

Departmental Disclosure Statement

Planning Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Ministry for the Environment.

The Ministry for the Environment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

8 December 2025

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Part One: General Policy Statement

The Planning Bill will replace the Resource Management Act 1991 (RMA), working in tandem with the Natural Environment Bill. Once passed, the Bills will be known as the Planning Act and Natural Environment Act.

The Planning Bill and the Natural Environment Bill provide distinct, but consistent approaches for land use planning and environmental management, respectively. The Planning Bill establishes a framework for planning and regulating the use, development and enjoyment of land. The Natural Environment Bill establishes a framework for the use, protection and enhancement of the natural environment.

The development of the new planning and environmental management system created by these Bills was guided by the following objectives:

- to make it easier to get things done by—
 - unlocking development capacity for housing and business growth:
 - enabling delivery of high-quality infrastructure for the future, including doubling renewable energy:
 - enabling primary sector growth and development (including aquaculture, forestry, pastoral, horticulture, and mining):
- to do so while also—
 - safeguarding the natural environment and human health:
 - adapting to the effects of climate change and reducing the risks from natural hazards:
 - improving regulatory quality in the resource management system:
 - upholding Treaty of Waitangi settlements and other arrangements.

The Bills address multiple problems with the current system. Together, they are expected to help to —

- reduce the number of consents needed by narrowing the type of effects that are regulated:
- make it easier to build homes and infrastructure by enabling the establishment of a clear set of rules under each law to guide councils and decision makers:
- increase consistency between council plans across the country through greater standardisation:
- reduce the number of council plans by providing for 1 plan per region that implements national direction and includes spatial, natural environment, and land-use plans in 1 place:
- safeguard the natural environment and human health by introducing an environmental limits framework covering air, water, land, soils, and indigenous biodiversity, and setting out a regime to manage resource use within these limits:
- make better use of data and technology to enable faster, more consistent planning decisions and make it easier to monitor performance and outcomes.

Omnibus Bill

This Bill is an omnibus Bill, as it amends more than 1 Act. It is introduced under Standing Order 267(1)(a) as the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy to establish a new framework for planning and regulating the use, development, and enjoyment of land.

Proposals

System architecture

Alongside the Natural Environment Bill, this Bill creates a planning system that will operate like a funnel, starting with clear goals that narrow what can be considered at the top and each level of the system. The system architecture in the Bill comprises—

- a set of goals that tightly define the scope of the system:
- a set of national instruments, comprising:
 - national policy direction (NPD) that particularises the goals:
 - national standards that provide further detailed direction for implementing the NPD and clearer and more standardised direction for decision-making and plans:
- a single combined plan for each region made up of 3 integrated components:
 - a regional spatial plan that implements the national instruments to support urban development and infrastructure provision within environmental limits; and
 - a land use plan under this Bill that implements spatial plans by applying nationally standardised zones, rules, and methodologies; and
 - a natural environment plan under the Natural Environment Bill that implements spatial plans by applying standardised overlays, rules, and methodologies; and
 - consents under this Bill and permits under the Natural Environment Bill.

Each instrument must implement the one above it. (The land use plans and the natural environment plans operate at the same level of the funnel under each Bill).

At the consenting level, councils will manage fewer effects using a higher threshold, reducing the number of consents required. Community engagement is intended to primarily occur during spatial and land use plan development rather than at the consenting level (as per the RMA).

This is intended to make the system simpler and more efficient, reducing relitigation of matters that have already been decided higher up in the system and reduce the number of consents needed. The levels of the system are outlined in more detail below.

Purpose, Goals and Principles

Purpose

The purpose of the Bill is to establish a framework for planning and regulating the use, development, and enjoyment of land.

Goals

The goals in the Bill define the outcomes the planning system is trying to achieve. They will be particularised through NPD, which directs how the goals must be achieved. All persons exercising or performing function, duties, or powers under this Bill must seek to achieve the goals in accordance with the funnel provision. Goals cannot be relitigated at lower levels of the system. The goals of the Bill are to—

- ensure that land use does not unreasonably affect others, including by separating incompatible land use:
- support and enable economic growth and change by enabling the use and development of land:
- create well-functioning urban and rural areas:
- enable competitive urban land markets by making land available to meet current and expected demand for business and residential use and development:
- plan and provide for infrastructure to meet current and expected demand:

- maintain public access to and along the coastal marine area, lakes and rivers:
- protect from inappropriate development the identified values and characteristics of —
 - specific areas of high natural character within the coastal environment, wetlands, lakes, rivers and their margins:
 - outstanding natural features and landscapes:
 - significant historic heritage:
- safeguard communities from the effects of natural hazards through proportionate and risk based planning:
- provide for Māori interests through —
 - Māori participation in the development of national instruments, spatial planning, and land use plans; and
 - the identification and protection of sites of significance to Māori (including wāhi tapu, water bodies, or sites in or on the coastal marine area); and
 - enabling the development and protection of identified Māori land.

The policy intention is that there is no inherent hierarchy within the goals.

Procedural principles

The Bill sets out procedural principles to guide how decisions are made across the system. These procedural principles are intended to ensure that decisions are made in a clear, timely, proportionate and evidence-based manner. The procedural principles also require that when performing a function or exercising a power under the Bill, people act in an enabling manner that is consistent with the goals of the Bill.

Functions and powers of central and local government

Minister

Central government has a broader and more active role in shaping and overseeing the new system. The Minister is responsible for—

- issuing national instruments including national policy direction, and developing nationally standardised zones, provisions, and methodologies:
- approval of an applicant as a designating authority:
- monitoring system performance and the effect and implementation of the Bill:
- consideration of the use of economic instruments to achieve the purpose of the Bill.

The Minister has a role in the spatial planning process, with powers to appoint a member to the spatial plan committee and to make direction in relation to the composition of the Independent Hearings Panel (IHP).

The Minister also has powers to intervene, including to —

- direct territorial authorities to prepare a plan, plan change, or variation to a proposed plan to address an issue:
- direct territorial authorities to commence a review of the whole or part of their land use plan:
- direct territorial authorities to take action to achieve an outcome:
- investigate and make recommendations on the performance or exercise by a local authority of any of its functions, duties, or powers, under this Bill:
- appoint 1 or more persons to perform or exercise all or any functions, duties, or powers, in place of a local authority:
- require local authorities to supply information.

The Minister has powers to recommend the making of regulations on a range of matters where these are contemplated in the Bill, such as processes and procedures related to—

- plan-making:
- Independent Hearings Panels:
- consent applications including the appointment of hearings commissioners:
- the Planning Tribunal and the Environment Court.

The Bill also contains powers to make regulations for specific listed matters including—

- preparation of regional spatial plans:
- fees and charges:
- cost recovery:
- infringement offences and infringement fees:
- rules to be included in any land use plan or proposed land use plan:
- criteria for the exercise of hearings:
- compliance and monitoring:
- consent processing:
- emergency response and recovery:
- anything this Bill says may or must be provided for by regulations.

Minister of Conservation

The Minister of Conservation has the responsibilities, duties, and powers that a regional council would have under the Bill in respect of coastal marine areas of specified offshore islands.

