

Short-Form Supplementary Departmental Disclosure Statement

Resource Management (Consenting and Other System Changes) Amendment Bill
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A short form supplementary disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

It provides a limited supplement to the original disclosure statement for the Resource Management (Consenting and Other System Changes) Amendment Bill dated 5 December 2024 which can be found at this link:

<https://disclosure.legislation.govt.nz/bill/government/2024/105>

This supplementary disclosure statement was prepared by the 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.

22 July 2025

Significant Legislative Features

Offences, penalties and court jurisdictions

1. Do the proposed amendments create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?	NO
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO

1.1. Was the Ministry of Justice consulted about these provisions?	NO

Privacy issues

2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?	NO

Compulsory acquisition of private property

3. Do the proposed amendments contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

Retrospective effect

5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the burden of proof for offences

6. Do the proposed amendments:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

7. Do the proposed amendments create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

8. Do the proposed amendments 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?	NO

Powers to make delegated legislation

9. Do the proposed amendments 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?	NO

10. Do the proposed amendments create or amend any other powers to make delegated legislation?	YES
Stopping plan making processes <p>The RMA requires councils to undertake 10-year reviews of their plans and regional policy statements and implement the national planning standards. Councils may also amend their plans using the process set out in Schedule 1 of the RMA at any time. The Amendment paper proposes to stop plan and policy statement reviews and change processes from progressing in the period leading up to the replacement of the RMA. To ensure important work – such as changes related to natural hazards or giving effect to Treaty settlement obligations – can continue, the proposal introduces an exemption pathway.</p> <p>The proposal overrides existing RMA provisions by suspending requirements for councils to undertake part of their statutory functions until 31 December 2027. RMA plan processes are time intensive, and any process started between now and 2027, when RMA replacement legislation will be in force, may not be completed in time to have any effect on the system, and may be incompatible with the new system.</p> <p>This proposal is a transitional measure that enables more efficient use of council time and resources ahead of the transition to the new system.</p> Ministerial regulation making power to modify or remove plan provisions <p>The amendments propose a regulation making power for the Minister to modify or remove plan provisions in regional policy statements, regional plans or district plans.</p> <p>Refer to 'Appendix: Further Information Relating to Significant Legislative Features' for information on the Ministerial regulation making power to modify or remove plan provisions.</p>	

Any other unusual provisions or features

11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?	YES
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Removing heritage protection for Gordon Wilson Flats

The Amendment paper proposes the Wellington City operative and proposed District Plans be amended by the primary legislation. The policy intent is to direct Wellington City Council to remove any heritage protection provisions for Gordon Wilson Flats and ensure that there are no heritage protections that restrict the demolition of the building.

Amending plans through primary legislation departs from standard practice under the Resource Management Act. Usually, under the RMA, the Minister for the Environment directs any amendment to local plans using national direction.

This is an isolated case of central government exercising its powers to direct how a single heritage scheduled building should be managed, which may create a precedent for the management of heritage buildings in a similar condition, or further bespoke changes to district plans.

Amendments to the Regional Plan: Water for Otago

The Amendment Paper proposes to amend the Regional Plan: Water for Otago through primary legislation to:

- Extend the expiry date on specified water permits to ensure that those consents will expire after new plan provisions are made operative; and
- Amend relevant Chapter 10A provisions of the Regional Plan: Water for Otago so that where a consent holder chooses to replace an existing permit or someone applies for a new permit, they are subject to the same short term consent duration but have the benefit of a controlled activity pathway; and
- Prevent certain provisions of the Regional Plan: Water for Otago that relate to rural diffuse discharges from having legal effect.

Regional plans are usually amended through processes outlined in the Resource Management Act 1991. The processes generally include public notification, an opportunity for submissions, public hearings, and appeals before a final decision is made.

Amending a regional plan through primary legislation may frustrate the process, whereby plan provisions have been developed through consultation with communities and other stakeholders through statutory processes.

Marine Aquaculture: Constraining council ability to review consent conditions for marine farmers

The Amendment Paper proposes constraining consent authorities' (councils') ability to use section 128 of the RMA to review consents extended under the Resource Management (Extended Duration of Coastal Permits for Marine Farms) Amendment Act 2024 (extended Duration Act), for six years from when the Extended Duration Act came into effect (3 September 2024), except where:

- a. a review could be undertaken to implement relevant national environmental standards or national planning standards made by government, or
- b. a review of one or more conditions is a condition of the coastal permit and the review gives effect to an adaptive management approach.

This constraint does not limit a review where it is required by a Court order when a person is convicted of an offence. The Amendment paper also proposes extending the use of the bespoke review process for consents extended under the Extended Duration Act for six years from when the Act came into effect (3 September 2024).

Appendix: Further Information Relating to Significant Legislative Features

Significant decision-making powers – question 8

Ministerial regulation making power to modify or remove plan provisions

The Amendment Paper introduces a new ministerial regulation making power that enables the Governor-General, on the recommendation of the Minister for the Environment, to make regulations that modify or remove provisions in operative regional or district plans or regional policy statements. It allows regulations to prescribe which provisions must be removed or modified, how they must be changed, and any related implementation details such as transitional arrangements.

This power allows the Minister to direct which specific objectives, policies, rules or methods must be modified or removed, where the Minister is satisfied that these provisions have a demonstrable negative impact on economic growth, development capacity or employment.

This overrides planning instruments made under the RMA and bypasses the usual plan change process under Schedule 1 of the RMA, including hearings and appeals.

To safeguard its use, the power is subject to:

- an investigation and report
 - before recommending regulations, the Minister must carry out an investigation and create and publish a report on the finding, to assess whether the provisions have a demonstrable negative impact.
 - the Minister must share this report with relevant council(s) who have the ability to formally respond. The Minister must consider the council response to the report.
- consultation with affected parties and the Minister of Conservation (latter where regional coastal plans are involved).
 - the Minister must consider the outcomes of consultation.
- specific decision-making criteria
 - regulations cannot be recommended if the change would affect plan or policy statement provisions included in recognition of an obligation or right under a Treaty of Waitangi settlement, the Marine and Coastal (Takutai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or a mana whakahono ā rohe or joint management agreement under the RMA, in order to ensure this power does not undermine Treaty commitments,
 - regulations cannot be recommended where the change would prevent the plan giving effect to national policy statements, and
 - regulations cannot be recommended where the change would make the plan inconsistent with national environmental standards.
- a sunset clause repealing the power at the end of 2027.
- the standard Cabinet procedures – any regulations must go through usual Cabinet decision making processes and be supported by a Regulatory Impact Statement.

Together, these measures ensure the power can only be used where there is clear evidence and robust scrutiny.