

Resource Management (Consenting and other System Changes) Amendment Bill

A submission to the
Environment Select Committee

February 2025

Submission to the Environment Select Committee on the Resource Management (Consenting and Other System Change) Amendment Bill

Thank you

Taituarā — Local Government Professionals Aotearoa (Taituarā) thanks the Environment Select Committee (the Committee) for the opportunity to submit on the Resource Management (Consenting and other System Changes) Amendment Bill (the Bill).

We would welcome the opportunity to meet with you to discuss our submission.

About Taituarā?

Taituarā¹ is an incorporated society of approximately 1000 members drawn from the local government sector. Our members include chief executives, senior managers, and council officials with significant policy or operational responsibilities. We are an apolitical organisation, with a wealth of knowledge about the sector and the technical, practical, and managerial implications of local government legislation and regulations.

Our vision is:

Professional local government management, leading staff and enabling communities to shape their future.

Our primary role is to help local authorities perform their roles and responsibilities as effectively and efficiently as possible.

Our Submission

This submission has been developed with input from local government chief executives, senior managers and council staff from across Aotearoa New Zealand. We would like to thank our Resource Management Reform Reference Group (RMRG) for their contributions both to the development of our submission and for their feedback in policy development.

The members of Taituarā RMRG are:

- Aileen Lawrie, Chief Executive, Thames-Coromandel District Council.

¹ For additional information see the Taituarā website: <https://taituara.org.nz>. Our Annual Report 2024 provides further detail.

- Anna Johnson, City Development Manager, Dunedin City Council.
- Blair Dickie, Principal Strategic Advisor, Waikato Regional Council.
- Charlotte Almond, Policy and Strategy Manager, Horizons Regional Council.
- Fleur Lincoln, Principal Policy Planner, Napier City Council.
- Janine Speedy, Team Leader, City Planning, Tauranga City Council.
- Joanna Noble, Chief of Strategy and Science, Gisborne District Council.
- Lucy Hicks, Policy and Planning Manager, Environment Southland.
- Luke Place, Principal Policy Advisor, Queenstown Lakes District Council.
- Marianna Brook, Senior Advisor, Otago Mayoral Forum.
- Matt Bacon, Development Planning Manager, Waimakariri District Council.
- Victoria van der Spek, Principal Advisor, Waitaki District Council.

Our feedback builds on our previous submissions and feedback on [Resource Management \(Freshwater and Other Matters\) Amendment Bill](#) and [Resource Management \(Extended Duration of Coastal Permits for marine Farms\) Amendment Bill](#).

1. General comments

- 1.1 The focus of the Bill provides for several targeted amendments to existing Resource Management Act 1991 (RMA) provisions, focusing on five key themes.
- 1.2 We support the Government's priorities to simplify the resource management (RM) system, while enabling more investment, development and growth opportunities, and generally support the amendments proposed within the Bill.
- 1.3 We congratulate the Government on the practical improvements that the proposed amendments can provide and welcome the opportunities presented to create much needed efficiencies and cost reductions across the RM system. In particular:
 - making it easier to consent and designate new infrastructure
 - providing flexibility around the implementation of the medium density residential standards (MDRS) and enabling alterations to the MDRS using a streamlined planning process

- the ability to refuse land use consent or impose conditions when significant natural hazard risk areas present and the immediate legal effect of rules in a proposed plan that relate to natural hazards
- the new section that relates to emergency response regulation
- the ability to recover monitoring costs for permitted activities, increased penalties for non-compliance and greater ability to consider ongoing non-compliance
- improvements to resource consent process such as the ability to return applications and review of draft conditions.

1.4 One of the local government sector's concerns with the RMA has been the frequent small amendments that have been made. Many intended to streamline and simplify have instead contributed to legislation that is confusing and difficult to implement. We welcome those amendments that respond to these previous issues by providing practical improvements.