Ministry for the Environment

The chief executive of the Ministry for the Environment must produce a system performance report every 3 years. They may also undertake a strategic review of any aspect of the system under the Bill at the Minister's request, or at the request of any entity performing or exercising functions, duties, or powers under the Bill, or on their own initiative.

Local authorities

Under the Bill, territorial authorities have a general responsibility to enable and regulate the use and development of land within its district, including subdivision and activities on the surface of water bodies. These responsibilities must be in line with any direction provided via higher order instruments, such as national instruments or the spatial plan. In undertaking their responsibilities, territorial authorities must regulate and manage—

- outstanding natural features and landscapes:
- areas of high natural character within the coastal environment, wetlands, lakes, rivers and their margins:
- public access along the coastal marine area, lakes and rivers:
- effects of natural hazards relating to land use:
- development capacity of land for housing and business:
- integration of land-use planning and infrastructure planning and investment:
- contaminated land:
- significant historic heritage:
- requirements relating to statutory acknowledgments or Treaty settlements.

The functions of territorial authorities under the Bill are to jointly make and maintain a spatial plan for the region with regional councils, and to make, maintain, and monitor the implementation and effectiveness of the land use plan for its district. They are the consent authority for their districts, they regulate and manage effects, and will undertake compliance monitoring and enforcement actions. Territorial authorities are also responsible for keeping and maintaining certain records for each iwi and hapū within their districts.

Environmental Protection Agency

The Environmental Protection Agency (**EPA**) may perform enforcement functions where necessary or desirable to promote the purposes of this Bill. The EPA may assist a local authority with enforcement action, intervene in an enforcement action of a local authority, or take enforcement action against a regional council.

Effects

The Bill introduces a more targeted and proportionate approach to managing effects by narrowing the scope of effects that are subject to assessment and regulation. Under the Bill, activities that will have a less than minor effect will not be considered, unless they contribute to a cumulative effect. Some of the effects that are out of scope in the Bill are those internal to a site, visual amenity, private views, and negative impacts on competing businesses. Subjective landscape and amenity effects that preserve character are also excluded, except to protect outstanding natural landscapes and features, significant historic heritage, sites of significance to Māori and areas of high natural character within the coastal environment, and wetlands, lakes, rivers and their margins.

The new system will also—

- ensure that effects are considered against what is allowed by a plan:
- allow effects to be avoided, minimised, or remedied where practicable, and offset and compensated for where appropriate:
- enable national instruments to set out how effects should be managed in certain situations.

Other key changes include new thresholds for affected parties. Together, a narrower scope of, and higher threshold for, effects managed is intended to reduce the number of consents required by the system and enable a more permissive environment.

National instruments

National instruments will set out detailed objectives, policies, and standardised approaches for addressing national and regional priorities. National instruments will comprise NPD and national standards. Under the Bills, national instruments will be set by central government and implemented by local government through spatial plans and land use plans under this Bill, and natural environment plans under the Natural Environment Bill. Each Bill will have 1 corresponding NPD, which is intended to be a short, targeted document made up of objectives, policies, and directives that provide direction on the goals (such as economic growth, housing, infrastructure, and environmental protection), including how to manage conflicts between these matters. National instruments will be publicly notified, allowing for participation in the development of NPD and national standards. The NPD will be implemented through standardised direction (such as standardised planning provisions, rules, and methodologies) set out in national standards. This is intended to create greater consistency across the system by providing standard approaches to planning and regulating land use and environmental management.

Regional Combined Plans

In the new system, there must be a combined plan for each region at all times. A combined regional plan consists of the regional spatial plan, the natural environment plan for the region

under the Natural Environment Bill and a land use plan for each district within the region under this Bill.

The first draft regional spatial plan must be publicly notified within 15 months of Royal assent or 6 months after the first national policy direction is issued and must be decided 6 months after it is publicly notified. The land use and natural environment plans must be notified within 9 months of the regional spatial plan for a region being decided.

Spatial planning

Under the Bill, spatial planning will be mandatory for each region and must be developed collaboratively by all local authorities within the region, through a spatial plan committee. Central government involvement at the governance and working levels is provided for, and committee arrangements will need to uphold relevant iwi participation legislation and related arrangements.

Spatial plans will support planning for urban development and infrastructure within environmental limits and constraints, providing strategic direction for growth over a 30-year period. Spatial plans form part of the combined regional plan and must implement national instruments. Spatial plans will be implemented by land-use plans under this Bill, and natural environment plans under the Natural Environment Bill.

The spatial planning process is designed to support integrated decision-making between this Bill and the Natural Environment Bill, and integration of development planning with infrastructure planning and investment. Regional land transport plans under the Land Transport Management Act 2003 must be consistent with spatial plans, and long-term plans under the Local Government Act 2002 must help implement spatial plans.

Spatial plan committees are required to consult with iwi authorities and customary marine title groups in the region in preparing the draft spatial plan. They must also work with others with a strong interest in spatial planning for that region, including core infrastructure operators, development and community sector groups, and neighbouring local authorities during plan development. The committees must recommend the draft spatial plan to the region's local authorities for approval to notify it for public submissions.

Local authorities must establish an Independent Hearings Panel (an **IHP**) to hear public submissions on the draft spatial plan and make recommended changes. Local authorities must either accept IHP recommendations or decide an alternative solution that is consistent with the requirements of the Bill. The Minister and designating authorities also have a decision-making role in certain circumstances. Points of law appeals and limited merits appeals are available.

Land use plan-making

Under the Bill, territorial authorities are required to prepare a land use plan as part of the combined regional plan. The aim of land use plans is to enable the use and development of land by allowing activities while regulating effects. The plan-making process is designed to ensure consistency with national instruments and the regional spatial plan while providing for public input.

Councils will have two options when choosing provisions for their plans. Where they use standardised provisions, they will select provisions from nationally standardised provisions (including nationally standardised zones) to efficiently assemble the plans content (e.g. zones, district wide rules, and overlays).

Councils will also be able to make bespoke provisions. Bespoke provisions must be supported by a justification report explaining why a departure from the national approach is necessary. Importantly, the parts of plans that contain bespoke provisions are subject to merits submissions and appeals. By contrast, a council implementing nationally standardised provisions avoids submissions on the substance of those provisions and only has to prepare a

simpler evaluation report. These processes are intended to speed up plan-making processes when using standardised content, while providing for local variation when justified.

Regulatory relief

The Bill introduces a regulatory relief framework that requires councils to consider the impact of specified planning controls on landowners when they are developing plans. Where such rules are proposed councils must justify the application of a protection to each property (including by referring to data and evidence). Councils will have to provide relief where this impact is assessed to be significant.

Under this Bill, access to regulatory relief the Planning Bill is limited to planning controls that–

- have a significant impact on the reasonable use of land, and
- impose controls relating to:
 - o significant historic heritage, or
 - o sites of significance to Māori, or
 - o outstanding natural landscapes and outstanding natural features, or
 - o areas of high natural character within the coastal environment, wetlands, lakes, rivers and their margins.

Councils will be able to use a range of tools when providing relief, including rates relief, bonus development rights, no-fees consents, land swaps, access to grants and cash payment. The Planning Tribunal will have a role in resolving disputes about how councils have provided relief.

