requiring authorities more time to progress projects.

#### Section 70 of the RMA amended

The RMA prescribes how regional councils must manage discharges to land or water. Section 70 of the RMA limits the kinds of permitted activity rules councils can make for discharges to land or water. Councils are seeking clarity on how to interpret and apply section 70 in their regional plans.

The Bill proposed to amend section 70 of the RMA to clarify that discharges can be permitted where they will contribute to a reduction in effects over time. This amendment aligns with changes to section 107 delivered through the Resource Management (Freshwater and Other Matters) Amendment Act 2024.

### **Housing – key policy proposals**

#### Ratification vote to keep, change or remove the Medium Density Residential Standards

Under the RMA, councils in Auckland, Hamilton, Tauranga, Wellington and Christchurch are required to incorporate the Medium Density Residential Standards (MDRS) into most residential zones in their plans. The resulting plan changes are in various stages of completion by these councils.

The Bill requires councils to vote on whether to keep, change or remove the MDRS within one year of the enactment of the Bill.

#### Councils can use the Streamlined Planning Process to remove or modify the MDRS

The Bill amends the SPP, removing the requirement for councils to apply to the Minister to use the SPP to remove or alter the MDRS. Councils would be able to:

- a) Progress a plan change using the SPP to remove or alter the MDRS and give effect to the revised National Policy Statement on Urban Development) (NPS-UD), which will include the 30 Year Housing Growth Targets, or
- b) Withdraw the plan change that incorporated the MDRS and then use the SPP to progress a plan change to give effect to the revised NPS-UD, which will include the 30 Year Housing Growth Targets.

The Bill also amends the decision-making process for under the SPP. The key features are:

- a) The Minister for the Environment (the Minister) will no longer be the final decision maker on plans made under SPP.
- b) Councils will be the final decisions maker of these plans (under SPP) and can decide to accept or reject each of the SPP panel's recommendations.
- c) Where recommendations are rejected, the council must decide an alternative solution. Rejected recommendations can be appealed to the Environment Court.
- d) The Minister can appoint up to half the members of an SPP panel.

#### Minister for the Environment has new intervention powers

The Bill provides the Minister with two new intervention powers to ensure compliance with national direction. The Bill amends the RMA to:

- a) allow the Minister to direct the type of planning process a council uses to prepare a plan change, and
- b) enable the Minister to direct a council to prepare or amend a document required by national direction (eg, housing and business development capacity assessments required by the NPS-UD).

#### **Farming and the primary sector**

##### Addresses the overlap between the RMA and the Fisheries Act 1996

Both the RMA and the Fisheries Act 1996 (the Fisheries Act) can be used to control the effects of fishing on biodiversity and other related values. The interface is complex.

The Bill:

- a) requires that councils include a broader set of considerations in their evaluation reports (section 32) when proposing a rule that controls fishing – including whether the proposed rules may exclude fishing, or increase the cost of fishing, and whether there is other legislation (eg, the Fisheries Act) that might also limit fishing.
- b) directs regional councils must provide their section 32 evaluation reports to the Director General of the Ministry for Primary Industries (MPI) where they have included a proposed rule to control fishing in a regional coastal plan. Regional councils cannot notify proposed rules that control fishing unless the Director General of MPI concurs with the section 32 evaluation.
- c) specifies that rules that control fishing may only be permitted or prohibited and may only be included at the time a plan is notified, not added later as a part of the plan change process.

##### Consent conditions for aquaculture activities can be changed or cancelled

The Bill enables changes to consent conditions for aquaculture activities. The regulatory settings to enable changes to consent conditions will need to be specified through national direction.

*The Minister for the Environment can approve industry organisations to deliver farm plan certification and audit services*

Currently regional councils are responsible for approving industry body organisations to deliver farm plan certification and audit services.

The Bill amends Part 9A to allow the Minister to approve industry body organisations to deliver farm plan certification and audit services. The Bill gives regional councils tools to monitor the performance of industry body organisations in delivering these services.

### **Emergency response and natural hazards**

*Introduces a new regulation-making power for responding to natural hazards and other emergencies*

The Bill introduces a new regulation-making power for the Minister to respond to natural hazards and other emergencies and enable recovery efforts in affected areas. The Bill outlines how and when the regulation-making power can be used, and the scope of regulations that can be created under this power.

*Clarifies councils' ability to decline land use consents, or apply conditions, to mitigate natural hazard risk*

The Bill introduces criteria under which consenting authorities can decline or impose conditions on a land use consent because of natural hazard risk. The Bill outlines an assessment of natural hazard risk that councils must complete when granting a land use consent for an area subject to natural hazard risk. The Bill specifies the types of conditions that can be imposed to mitigate natural hazard risk.

Currently, rules in a plan generally have legal effect only once the plan has become operative. The Bill amends the RMA so plan rules that relate to natural hazards have immediate legal effect from the date of plan notification.

### **RM system improvements**

*Compliance regime amended*

The Bill amends the compliance regime to deter offences by:

- a) increasing penalties for offences under the RMA from \$300,000 for individuals and \$600,000 for companies to \$1 million for individuals and \$10 million for companies,
- b) removing the ability to insure against penalties for non-compliance,
- c) enabling electronic service of documents via email,
- d) enabling better cost recovery for councils, and
- e) enabling consideration of a person's compliance history in consent decisions.

*Makes technical amendments to DOC functions to improve management of discharges*

The Bill amends the Conservation Act 1987 to enable a defence for discharging contaminants to apply in every instance where the discharge was authorised under the

RMA. These are technical amendments to DOC functions to improve their ability to manage discharges.

#### Some consenting processes are clarified

When applying for consent, councils can request further information from the applicant to better understand the proposal. The Bill seeks to clarify that these information requests must be proportionate to the nature and significance of a proposal.

In some cases, an applicant doesn't respond to a request for further information, so the Bill proposes to allow councils to return an application if no response is provided by an agreed date.

The Bill amends the RMA to ensure that councils cannot hold a hearing where they have sufficient information to decide an application.

It proposes to enable applicants to request to review consent conditions before a decision is issued.

The Bill also provides councils with the ability to recover costs incurred for reviewing consent conditions, when consent review is required by national direction.

#### Heritage can be delisted more efficiently

The Bill proposes councils are able to use the Streamlined Planning Process to remove heritage listed buildings and structures from district plans.

### **Development of the Bill**

The Bill delivers on key coalition agreement and manifesto commitments.

Cabinet agreed the scope of the RM (COSC) Amendment Bill in June 2024. Detailed policy decisions were delegated to the Minister Responsible for RMA Reform and relevant portfolio ministers.

The select committee process will be an important means of consulting on the proposals, as drafted.

### **Further information**

Key documents can be found here —

- The Bill on the Legislation website : [Resource Management \(Consenting and Other System Changes\) Amendment Bill 105-1 \(2024\), Government Bill Contents – New Zealand Legislation](#)
- Regulatory impact analysis and proactively released Cabinet papers can be found here: <https://environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/rm-consenting-and-other-system-changes-amendment-bill>
- The departmental disclosure statement can be found here: <https://disclosure.legislation.govt.nz/bill/government/2024/105>