1.5 That said, the process used has been truncated with limited consultation, along with little engagement on the specifics of this Bill with local government. We note the Ministry for the Environment's (MfE) comment in the Supplementary Analysis Report (SAR)² that limited data and evidence has been used to support the proposed amendments (due to and/or availability, accessibility and limited timeframes). This has resulted in a qualitative cost and benefits piece of work being completed (not a full cost benefit analysis). This limits the local government sector's understanding of possible implementation costs and who is expected to cover them.

1.6 Additionally, the qualitative cost and benefit does not allow for those required to implement the proposed amendments the time to understand the implications of the changes (not just the cost that may be incurred).

1.7 A significant issue for local government currently is how the amendments contained within this Bill interface with implementation of the current RMA, while also looking toward the proposed changes to national direction and the impending phase three reform (RMA replacement). There are some changes that require clarification on the intent of the legislation or minor changes to improve efficiency

² Ministry for the Environment, Supplementary Analysis Report: Resource Management Amendment Bill 2 – analysis to support introduction, page 15, <https://environment.govt.nz/assets/SAR-RM-Amendment-Bill-2-analysis-to-support-introduction.pdf>

and effectiveness. Ensuring that the legislation is coherent and achieves its intended purpose is essential for successful implementation.

- 1.8 Taituarā considers that urgent focus should be given to working with local government on implementation in the context of all of this change.

Ministerial Powers

- 1.9 Taituarā is concerned with the Ministerial power to direct a local authority to amend a document as the Minister is afforded an unfettered discretion in deciding whether the requirements of a national policy statement have been met. The Minister will not have accurate local data, local insights or detailed understanding of resource management issues' application locally. Such a power has the potential to undermine a council's strategic planning and may have perverse and unintended consequences, for example negatively impacting on a council's financial planning through application of a particular directive.

Participation rights for Māori

- 1.10 Taituarā has concerns over the changes to participation rights for Māori. The inconsistency in how Māori groups are identified in the various sections will create problems in applying the legislation and we are also concerned that some of the changes will give different rights of participation on settled iwi and Māori and those with formal agreements in place, compared to Māori without those instruments. These changes will narrow participation rights by unfairly excluding unsettled iwi and all other Māori without formal agreements in place. This approach is not consistent with obligations under Te Tiriti o Waitangi. This is a particular issue in clauses 29, 34, 42, 47 and 64.

We support the detailed submission of the New Zealand Planning Institute in this regard.

Transition and implementation

- 1.11 This is the second amendment Bill (the first being the Resource Management (Freshwater and Other Matters) Amendment Act 2024) which makes targeted changes to the RMA. The Fast-track Approvals Act 2024 also requires changes to local government processes. Additionally, a suite of national direction instruments is anticipated to be released in early-2025. All of this is prior to the full

replacement of the RMA that has been signalled (referred to as phase three of the RM reforms).

- 1.12 Local government has a critical role in the development of transition planning (including implementation of the current RMA system), the detail of the changes to national direction instruments and the plan for implementation.
- 1.13 Taituarā is in a unique position where we are able to help road test ideas and arrangements, problem solve and develop implementable solutions and/or improvements. Our membership provides access to many critical thinkers that understand the current RM system and the issues these amendments are trying to solve, while also considering implementation issues and opportunities.
- 1.14 There is much that the local government sector can lead and assist with and models of central and local government working together on implementation that we can draw from. This would create huge efficiencies and reduce unnecessary costs for local government and those parties who use the system.
- 1.15 That said, central government should not underestimate the time and funding that will be required to transition and implement the amendments successfully. The pace and sequencing should be critically examined with local government, to ensure as smooth a transition as possible. This is particularly relevant when full replacement of the RMA is expected in late-2025 or early-2026.
- 1.16 The biggest challenges the sector currently has regarding implementation of the current system, in the face of significant change and further signalled changes is balancing the moving parts. This includes developing Annual Plans, running the Elections process, Water services, for some Ratings reviews, implementing the National Planning Standards (NPS's), along with all business as usual requirements.
- 1.17 This Bill presents a timely opportunity to address a number of the regulatory requirements that do not make sense to implement now because they do not align with the direction of the reform or because certainty of direction is required.