Consenting

Under the Bill, activity classification will be simplified into four categories: permitted, restricted discretionary, discretionary, and prohibited activities. Each activity category will be subject to clear and distinct information and assessment requirements. The new system will also only allow people who are materially affected to participate in the consenting process and will raise the threshold for all notification to focus on adverse effects that are more than minor. Public notification will occur when the adverse effects are more than minor, and not all affected parties are able to be identified. This is intended to enable faster, cheaper, and more certain consenting while reducing the overall number of planning consents required by the system.

Designations

Designations are planning tools that secure land for public infrastructure or utilities.

Designations may be obtained by designating authorities, including Ministers of the Crown, local authorities and core infrastructure operators. Some other infrastructure operators will be able to apply to become a designating authority, subject to a higher public benefit test. The designation processes set out in the Bill are intended to enable effective infrastructure provision, reduce the cost and complexity of the designation process, and enable designations and infrastructure provision to be aligned with spatial planning.

Designation pathways

Under the Bill, there will be 2 main pathways available for designating authorities to designate land: an improved version of the current RMA process (**amended process**), and the spatial planning process. The amended process can be initiated at any time by a designating authority giving notice to a territorial authority of a proposed designation for a project. A notice of a proposed designation must include an assessment of the effects of the designation on the built environment and the strategic need for the project in that location. The proposed designation will be assessed against the goals, national instruments, and the land use plan. The designation may be publicly notified or have targeted notification, if directly affected persons can be identified. The recommending authority will make recommendations to the designating authority, who then accepts or rejects the recommendations. Decisions may be appealed to the

Environment Court by submitters, or by the council. The confirmed (or modified) designation is incorporated into the land use plan.

Designating authorities are also able to secure a proposed designation through the spatial planning process for projects of national or regional significance, or if it crosses territorial authority boundaries. Through this process, proposed designations are notified as part of the draft spatial plan. Submissions are heard by the IHP, who then makes recommendations to council on the spatial plan. The designating authority then accepts or rejects the IHP recommendations. Decisions may be appealed to the Environment Court by submitters, or by the council. Designations that are confirmed (or modified) through this process will be identified in the spatial plan as well as being incorporated into any relevant land use plan. In addition to these pathways, the indicative location of future designations will be able to be identified in the spatial plans, in which case the strategic need for the project will not need to be reconsidered through the designation process.

Construction project plans

The Bill provides for design details and measures to manage construction effects to be addressed primarily through a construction project plan, rather than conditions of the designation itself. The existing process for construction project plans (called outline plans in the RMA), where the local authority provides a recommendation to the designating authority, with no input from third parties, will be retained. The Bill also provides for co-location of infrastructure, and the permanent or temporary transfer of designations between designating authorities.

Planning Tribunal and Environment Court

Planning Tribunal

The Bill establishes a new Planning Tribunal, intended to provide for a faster, and more cost-effective, way of resolving certain, lower-level, disputes between system users and councils. It is aimed at providing an additional accountability mechanism to help ensure that the new system delivers the desired shifts in planning practice. The Planning Tribunal will be established as a division of the Environment Court, with its own chairperson and pool of adjudicators.

The key functions of the Planning Tribunal will include reviewing administrative decisions made in the processing of consents and permits, for example, requests for further information, notification decisions, interpreting consent conditions, and being able to strike out consent conditions that are deemed to be out of scope of the system.

The Planning Tribunal will have streamlined processes to support the prompt resolution of matters. It will be able to confirm, modify, or quash the decision or aspect of decision being reviewed, or send matters back to a local authority for reconsideration. It will be empowered to regulate its own procedures. There will be a presumption that matters will be decided on the papers unless a hearing is considered necessary.

The Planning Tribunal will not have a role in hearing appeals on plans, designations, and notified consents and permits where there are third-party submitters, nor deal with enforcement matters. These will remain with the Environment Court due to the complexity and stakes involved in those appeals.

Environment Court

The Environment Court will continue to hear appeals on proposed plan and plan changes (although these are limited to points of law in relation to standardised provisions), appeals to notified consents or applications for reviews or changes of consent conditions where there are submitters on the applications. The Environment Court will also hear appeals on designations, and merits appeals on bespoke provisions in land use plans, as well as appeals on decisions of the Planning Tribunal on points of law and appeals on the issue of abatement notices. The Environment Court may also issue enforcement orders and make declarations. The ability for

the Environment Court to consider direct referrals and nationally significant proposals will be removed from the system.

Māori interests and the Treaty of Waitangi

The Bill contains a goal to provide for Māori interests through Māori participation in the development of NPD and plans, the identification and protection of sites of significance, and enabling the development and protection of identified Māori land. Policies for this goal will be set through NPD, which councils will have to implement when developing plans.

The Bill includes a descriptive Treaty clause that sets out how the Crown's responsibilities under the Treaty of Waitangi are provided for in the Bill through listed provisions. These include requirements to notify and consult iwi authorities during the development of national instruments and plans.

The new system includes provisions that address how Treaty settlements redress, Ngā hapū o Ngāti Porou arrangements and Marine and Coastal Area Act 2011 rights interact with the new system as follows—

- Provisions that provide for statutory acknowledgement redress in the new system:
- a provision that commits the Crown to work with post-settlement governance entities, and Ngā Hapū o Ngāti Porou, to seek agreement on how Treaty settlement redress or marine and coastal area arrangements will operate in the new system:
- provision that requires those performing or exercising functions, duties and powers under the legislation before that agreement is reached to provide Treaty settlement redress with an effect that is the same or equivalent to the effect the redress has in relation to the RMA, to the greatest extent possible under the new Acts:
- before any agreement is reached, a provision that requires those exercising or performing powers, functions, or duties to give an effect that is the same, or equivalent, to the greatest extent possible as the effect the redress or arrangement has in relation to the RMA:
- provisions that ensure that the rights available under the Marine and Coastal Area (Takutai Moana) Act 2011 are maintained in the new system.

These provisions are intended to provide more certainty for all users of the system about how Māori interests and the Treaty of Waitangi are provided for.

Compliance monitoring and enforcement

The Bill retains and strengthens the core compliance and enforcement components of the RMA. These are intended to prevent adverse effects and remedy harm that occurs, support information gathering to inform decision-making, enable a range of accountability mechanisms, and enable effective administration of compliance and enforcement and cost recovery.

Under the Bill, territorial authorities will be responsible for monitoring compliance and undertaking enforcement action as it relates to administering and implementing the regulatory plan of their district and are enabled to set charges to fund these responsibilities. Territorial authorities must prepare and publish a compliance and enforcement strategy in the prescribed manner. Both territorial authorities and, in some cases, the EPA may issue certificates of compliance that state that an activity may be undertaken lawfully in a particular location without a consent.

System monitoring and performance

Territorial authorities, the Minister and the chief executive of the Ministry for the Environment all have system monitoring responsibilities under this Bill. Monitoring is expected to support continuous improvement in plan-making and implementation and will inform future plan reviews. The monitoring processes in the new system are designed to support the system performance and stewardship functions.

Territorial authorities

Territorial authorities are responsible for monitoring the implementation and effectiveness of the regulatory plan for their district. They are responsible for monitoring the whole or any part of the district as far as is appropriate to carry out their functions and responsibilities under the Bill.

The requirements for measuring, monitoring, reporting and record keeping may be set out in national standards. Territorial authorities monitoring must consider—

- the efficiency and effectiveness of rules or other methods in the regulatory plan:
- the performing or exercise of any functions and responsibilities under its plan or delegated or transferred by the territorial authority:
- the efficiency or effectiveness of processes used by the territorial authority:
- the exercise of consents in its district.

Territorial authorities also have a duty to compile and publish a review of the results of monitoring undertaken no less than every 5 years.

Minister

The Minister is responsible for monitoring—

- the performance of the system, including monitoring the functions, duties, and powers performed or exercised by any person under this Bill
- the implementation and effect of this Bill, regulations made under it and national instruments
- the relationship between the functions, duties and powers of central government and local government.

The Minister may investigate and make recommendations on territorial authorities' performance or exercise of, or failure to perform or exercise, its functions, duties, and powers under this Bill. Where a territorial authority fails to perform or exercise any of its functions, duties, or powers under the Bill, the Minister may appoint 1 or more persons to perform or exercise all or any of those functions, duties, and powers.

Ministry for the Environment

The chief executive must prepare and maintain a system performance framework under this Bill. The purpose of the framework is to maintain regular strategic oversight of the system by:

- improving understanding of whether and to what extent legislative and system outcomes are achieved:
- enabling continuous evidence-based improvements to the operation and implementation of the system:
- supporting continuous improvement in the way in which the legislation is implemented;
- establishing a process to identify and respond to emerging system-wide issues, including national direction outcomes.

In consultation with the Minister, the chief executive must set out key performance indicators for the framework. The chief executive may collect data from any entity that performs or exercises functions, powers, or duties under the Bill.

The chief executive must produce a system performance report every 3 years. This must provide advice on interventions within and outside the control of regional councils to manage environmental limits in an efficient and effective way, and whether additional government intervention is recommended. The chief executive must provide this report to the Minister as soon as practicable and make it publicly available.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	Yes
An expert advisory group was established by the Government in September 2024 and given the task of preparing a blueprint to replace the Resource Management Act 1991. Its report is published: <i>Report from the Expert Advisory Group on Resource Management Reform. Blueprint for resource management reform: A better planning and resource management system 2025</i> https://environment.govt.nz/assets/publications/Final-EAG-Report.pdf	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	No
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
The Ministry for the Environment prepared a regulatory impact (RIS) statement in March 2025, <i>Regulatory Impact Statement: Replacing the Resource Management Act 1991</i>, and a supplementary analysis report (SAR) was prepared in November 2025 <i>Supplementary Analysis Report: Replacing the Resource Management Act 1991</i>. These can be found at: Replacing the Resource Management Act (RIS – MfR) Replacing the Resource Management Act (RIS – MfE) Replacing the Resource Management Act (SAR – MfR) https://environment.govt.nz/publications/supplementary-analysis-report-replacing-the-resource-management-act-1991	

2.3.1. If so, did the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?	NO
Both the RIS and the SAR were assessed for quality by cross-agency panels with members from the Ministry for the Environment and Ministry for Regulation as they did not meet the threshold for the Ministry of Regulation's assessment.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<u>Castalia, <i>Economic impact analysis of the proposed resource management reforms</i> (February 2025)</u> Allen+Clarke, <i>Unlocking the benefits of Environmental Data for RM Reform</i> (June 2025) Martin Jenkins, <i>Economic Benefits of Effective Resource Management</i> (June 2025) <u>Castalia, <i>Economic impact analysis of the proposed resource management reforms</i> (October 2025)</u> <u>Infometrics and Allen + Clarke <i>Economic Efficiency Assessment for a new Planning and Environmental Management System</i> (October 2025; updated in December 2025 to correct typographical error)</u>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
See page 53 of the SAR linked above (Matter 7: Compliance and Enforcement – Impact of decisions on this matter). See also Section 3 of the SAR for discussion of how central government will support local government and others to transition to and operate under the new resource management system.	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

As this Bill (alongside the Natural Environment Bill) replaces the Resource Management Act 1991 (RMA) we took steps to ensure that any provisions in the RMA that implement international obligations were transferred to this Bill as appropriate.

We reviewed the Ministry's register of international agreements related to the environment and identified where the changes to the planning and environmental management system may intersect with some of these commitments.

We shared the draft Bill and the draft Natural Environment Bill with the Ministry of Foreign Affairs and Trade and the Department of Conservation and held several meetings to explore the relationship between the Bills and our international obligations.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

Consideration of how the Treaty of Waitangi informs the proposed system has been informed by the work of the Expert Advisory Group, engagement with Māori groups, and advice from officials.

In its Blueprint for resource management reform (2025), the Expert Advisory Group considered the nature of Treaty interests and rights within scope of the proposed environmental management and planning system. It found that "resource management in New Zealand is inherently connected to the recognition and protection of Māori rights and interests under the Treaty of Waitangi". Its report outlined findings of the Waitangi Tribunal about the deficiencies of the current system with respect to outcomes for Māori.

Engagement with Māori on the reforms has involved meetings with some Post-Settlement Governance Entities (PSGEs) and groups yet to settle their historical Treaty of Waitangi claims. The focus of these discussions has been on how to approach upholding Treaty of Waitangi settlements and the Crown's obligations, which Cabinet agreed is a fundamental design principle of the Bills.

The Crown has also met with representative groups including Te Tai Kaha (representing Kāhui Wai Māori, New Zealand Māori Council and the Federation of Māori Authorities) and Pou Taiao (National Iwi Chairs Forum) to discuss the proposed reforms.

Feedback from engagement has informed advice to Ministers and is summarised in the Supplementary Analysis Report: Replacing the RMA (attached). This report contains analysis of the proposed policy's consistency with the Treaty principles and sets out options considered in this respect.

The Bill describes how it recognises the Crown's responsibilities in relation to the Treaty of Waitangi. It includes a descriptive Treaty clause that lists provisions for this purpose and a system goal focused on providing for Māori interests. It also commits the Crown to engage with PSGEs to seek agreement on how settlement arrangements will operate with the same or equivalent effect in the new system to the greatest extent possible, and requires that prior to this agreement, persons exercising powers and functions under the Acts must give Treaty settlement redress the same or an equivalent effect, to the greatest extent possible, to the effect that redress has under the RMA.

National policy direction relating to the Māori interests goal will also provide greater direction on provision for Māori interests in the new system.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be accessible on the Ministry's website at https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/the-bill-of-act/advice/	

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	YES
This Bill creates offences and penalties and the Bill sets out matters related to the jurisdiction of a court or tribunal. Please refer to Appendix One for more information.	

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
The Offences and Penalties Vetting Team at MOJ were consulted by MfE during the development of the compliance and enforcement policies. Appendix One provides more information about the outcomes of this consultation.	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	YES
The provisions relating to personal information in the Bill are largely based on existing settings under the Resource Management Act 1991. However, new features under the Bill, such as regulatory relief, introduce new uses of information, but the underlying approach is consistent with the way personal information is accessed and used – e.g. which generally relate to personal information being used to: apply for something, inform decision-making, and be notified of a decision. Relevant provisions can be found in Appendix One.	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
The Office of Privacy Commissioner (OPC) was provided an early copy of the Bill with a list of relevant provisions and raised no issues of significant concern regarding the Bills' consistency with the principles and guidelines set out in the Privacy Act 2020. The OPC noted it would support the addition of a power to redact submissions before they are published, to protect the privacy of natural persons. It noted this could be modelled on section 9(2)(a) of the Official Information Act 1982.	