2 Government priorities

2.1 Taituarā largely supports the Government's objective to amend the RMA to progress their priorities:

- making it easier to consent new infrastructure, including for renewable energy, building houses, and enhancing the primary sector
- cutting red tape to unleash the investment in renewable energy for New Zealand to meet its emissions reduction targets
- making the MDRS optional for councils, with the need for councils to ratify any use of the MDRS, including in existing zones
- implementing the 'Going for Housing Growth' policy to unlock land for housing, build infrastructure, and allow communities to share the benefits of growth
- facilitating the development and efficiency of ports, and strengthening international supply networks
- simplifying the planning system.

3. Proposals across five key themes

There are a range of amendments grouped into five themes within the Bill.

Overarching comment across all themes

We are being asked to make submissions without having all the relevant information needed for submissions to be well informed. Understanding the national direction package and how it aligns with the Bill, is a key contributor in understanding implementability.

Issue: Several themes include references to planning instruments, and revised planning instruments. Without the national direction package (which includes both new and revised planning instruments) we are unable to make a fully informed submission on the Bill, as it is difficult to understand the implications of these proposed changes.

Theme one: Infrastructure and energy

3.1 The Bill amends the RMA to improve process and outcome certainty for system users by:

- specifying default maximum time frames for consent processing
- establishing default consent durations for renewable energy and infrastructure consents.

Consent duration and related matters

3.1.1 Clause 42 – new section 123B: The default 35 year consent period recognises the need for security of investment. This is a very welcome amendment for renewable energy and infrastructure consents where shorter durations on consents have been set by consent authorities. However, we do recommend an amendment to the clause, so it does not apply to section 9 land use consents.

Issue: An unintended consequence arises with the wording in new section 123B. Regional and land use consents will usually be required for renewable energy and infrastructure activities when they are undertaken outside of designations. Section 9 of the RMA provides that land use consents are granted with no duration attached to them (they are granted indefinitely). The amendment effectively shortens the term by requiring a 35 year term. This change is not in accordance with the SAR³ developed by MfE.

3.1.2 Clause 42 – new section 123B(2): This section references section 116A of the RMA which covers coastal permits for aquaculture activities.

Issue: Clearly the intent of new section 123B is wider than coastal permits for aquaculture and amendment is required to address this.

³ Ministry for the Environment, Supplementary Analysis Report: Resource Management Amendment Bill 2 – analysis to support introduction, pages 11, 20 and 32, <https://environment.govt.nz/assets/SAR-RM-Amendment-Bill-2-analysis-to-support-introduction.pdf>.

- 3.1.3 Clause 4 – section 2 interpretation for **wood processing activities**: We recommend the inclusion of ‘including timber that has been chemically treated’ to subclause (a)(i) sawn timber.

Rules about discharges

- 3.1.4 Taituarā supports the amendment proposed to section 70 of the RMA. This amendment clarifies that a discharge can be permitted by a rule where it will contribute to a reduction in significant adverse effects over time. This aligns with recent changes made to section 107 of the RMA through the Resource Management (Freshwater and Other Matters) Amendment Act 2024 and responds to requests made by the regional sector.

We **support the detailed submission of Te Uru Kahika** in this regard.

Ports

- 3.1.5 Taituarā supports the proposal to give ports requiring authority status by listing them as network utility operators. We also support the compulsory review of conditions associated with the additional 20 years added to the duration of existing coastal permits for occupation of the coastal marine area.
- 3.1.6 Additionally, Taituarā recommends that section 384A of the RMA be reviewed as part of these amendments, in part because the permits have become dated, but also, they are yet to be reviewed under the current RMA process.