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
High-level engagement was undertaken during policy development with a range of stakeholders from local government, business, development, energy and infrastructure providers, primary sector, resource management practitioners, non-government organisations, and with some post-settlement governance entities (PSGEs), Pou Taio, and Te Tai Kaha.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
Three members of the Expert Advisory Group (as referred to in response to question 2.1) worked with officials throughout the policy development of the Bill. They were Janette Campbell, Mark Chrisp and Gillian Crowcroft. Janette Campbell and an independent legal expert, Aidan Cameron, Barrister, reviewed and commented on an early version of the Planning Bill.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	YES
Schedule 5, clause 54: Compulsory acquisition on behalf of core infrastructure operator A core infrastructure operator that is a designating authority may apply to the Minister for Land Information to have land acquired under the Public Works Act 1981 for a project or work that is: • a critical infrastructure project within the meaning of section 39AAB of the Public Works Act • any other project or work, as if the project were a government work within the meaning of the Public Works Act This power is necessary for core infrastructure operators to acquire land necessary for their functions. Full ownership, rather than partial measures, is required for the functions to be achieved. The application may only proceed if the Minister of Land Information agrees. Existing protections and compensation provisions in the Public Works Act 1981 continue to apply. Costs and expenses incurred by the Minister of Land Information are recoverable from the core infrastructure operator. Protected Māori Land is excluded from this provision. For the purposes of this provision, protected Māori land is defined under section 11 of the Infrastructure Financing and Funding Act 2020.	

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
The Bill does not introduce any taxes. It introduces a power to impose a levy on consents and certain permitted activities (clause 283). The levy is for the purpose of funding the development and review of national instruments and preparing and maintaining the system performance framework, including associated data collection (clause 283(2)). Regulations made under clause 283(4) may set different levy rates for different consents and permitted activities, prescribe the amount of the levy or a method for calculating the amount, and specify who is liable to pay the levy. To the extent that a consent levy made under regulations is compulsory for certain consent applicants or holders, or persons undertaking relevant permitted activities, and the money levied is not directly related to services received or costs incurred by those persons, the levy could be viewed as being in the nature of a tax.	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	YES
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	YES
Details are available at Appendix Two.	

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	YES
The Bill has the following provisions to protect persons serving judicial institutions under the Bill. The purpose of these provisions is to protect the relevant persons from interference in carrying out their duties in good faith. Participants would not be protected when they act in bad faith. • Schedule 9, clause 14 (When an alternate Environment Judge may act) [Environment Court—alternative Judges] • Schedule 9, clause 38(3) (Registrar and other officers of court) [Environment Court—Deputy Registrar] • Schedule 9, clause 42 (Protection from legal proceedings) [Environment Court—members, Registrar, special advisers] • Schedule 9, clause 71 (Privileges and immunities) [Environment Court—witnesses and counsel] Schedule 10, clause 12 (Protection from legal proceedings) [Planning Tribunal—chairperson, adjudicators, Registrar, persons appointed to assist]	

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	YES
Yes, the Bill contains significant decision-making powers in relation to consents and regulation making powers. Appendix Two contains more information.	

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
Powers to create National Instruments and some specific regulation making powers are describe at Appendix Two.	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
In addition to the provisions noted in response to question 4.7, the Bill contains the following provisions empowering the making of delegated legislation: • Clause 50 (Approval of national instrument) • Clause 51 (Incorporation of material by reference in national instrument) • Clause 281 (Regulations) [general] • Clause 282 (Regulations relating to consent processing time frames and procedures) • Clause 283 (Regulations relating to planning consent levy) • Clause 279 (Emergency response regulations) • Schedule 4, clause 2 (Direction on skills, experience, or qualifications of panel members) [independent hearings panels] Schedule 10, clause 36 (Regulations) [relating to Planning Tribunal]	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	YES
The Bill contains provisions in Schedule 3, part 4 that impose an obligation on local authorities to prepare and notify a “relief framework” when preparing or deciding a proposed plan or private plan change that contains a specified rule (as defined in Schedule 3, clause 63—see also the definition of specific topic in clause 1). The role of the relief framework is to assess the impact of certain types of rules on specified land in the region and provide relief to the landowner if the impact is assessed to cross a certain threshold. The relief that a local authority may consider include monetary payment, rates relief, additional development rights or waiving certain planning related fees.	

Appendix One: Further Information Relating to Part Three

Offences, penalties and court Jurisdiction – question 3.4

a) Does this bill create, amend or remove offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

Clause 11.42(1) creates the offences for contravening, or permitting a contravention, of:

- the relevant provisions of the Act that impose restrictions and duties in relation to the use of land, subdivision and avoiding unreasonable noise;
- any enforcement order;
- any condition of a planning consent;
- any abatement notice, except for notices relating to unreasonable noise
- a monetary benefit order
- a duty to comply with an enforceable undertaking;
- an adverse publicity order
- any requirement or duty made in emergency response regulations

The offences in clauses 254(1) may be proceeded against by way of a prosecution in a District Court, a fixed penalty infringement notice, or an application to the Environment Court to impose a pecuniary penalty (a “civil fine”).

Offences that are prosecuted in a District Court are punishable on conviction to a maximum of 18 months imprisonment or up to \$1M in fines for a natural person, and up to \$10M in fines for a person other than a natural person. Offences that are determined to be continuing offences are also subject to an additional penalty of \$10,000 per day the offence continues for a natural person, and \$50,000 per day for a person other than a natural person.

Infringement offences are subject to a fee fixed through regulations. The maximum fee that can be prescribed for an infringement offence is \$2000 for natural persons and \$4000 for a person other than a natural person.

Pecuniary penalties may be imposed by the Environment Court, up to a maximum of \$1M for natural person, and \$10M for a body corporate. If a body corporate's contravention occurred in the course to producing a commercial gain, the limit for pecuniary penalty is \$10M, and either 3 times the value of the commercial gain, or 10% of the turnover of the body corporate (depending upon whether the commercial gain can be readily ascertained).

Clause 254(2) creates offences for contravening or permitting a contravention of:

- a statutory requirement in the Act to provide certain information to an enforcement officer;
- statutory requirements in the Act relating to the protection of sensitive information;
- an excessive noise direction;
- an abatement notice for unreasonable noise
- any order, other than an order specified in clause 11.42(1), made by the Environment Court

The offences in clause 254(2) carry a maximum penalty on conviction of \$15,000, and if the offence is continuing, a further fine not exceeding \$1500 per day.

These offences may also be prescribed as infringement offences through regulations. Infringement offences are subject to a fee fixed through regulations. The maximum fee that can be prescribed for an infringement offence is \$2000 for natural persons and \$4000 for a person other than a natural person.

Clause 254(3) creates offences for:

- wilfully obstructing, hindering, resisting or deceiving any person in the execution of any

powers conferred under the Act;

- contravening or permitting the contravention of statutory requirements in the Act relating to non-attendance or refusal to co-operate with the Environment Court or any summons or order to give evidence issued or made with respect to provisions in the Act relating to hearings (including the application of provisions relating to Commissions or Inquiry);
- contravening or permitting a contravention of any provision specified in an instrument for the creation of an esplanade strip or in an easement for an esplanade strip;
- entering an esplanade strip which is closed under provisions of the Act

The offences in 254(3) carry a maximum penalty on conviction of \$5000

The Court may also sentence any person who commits an offence against the Act to a sentence of community work, and/or impose an enforcement order.

The Planning Bill also includes provisions:

- allowing for regulations to be made specifying that existing offences specified in the Act may be prescribed as infringement offences clause 281(1)(i));
- specifying infringement offences and infringement fees for the breach of regulations made under the Act (clause 281(1)(j)).
- that creates a pecuniary penalty regime, empowering the Environment Court to impose civil pecuniary penalties for any contravention of the Act (clause 35(1) of Schedule 8). A person may not be both convicted of an offence and ordered to pay a pecuniary penalty for the same conduct (clause 39 of Schedule 8).

Most of the offence provisions in the Planning Bill are carried over from the Resource Management Act 1991, but there are new offences relating to the breach of monetary benefit orders, adverse publicity orders, enforceable undertakings and consent conditions.

Clause 69 of Schedule 9 creates offences for a person, without reasonable cause: (i) failing to appear in accordance with a summons issued by an Environment Court Judge, and Environment Commissioner, or the Registrar, or fail to produce anything that the summons requires them to produce; (ii) refusing to be sworn or to give evidence at proceedings before the Environment Court; and (iii) refusing to answer a question put by a member of the court during proceedings before the court.

Schedule 10, clause 30 creates an offence for breaching an order preventing the publication or disclosure of evidence given before the Planning Tribunal, subject to a fine not exceeding \$3000.

b) Does this Bill create, amend or remove the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

The following parts of the Planning Bill relate to the jurisdictions of a court or tribunal:

- Part 3, subpart 1 – Regional spatial plans (Environment Court)
- Part 3, subpart 2 – Land use plans (Environment Court and Planning Tribunal)
- Part 4 – Planning consents (Environment Court and Planning Tribunal)
- Part 3, subpart 3 – Designations (Environment Court and Planning Tribunal)
- Part 6 – Enforcement (Environment Court and District Court)
- Schedule 5 – Spatial plans (Environment Court)
- Schedule 3 – Preparing and changing land use plans (Environment Court and Planning Tribunal)
- Schedule 9 – Environment Court
- Schedule 10 – Planning Tribunal

Was the Ministry of Justice consulted about these provisions – Question 3.4.1

Ministry of Justice Comment:

The Ministry of Justice's Offence and Penalty (OPV) team acknowledges that offences and penalties in the environmental context often depart from ordinary principles of construction due to the wider public impacts of harm occurring to the natural environment, and that there may be compelling reasons (e.g. consistency with international frameworks) that could justify the specific offence and penalty proposals set out in the Planning Bill.

However, despite the best efforts of the Ministry for the Environment (MfE), the OPV team has not had time to consider the Bill in final form to fully satisfy itself that such reasons exist or to ensure there are adequate safeguards.

We note that the Bill's offence and penalty provisions appear to be closely aligned with those in the Resource Management Act 1991 and the now-repealed Natural and Built Environment Act 2023. While this approach provides consistency across environmental statutes, in the OPV team's view some elements of the currently proposed and previous offence and penalty provisions appear to be inconsistent with the Legislation Design and Advisory Committee's Guidelines.

Examples of this approach departing from standard practice include:

- significant discretion for enforcement being provided to regulators and subsequently, the judiciary;
- strict liability offences that carry terms of imprisonment (although we note that there is case law demonstrating that the judiciary considers mens rea at sentencing, which partially mitigates the effects of a strict liability offence);
- defences for strict liability offences that are narrowly constructed; and
- continuing penalties existing in circumstances where the sanctioned conduct does not necessarily result in the harm to the environment (for example, continuing penalties for the strict liability offence of failure to give information).

The OPV team notes these points may be usefully further considered by the Select Committee while the Bill is before it.

The OPV team also notes that the nature of the Bill's proposed offences and penalties means the Bill should not be considered as a precedent or template for other agencies and Ministers considering changes to offences and penalties in other domestic legislation. Any consideration of such changes should occur on a case-by-case basis.

Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information? – Question 3.5

The following provisions in the Planning Bill relate to the collection, storage, access to, correction of, use or disclosure of personal information:

Clause 38, Permitted activity rule – the person carrying out the activity can obtain the written approval of all persons who may be directly affected by the activity

Clause 45, Matters to consider when making national instrument – the Minister must consider all submissions received as a result of the process established under section 5.5

Clause 46, Process for making national instrument – those notified must be given adequate time and opportunity to make submissions

Clause 109, Applying for planning consent – a person applying for a planning consent must include the information required by Schedule 6, and ensure that the information provided is proportionate to the scale and significance of the matter to which the application relates

Clause 115, Consent authority may return incomplete application – consent authority must return an application if it determines the application is incomplete

Clause 119, Request for further information – a consent authority may request the applicant to provide further information

Clause 121, Response to request for further information or report – the applicant's response to the request for further information

Clause 120, Request for report – a consent authority may commission a person to prepare a report on a matter relating to information provided by an applicant

Clause 122, Consequences of applicant's failure to respond to requests, etc – consent authority may return an application to the applicant if it is determined to be incomplete due to failure to respond to requests for further information

Clause 124, Mandatory Public notification in some circumstances – a consent authority is to determine whether to give public notification of an application for a planning consent

Clause 126, Public notification of consent application after request for further information or report – public notification of consent application is to be given after requests made for further information

Clause 133, Striking out submissions – consent authority must notify a submitter if it considers that the submissions disclose no relevant case in relation to application

Clause 148, Determination of planning consent – a consent authority must have regard to the information provided by the applicant when considering application for a planning consent

Clause 150, General requirements before conditions may be included – a planning consent may impose a condition requiring the holder of the consent to supply to the consent authority information related to the exercise of the consent

Clause 168, Circumstances when consent conditions can be reviewed – a consent authority may serve notice on a consent holder of its intentions to review the conditions of the consent if the information provided by the applicant contained inaccuracies

Clause 169, Notice of Review – a notice of intent to review the conditions of a consent must specify the information which the authority took into account when making the decision to review

Clause 173, Certificates of compliance where activity does not require consent – the authority may require applicants to provide further information if necessary

Clause 186, Information gathering, monitoring, and keeping records – every territorial authority must gather the information necessary to carry out its functions and responsibilities

Clause 187, Further monitoring requirements – every territorial authority must publish on its internet site a review of the results of their monitoring, and must keep in accessible form information for members of the public, including applications for resource consents and summary of complaints on breaches of the Act

Clause 188, Duty to keep records about iwi and hapū – every territorial authority must keep and maintain records for each iwi and hapū within its district

Clause 207, Minister may require local authorities to supply information – the Minister may require local authorities to supply information

Clause 210, System performance framework – the system performance framework process includes consultation, including with stakeholders or interested parties

Clause 217, Duty to give certain information – enforcement officer may direct person A to give the officer information about a person B, including their full name, address, and date of birth