Other suggested amendments to the Bill

- 3.1.7 Clause 4 – section 2 long-lived infrastructure: Broaden the infrastructure activities provided in the long-lived infrastructure interpretation to include:
- Local government infrastructure
This would include for example flood and control managed infrastructure (e.g. embankments and reservoirs) and water services (such as water supply, waste and stormwater).

- Municipal infrastructure

Should this be included, a 1 year consent processing time should be considered to better deliver on the government's 'Going for Housing Growth' objective.

Issue: The interpretation for long-lived infrastructure appears to exclude municipal infrastructure (i.e. water services (although we do note that this has the potential to be included in the new water legislation)).

- Bridges

Include Bridges in the infrastructure activities.

- 3.1.8 Clause 4 – section 2 long-lived infrastructure: To make the amendments more implementable, a definition is required for **long-lived**, i.e. the anticipated life span of the infrastructure in question.

Issue: Currently the proposed interpretation for long-lived infrastructure is a list of activities (e.g. pipelines, networks, facilities and structures). It does not provide a quantifiable timeframe for how long something should last (its anticipated life span).

- 3.1.9 Clause 4 – section 2 specified energy activity (a): Amend the definition of **Specified energy activity** (a) from "...that produces energy..." to "(a) the establishment, operation, or maintenance of an activity that converts energy from solar, wind, geothermal, hydro, or biomass sources..."⁴

Issue: Currently the proposed interpretation for specified energy activity talks to producing energy. We have made an assumption that it is intended to also include energy sources of heat for direct use, not just electricity which is why we have proposed the above change to the definition, to ensure this is clear.

⁴ If this is the case, a consequential amendment to the definition of "long-lived infrastructure" is also required, so that it includes the facilities for the direct use of renewable heat energy sources and their conveyance.

Recommendations

That the Committee:

- a. Amend clause 42 – section 123B so the 35 year term does not apply to section 9 land use consents.
- b. Amend clause 42 to correct the reference to section 116A which covers coastal permits for aquaculture.
- c. Include within the interpretation for **wood processing activities** subclause (a)(i) sawn timber ‘including timber that has been chemically treated’.
- d. Review **section 384A** of the RMA as part of these amendments.
- e. Include Local government infrastructure, Municipal infrastructure and Bridges in the interpretation for **long-lived infrastructure** (including examples of what these refer to).
- f. Include a definition for what is meant by **long-lived** in relation to infrastructure items within the long-term infrastructure interpretation.
- g. Amend the interpretation of **Specified energy activity** from “...that produces energy...” to “(a) the establishment, operation, or maintenance of an activity that converts energy from solar, wind, geothermal, hydro, or biomass sources...”.

Theme two: Housing growth

3.2 The Bill amends the RMA to increase flexibility and support housing growth by:

- making it optional for councils to implement the MDRS and provides plan-making processes (the Streamlined Planning Process (SPP)) to deliver for housing growth
- giving new intervention powers to the Minister to ensure compliance with national direction
- simplifying the listing and delisting of heritage buildings and structures.

Minister may direct preparation of plan, change, or variation

3.2.1 Clauses 6 and 7 – section 25A: These clauses relate to the preparation of any plan, change or variation, not just housing although they have been grouped under the housing theme. These clauses require further clarification.

Issue: Clause 6 is intended to ensure future development strategies (FDS's) are prepared; however, this scope has been broadened and is currently written to encompass all documents related to all NPS's. Clause 7 talks to Ministerial powers, with no constraints provided on the powers within the provision. Furthermore, there is no information on what happens if local authorities don't or can't comply with an NPS.

Appointing Streamlined Planning Process panel members

- 3.2.2 It is proposed as part of the new Ministerial intervention powers that Ministers appoint half the members to SPP panels and that no elected members are to be part of panels.

Issue: This change will diminish the current community input through those elected members sitting as accredited commissioners. Why the change to the membership of SPP panels is needed has not been advised and what the implications are, have not been communicated to communities who have invested in the training of elected members.