Clause 224, EPA may require information from local authority – the EPA may require information from local authority

Clause 242, Form and content of abatement notice – such a notice must state the name of the person to whom it is addressed and the name and address of the NBE regulator whose enforcement officer issued the notice

Clause 281, Regulations – the Governor-General may, by Order in Council, require local authorities to provide information gathered to the Minister, and prescribe the content of the information to be provided

Clause 289, Vesting of reclaimed land – every Gazette notice published must state the name of the person or local authority in whom the right/interest/title is vested

Clause 295, Hearing to be held in public and orders protecting sensitive information - hearings must be in public; relevant authorities may make an order protecting sensitive information and order may exclude public from relevant part of hearing

Schedule 1 (Transitional, savings, and related provisions)

Clause 25, Records of title may be issued in relation to certain survey plans – the Registrar-General of Land may issue a record of title for any land that is shown as a separate allotment on a survey plan

Schedule 2 (Spatial Plans)

Clause 14, Public notification of draft regional spatial plan – public may make submissions on notified draft regional spatial plans

Clause 16, Hearing on draft regional spatial plan – independent hearings panel must hold a hearing into submissions on the draft regional spatial plan

Clause 17 Independent hearings panel must make recommendations on draft regional spatial plan – panel must consider submissions

Clause 20 Designating authority to make decisions on recommendations relating to proposed designation – relevant territorial authority must notify persons who made a submission

Clause 30 Public notification of adopted regional spatial plan – final options assessment report must include a summary of the submissions received on the draft plan

Schedule 3 (Further provisions relating to plans)

Clause 16, Notifying a proposed plan for targeted submissions – local authority must send a notice to the named persons inviting them to make submissions on the proposed plans

Clause 18, Striking out submissions and calling for further submissions – sets out the process for striking out and publishing submissions, including notifying those who have had submissions struck out

Clause 20, Who may make further submissions – sets out who can make further submissions on proposed plans

Clause 21, Content, form, and service of further submissions – content of further submissions on a proposed plan

Clause 22, Striking out and publishing further submissions, summary of submissions – local authority must publish all submissions received, or parts of submissions that are not struck out, and publish a summary of submissions and further submissions

Clause 24, Independent hearings panel may hold hearing – independent hearings panel must hold a hearing into submissions on a proposed plan.

Clause 25, Recommendations by panel – the panel must provide its recommendations in reports to be published in prescribed manner

Clause 43, Submissions and appeals relating to provisions replaced by variation – submissions made on provisions of proposed plans are to be treated as submissions on any provisions of a variation to replace the provisions of the proposed plan

Clause 49, Request for change to plan – any person (other than the local authority) may, in the prescribed manner, request a change to a plan

Clause 50, How local authority deals with change request – a local authority may ask for more information about a change request

Clause 56, Process for a private plan change – local authority must send copies of all submissions and further submissions on the private plan change to the requester

Schedule 5 (Designations)

Clause 10 Minister may approve core infrastructure operator as designated authority – the Minister may inquire into the application and request any information as the Minister considers necessary

Clause 17, Deciding whether to notify for public submissions – territorial authority must notify proposed designation for public submissions in certain circumstances

Clause 18, Notification decision: failing to respond to information request or commission report – territorial authority must notify proposed designation for public submissions in certain circumstances

Clause 20, Deciding whether to notify for targeted submissions – territorial authority must notify affected person for submissions in certain circumstances

Clause 21, Requests for further information or reports, submissions, conferences, and mediation – territorial authority may request further information related to proposed designation

Clause 23, Obligation to hold a hearing – hearing must not be held on a proposed designation unless certain conditions have been met, e.g. a submitter has requested to be heard.

Clause 24, Recommendations on proposed designation – matters the recommending authority must have regard to (including submissions) when determining recommendation on proposed designation

Clause 26, Decision of designating authority - if territorial authority is designating authority, it must publish a notice of its decision

Clause 27, Notice of decision on designation - territorial authority must notify decision to each person who made a submission and each land-owner and occupier directly

Clause 42, Approval to use land subject to designation or proposed designation – person may apply in writing for certain approvals

Schedule 6 (Information required in applications for consent)

Clause 2, Information required in all applications – an application for a planning consent must include the full name and address of the applicant and each owner/occupier of the site at which the activity is to occur

Clause 3, Additional information required in some applications – applicants must include information about permitted activities and assessment of the value of investment of existing consent holder

Clause 6, Information required in assessment of environmental effects - assessment of the activity's effects must include identification of the persons affected by the activity

Schedule 7 (Further provisions relating to subdivision and reclamation)

Clause 18, Certificate of approval by territorial authority – certificate must include the name of the responsible person

Clause 19, Approval requirements relating to conditions of subdivision consent – in the case of an easement in gross, a memorandum must include the name of the proposed grantee

Schedule 8 (Enforcement matters)

Clause 1, Local authority, consent authority, or EPA may require financial assurance – may require a person undertaking a particular activity to provide a financial assurance

Clause 7, Independent assessment of amount of financial assurance – local authority, consent authority, or the EPA may require a person to provide an independent assessment related to financial assurance

Clause 12, Local authority, consent authority, or EPA may make a claim on financial assurance – local authority, consent authority, or EPA may make a claim on a financial assurance in certain circumstances

Clause 13, Procedure for claim on financial assurance in the event of person's failure to remediate or clean up – before a local authority, consent authority, or the EPA makes a claim

on a financial assurance, they must notify the person who provided the financial assurance in writing, invite person to make submission, consider any submissions made, and notify the person of decision

Clause 14, Procedure for claim on financial assurance in the event of immediate or serious risk – if a local authority, consent authority, or the EPA makes a claim on a financial assurance in the event of immediate or serious risk, they must notify the person who provided the financial assurance in writing

Clause 15, Notice to replenish financial assurance – if a local authority, consent authority, or the EPA makes a claim on a financial assurance, they may give notice to the relevant person of a requirement to replenish the financial assurance and person must provide the amount required

Clause 17, Application for release of financial assurance – person who provides a financial assurance may apply to local authority, consent authority, or the EPA for the release of financial assurance and relevant authority may request further information and must notify applicant of decision

Clause 18, Transfer of financial assurance – local authority, consent authority, or the EPA may transfer a financial assurance in certain circumstances and must notify person; and may make changes to financial assurance requirements in the process, and if a person is required to provide a further amount as a financial assurance, the person must provide the further amount

Clause 20, Adverse publicity orders – an adverse publicity order may require a person involved in the commission of non-compliance to take certain actions, including taking actions to publicise non-compliance and its impacts

Clause 21, Local authority or the EPA may accept enforceable undertakings – A local authority or the EPA may accept an enforceable undertaking given by a person in writing

Clause 22, Undertaking may include requirements as to compensation or penalties – the local authority or the EPA must give notice of that undertaking on their internet site, including the name of the person providing the undertaking

Clause 23, Notice of decision and reasons for decision – local authority or the EPA must give the person seeking to make the enforceable undertaking written notice of its decision to accept or reject the undertaking and reasons

Clause 26, Contravention of enforceable undertaking – local authority or the EPA may apply to the District Court for an order if a person contravenes an enforceable undertaking

Clause 29, Monetary benefit orders – Environment Court or District Court may order a person to pay an amount; the court may take into account the person's financial circumstances

Clause 30, Pecuniary penalty order – Environment Court may order a person to pay a pecuniary penalty and must take into account the person's conduct and Environment Court makes an order against a body corporate if director or person knew that the non-compliance was occurring

Schedule 10 (Planning Tribunal)

Clause 30, Orders to protect sensitive information - Tribunal may make orders to prevent publication or disclosure by other means of any part of the evidence given in a proceeding before it that is private information or information that should not be disclosed, subject to any conditions that the tribunal considers appropriate

Appendix Two: Further Information Relating to Part Four

Does this Bill: – Question 4.4

- (a) **create or amend a strict or absolute liability offence?**
- (b) **reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?**

Clause 258 carries over equivalent provisions from the RMA, and provides that it is not necessary to prove that the defendant intended to commit the offence in prosecutions and for civil pecuniary penalty proceedings for specific planning and land use offences:

- breaching statutory restrictions on land use
- breaching a subdivision consent condition
- breaching an enforcement order
- breaching a condition of a planning consent
- breaching an abatement notice
- breaching a monetary benefit order
- breaching an enforceable undertaking
- breaching an adverse publicity order
- breaching any requirement or duty made in emergency response regulations

Defences are available if the defendant proves that the action to which a prosecution relates was necessary to protect life, health or serious damage to property, or if it was due to an event beyond their control.

The imposition of strict liability for planning and land use offences aligns with the policy reasons identified by the Legislation Design Advisory Committee (see guideline 24.3 LDAC Legislation Guidelines: 2021 edition) in that these are offences:

- which involve the protection of the public from those who voluntarily undertake risk creating activities; or
- for which there is a need to provide an incentive for people who undertake those activities to adopt appropriate precautions to prevent breaches; or
- for which the defendant is best placed to establish absence of fault because of matters primarily within their knowledge.

However, the regime does depart from standard legislative practice, because strict liability offences would not typically be subject to a term of imprisonment, and the statutory defences are quite narrow.

Significant decision-making powers - question 4.6

Planning consents

Part 4 of the Bill contains provisions that provide for decision-making by consenting authorities in respect of applications for planning consents. These qualify as significant decision-making powers because planning consents may permit activities that would otherwise be unlawful, and can set conditions applying to these activities.

Part 4 sets out a number of relevant procedural requirements in respect of applications for planning consents. This includes notification of affected parties (cl 125), a right for applicants and affected persons to make submissions (cl 131) and request hearings (cl 135), mediation provisions (cl 134, provisions covering matters the consenting authority must and must not have regard to in considering and deciding an application (part 4, subpart 4), provisions governing the setting of conditions when granting permits including provision for applicants to request draft conditions (cl 150 - 152), and a requirements for decisions to be notified (cl 153).

Applicants and submitters may appeal, to the Environment Court in the first instance, the whole or a part of a decision of a consenting authority on a planning consent application or an application for a change to consent conditions or a review of consent conditions (cl 154). Certain administrative decisions made by a consenting authority in the course of administering the consenting process may be subject to review by the Planning Tribunal on application by an eligible person (Sch 10, cl 14–16 and 19).

Regulatory relief

Schedule 3, part 4 contains provisions that provide for decision-making by local authorities in respect of the granting of relief when a plan or private plan change has a significant impact on the reasonable use of land. This qualifies as a significant decision-making power because it concerns significant impacts on a person's reasonable use of land they own and access to relief for such an impact, which may include monetary payment or the offering of alternative parcels of land in exchange for the affected site (see Sch 3, cl 70(2)).

Schedule 3, part 4 contains relevant procedural requirements related to the exercise of this decision-making power. This includes requirements for councils when assessing the materiality of the impact a relevant rule may have (Sch 3, cl 66), a duty to prepare a relief framework that, among other matters, sets out how relief will be made available (Sch 3, cl 65, 67), and a requirement to notify affected persons of the results of a relief assessment, including requirements for what the notice must include (Sch 3, cl 71). The relief framework must be included in a proposed plan when it is notified for public submissions (Sch 3, cl 65).

A local authority's exercise of its power to provide regulatory relief would be subject to review by the Planning Tribunal in the first instance (Sch 10, cl 23).

Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation? – Question 4.7

National Instruments

Clause 50 (Approval of national instrument) contains an empowering provision for the Governor-General, in Council, to approve a national instrument on the recommendation of the Minister. National instruments are secondary legislation (cl 50(6)) and include national policy direction (NPD) (cl 3). The purpose of NPD is to particularise the Bill's goals and direct how they must be achieved, and to help address conflicts between the goals of the Natural Environment Act and the Planning Act (cl 54, 56). NPD may restrict how goals are achieved (cl 56). Clause 12 sets out the relationship between the goals and NPD and specifies that a person exercising a power or performing a function under the Act must not consider the Act's goals directly except for the circumstances listed in cl 12(3)(c), and if a provision of the Act expressly allows or requires a person to consider the goals, the person must only consider the goals as they have been addressed or particularised in "higher order instruments" (which includes NPD). NPD may apply to all of New Zealand or to any specified district, region, or part of New Zealand (cl 44(2)).

The power to make NPD does not involve a power to amend the Act. However, it is a significant delegation of legislative power. It is expected to have legislative effect in determining how the goals in the Bill are implemented, and how potential conflicts between the goals of the Act and of another Act, the Natural Environment Act, are addressed.

While the term 'particularise' does not appear in the Resource Management Act 1991, it should be noted that the intended relationship between the Bills and NPD made under them is broadly consistent with (and intended to codify) existing practice and jurisprudence under that Act. For example, the Supreme Court has described the relationship between the Resource Management Act and instruments made under it in the following way (*EDS v NZ King Salmon*, at [30]):

the RMA envisages the formulation and promulgation of a cascade of planning documents, each intended, ultimately, to give effect to s 5, and to pt 2 more generally. These documents form an integral part of the legislative framework of the RMA and give substance to its purpose by identifying objectives, policies, methods and rules with increasing particularity both as to substantive content and locality.

Regulation making powers

Clause 281 (Regulations) contains an empowering provision at 281(1)(n) to make regulations for transitional and savings purposes that can amend Schedule 1 of the Act.

Clauses 281 - 283 contain provisions relating to regulation making powers.

Clause 281 (Regulations) contains a general regulation making power providing for anything this Act (or the provisions of the Natural Environment Act that are applied to this Act) says may or must be provided for by regulations (cl 281(1)(a)).

This reflects that throughout the bill there are references to requirements for certain things to be done in the “prescribed form”. Under clause 3, “prescribed form” means a form prescribed by regulations made under this Act. The relevant regulation-making powers therefore enable a term to be defined.

Schedule 1, clause 4 (Ending of transition period) contains an empowering provision at 4(1) to by Order in Council specify the date on which the transition period ends for all or one or more regions. Once the specified transition date is set (i.e. when the transition period has ended for all regions—see cl 4(5)), the Resource Management Act 1991 is repealed.

Schedule 1, clause 6 (Extension of time frame for first key instruments) contains an empowering provision at 6(1) to by Order in Council extend the time frame specified in schedule 1, clause 5 that applies to a planning instrument described in that clause.