- 3.2.3 There are already appropriate clauses within the RMA for councils to appoint an SPP panel. The proposed timing of making appointments to panels is of concern to Taituarā.

Issue: Under the proposed requirements local government must engage with the Minister early in the process to appoint panel members, before submissions have been received. Submissions are likely to identify issues that are unforeseen at the outset of the process and may require specific expertise on the panel. The requirement to establish a panel at the outset will therefore be problematic.

The second issue is that the requirement to confirm the panel members so early in the process means the hearing date is likely to be limited to panel availability. This is likely to delay a hearing and impact the SPP directed timeframes.

Commencement of clauses 17, 18 and 70(3)

- 3.2.4 Clauses 17 (new sections 77FA and 77FB), 18 (section 77G) and 70(3) (Schedule 1, clause 25(4A)): Taituarā is concerned with the delayed commencement of these clauses.

Local authorities must have a genuine and timely opportunity to decide on MDRS choices, including any (partial) Intensification Planning Instrument (IPI) withdrawal thus delaying other vital plan changes addressing significant planning issues (as multiple plan changes cannot amend the same provisions at the same time). If the commencement of these provisions is accelerated councils will have a genuine choice to use the tools. Therefore, immediate commencement for MDRS optionality (including IPI withdrawal) from Royal assent and providing 24 months for councils' decision-making on MDRS is considered appropriate.

Issue: The delayed commencement of clause 17 and related clauses means that MDRS will in effect remain mandatory. Councils should have the opportunity to make decisions on the MDRS from the date of Royal assent and progress with plan changes in a timely manner. The timeframe needs to provide for the different stages of implementation (IPS and the NPS-Urban Development) that councils are in.

Recommendations

That the Committee:

- h. Amend clause 6 and 7 – section 25A to reference future development strategies and not national policy statements.
- i. Amend clause 7 – section 25A to include constraints to the application of Ministerial powers, including where local authorities can't or don't comply with the Minister's direction.
- j. Continue to enable accredited local government elected members to be members of SPP panels, ensuring community input is maintained.
- k. Amend the appointment period for SPP panel members to take place after submissions have closed.
- l. Amend clause 2 to provide 24 months from Royal assent for clauses 17, 18 and 70(3).

Theme three: Farming and primary sector

- 3.3 The Bill amends the RMA to enhance investment certainty and support growth by:
- clarifying the interface between the RMA and the Fisheries Act 1996 (balancing marine protection with fishing rights)
 - amending certification and auditing of farm plans
 - ensuring timely consent processing for wood processing facilities
 - enabling national direction to facilitate aquaculture improvements more easily.

Relationship between RMA and Fisheries Act 1996

- 3.3.1 Taituarā supports the general intent to remedy lengthy planning processes impacting on fisheries, and new definitions for certain rules and limitations to activities in specified areas.

Taituarā **supports the submission of Te Uru Kahika** regarding these provisions including:

- **Oppose** prevention of fishing control rules having immediate legal effect, instead suggesting a short ministerial approval step to provide rule quality-assurance.
- **Support** amendment reflecting Māori customary non-commercial fishing rights. Further suggest that this amendment requires regulatory support.
- **Request** existing RMA fishing controls applying to Bay of Plenty, Northland, and Marlborough to remain in place.

- 3.3.2 Clause 71(5)(b) – section 16: It is a new requirement for the Director-General of the Ministry for Primary Industries to concur with the assessment of impact (clause 32(2)(a)) prior to any proposed fishing related rules being able to be notified.

Issue: It is unclear what the Director-General would be considering in their evaluation of the assessment to concur or not. The Minister for Oceans and Fisheries must already be consulted during the preparation of a regional coastal

plan in relation to fisheries management (CI3(3) Sch 1), and the Minister for Conservation must approve the plan and any subsequent changes. Engagement from an early stage to obtain the information necessary to comply with new section 32(2A) will also be a requirement.

Freshwater Farm Plans and Aquaculture

3.3.3 Taituarā supports the proposed amendments to make Freshwater Farm Plan certification and audit services more practical and cost-effective.

Taituarā **supports the submission of Te Uru Kahika** which seeks:

- stronger lines of accountability are needed between Approved Industry Organisations and councils
- obligations of parties to provide information should be included
- standards and outcomes should be consistent across the system.

Recommendations

That the Committee:

- m. Refer to the recommendations within the submission from Te Uru Kahika and amend the Relationship between RMA and Fisheries Act 1996 section in accordance with their recommendations.
- n. Remove clause 71(5)(b) in section 16. Alternatively, should this clause be retained include further information on what the Director-General must consider in their evaluation of the assessment to concur or otherwise.
- o. Refer to the recommendations within the submission from Te Uru Kahika and amend the Freshwater farm plans and Aquaculture sections in accordance with their recommendations.

Theme four: Natural hazards and emergencies

3.4 The Bill amends the RMA by:

- introducing new regulation-making powers
- clarifying and reinforcing councils' ability to decline land use consents or impose conditions when there are significant natural hazard risks

- giving immediate effect to plan changes where new natural hazards rules are being introduced.

Natural hazards

3.4.1 Overarching comment: Taituarā recommends a single piece of national direction for natural hazards/adaptation planning be developed. This would assist in providing high levels of certainty for local authorities, businesses, property owners and communities. It should:

- provide direction relating to the whole spectrum of natural hazard risks i.e. low, moderate and significant (including acceptable, tolerable and intolerable)
- provide quantitative and qualitative definitions for different risk levels:
 - low, moderate, significant
 - acceptable, tolerable and intolerable
- provide a national standardised methodology that sets the basis for assessing risk (i.e. the Australian Geomechanics Society Landslide Risk Management Guidelines⁵)
- provide directions on the type of actions that need to take place at different risk levels:
 - low/acceptable – status quo/no action required
 - moderate/tolerable – manage to avoid increases in risk
 - significant/intolerable – decrease to as low as practicable
- require comprehensive and coordinated risk assessments (CCRA's) to be conducted across larger areas known to be subject to hazards:
 - utilise these CCRA's to prevent the development or re-development of 'sensitive activities' (e.g. residential, healthcare, education) in areas that are subject to significant risk.

⁵ Australian Geomechanics Society, Society Landslide Risk Management Guidelines, 2007, <https://buildchange-web.s3.amazonaws.com/resources/pdfs/usaidprimers/Practice%20Note%20Guidelines%20for%20Landslide%20Risk%20Management%202007.pdf>.

Issue: Local authorities currently have limited tools available to comprehensively address development in areas subject to natural hazard risk. In particular, they are rarely in a position to confidently refuse consents for development (or re-development) in areas subject to elevated levels of natural hazard risk under effects-based management (often used to manage risk on a property-by-property basis) in a constantly changing environment due to the effects of climate change.

This situation creates cumulative increases in risk over time across large parts of the urban environment. Taituarā is concerned that the ability to grant consents for development in areas subject to significant risk will see a continuation of the status quo under effects-based management (i.e. ongoing cumulative increases in risk).

- 3.4.2 Alongside the recommended national direction, Taituarā recommends that government consider the suite of significant liabilities that both the planning and mitigation areas are subject too. This would provide a more streamlined and consistent approach while also reducing the liability that local authorities face in communicating and making decisions in relation to natural hazards.
- 3.4.3 Clause 35 – section 103BA: A report or other evidence is required if a hearing is not held. Given there is no hearing and no ability to respond to the material provided, this seems unnecessary.

Issue: There appears to be no clear purpose, other than for transparency. This would add further administrative burden and may also have the unintended consequence of creating unnecessary confusion and anxiety amongst the parties involved.

- 3.4.4 Clause 37 – new section 106A: Taituarā supports the inclusion for councils to refuse consent in significant hazard scenarios in land use consents. We also recommend the inclusion of an additional clause giving all councils the power to extinguish existing use right when there is risk to life.
- 3.4.5 Clause 37 – new section 106A(2)(c): Amend the proposed use of the term ‘material damage’ to consequences (this is more consistent with best practice risk methodologies); and include within the consequences ‘on people, property, critical

infrastructure and the environment'. Also include an additional clause that places the cost of doing the risk assessment on the consent applicant (not the consent authority).

Issue: The focus appears to have been applied to the 'material damage' of land in respect of which the consent is sought, when it should have a much broader consideration including the consequences on people, property, critical infrastructure and the environment (of which land is a part of). Furthermore, it does not clarify who is liable for the cost of the risk assessment being carried out.

Emergencies

The provision of streamlined emergency powers is supported as it gives effect to learnings from Cyclone Gabrielle, and it will mean that government and local government can respond more urgently and enable faster recovery.

Recommendations

That the Committee:

- p. Develop a single piece of national direction for natural hazards/adaptation planning.
- q. Review the suite of significant liabilities and make amendments to streamline the approach.
- r. Remove clause 35 – section 103BA requiring a report or other evidence where a hearing has not been held.
- s. Include an additional clause that enables councils to extinguish existing use right when there is risk to life.
- t. Amend the term 'material damage' to 'consequences' and include within the consequences 'on people, property, critical infrastructure and the environment'.

Theme five: System improvements

3.5 The Bill amends the RMA to support a well-functioning resource management system by:

- enhancing compliance and enforcement
- reducing regulatory uncertainty

- addressing system gaps
- clarifying policy intent.

Consenting

- 3.5.1 Clause 34 – new section 100: Essentially this requires that councils must not hold a hearing on an application unless further information is needed.

Issue: This will significantly reduce the opportunities for submitters and applicants to participate in decision-making and may have the unintended consequence of increasing appeals and objections (as these are not cost recoverable, they would need to be covered by rates).

- 3.5.2 Clause 35 – new section 103BA(b) is unclear. If there is no hearing held, no briefs of evidence will be prepared and therefore, the consent authority (CA) cannot provide this to the held, no briefs of evidence will be prepared and therefore, the CA cannot provide this to the applicant and submitters.

Enforcement and other matters

- 3.5.3 Taituarā supports the provisions that amend the compliance and enforcement regime. The local government sector for some time has sought changes to the compliance and enforcement framework, particularly enabling cost recovery for monitoring of permitted activities and increasing penalties for offences.

The tool allowing a council or Environmental Protection Authority (EPA) to revoke or suspend a resource consent in circumstances of ongoing and severe non-compliance will be particularly useful to hold offenders accountable for non-compliance and to deter future offending. We also support the reduction of the term of imprisonment to 18 months to remove the option of jury trials.

The changes provide a comprehensive system for enforcement and are an improvement on what is currently contained in the RMA.

Taituarā specifically supports clause 10 (enables councils to set administrative charges under section 36), clause 59

(allows the local authority or EPA to apply to the Environment Court to revoke or suspend consent due to ongoing, significant or repeated non-compliance), clause 65 (increase to penalties), clause 66 (prohibiting contracts for insurance against fines or infringement fees) and clause 68 (validation or royalties collected by regional councils).

- 3.5.4 While we support clause 66, we consider immediate commencement necessary. Continuing to allow insurance against fines/fees for two years after Royal assent will continue to encourage environmental offending, with costs falling on property owners, the Crown and communities.
- 3.5.5 We also support the intent of clause 67 – section 352 however, we do note that in relation to 352(1)(b) that there could be an unintended consequence in that the court in some legal matters (e.g. service of abatement notices, enforcement order etc.) takes the view that it is the person's knowledge of the document that is the relevant test, not necessarily the method of service (as is currently the case). In these cases, registered post and/or hand delivery will still be required.

Recommendation

That the Committee:

- u. Amend clause 2 to require the immediate commencement of clause 66.

4. What is missing from the proposed amendments?

Taituarā has identified a number of amendments that could usefully be included in the Bill to assist with implementation of the current RMA. They will all contribute to increasing efficiency and reduce cost to all parties.

National planning standards

- 4.1 Remove the requirement to implement the RMA NPS's by the specified timeframe.

Issue: Implementing the RMA while also incorporating amendments and considering the implications of the signalled RM changes has created significant uncertainty for councils. Several councils are about to adopt the current NPS's as they are required to, however there has been no information to signal if the anticipated new and

revised national planning instruments are in line with these current requirements.

Implementation of national planning standards

Taituarā surveyed members to better understand how many had implemented the current requirements and what issues they may be experiencing with implementation.

While many councils have implemented the NPS's, the reasons given by those who have not or who have delayed, paint a picture of the uncertainty the local government sector is currently facing and the reluctance to invest ratepayer funds in this work. The reasons given by councils include:

- implementation of the standards in conjunction with the development of an EPlan makes most sense but clarity is needed about whether a national solution for EPlans is still being considered
- the changes to national direction mean implementing the NPS's now will inevitably require rework
- implementing the NPS's in the context of a full plan review makes most sense, but the significant changes signalled as part of phase three including a regional unitary plan model have created a great deal of uncertainty.

Plan review timeframes

- 4.2 Assess the requirement for councils to review regional and district policy statements and plans every 10 years.

Issue: In the face of the uncertainty in the RM space, and the significant changes signalled by the Government, some councils are reluctant to commence a full review of regional and district plans and policy statements.

Changes to national direction and the possible phase three changes mean that some councils are reluctant to embark on a review. The cost to ratepayers and to all parties involved in a review is significant. Particular changes such as a possible regional planning model have created an extra level of uncertainty.

Deferred zoning

- 4.3 Deferred zones are temporary, transitional zones used by some councils for land which a council wishes to retain for future urban, or more intensive urban use, either when more appropriate levels of servicing are available or after a period to maintain a coherent urban form.

It allows for land to be zoned, and then servicing worked on, and then released for development. It has historically been used by a number of councils. The underlying zoning of land identified as Future Urban Zone (FUZ) (e.g. rural) applies until the urban zoning is triggered. A simple pathway under the RMA is needed to allow the final zoning to apply once the preconditions are satisfied.

The Issue: It is unlawful for a council to use a process under the Local Government Act to pass a resolution to trigger a change to a District Plan. Land zoned as FUZ cannot be updated to its final zone once the servicing (or other preconditions) is satisfied, without going through a second Schedule 1 Plan Change.

Section 91

- 4.4 Taituarā recommends a review of section 91. We are seeking the inclusion of a clause that enables applications that have been on hold for an extended period of time i.e. three years or more, to be returned to the applicant. This will create a more cost effective and efficient process for the applicant as it will enable them to submit all information, including new (where an additional consent has been sought), while also allowing councils to effectively manage applications that require other consents.

Issue: At present there is no statutory pathway to push an application along that has properly been deferred. When they remain on hold for multiple years several issues can occur including reallocation due to staff changes (potentially multiple reallocations); the plan provisions change and the proposal changes as a result of another consent which has been sought, yet not out of scope of the original consents (often requiring all new documents). Currently there is no way to return the application or any ability to continue processing, it sits on hold indefinitely.

Recommendations

That the Committee:

- v. Remove the requirement to implement the RMA national planning standards by the specified timeframes.
- w. Assess the requirement for councils to review regional and district policy statements and plans every 10 years.
- x. Amend the RMA, including section 73, to enable deferred zones, which have been through a full Schedule 1 process already, to be changed to their final zone once the council is satisfied that the preconditions for its deferral (servicing or sequencing of development) have been satisfied.
- y. Review section 91 and include a new clause that enables applications that have been on hold for an extended period of time i.e. three years or more, to be returned to the applicant.



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