

Departmental Disclosure Statement

Resource Management (Consenting and Other System Changes) Amendment 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 the Ministry of the Environment, with the assistance of the Ministry of Business, Innovation, and Employment, Ministry of Transport, Ministry of Heritage and the Ministry for Primary Industries.

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.

5 December 2024

Contents

Contents.....2

Part One: General Policy Statement.....3

Part Two: Background Material and Policy Information7

Part Three: Testing of Legislative Content.....9

Part Four: Significant Legislative Features 11

Appendix One: Further Information Relating to Part Two..... 13

Appendix Two: Further Information Relating to Part Three 15

Part One: General Policy Statement

The objective of the Resource Management (Consenting and Other System Changes) Amendment Bill (the Bill) is to amend the Resource Management Act 1991 (RMA) to progress the following Government priorities:

- Make it easier to consent new infrastructure, including for renewable energy, building houses, and enhancing the primary sector
- Cut red tape to unleash the investment in renewable energy for New Zealand to meet its emissions reduction targets
- Making the Medium Density Residential Standards (MDRS) optional for councils, with the need for councils to ratify any use of MDRS, including 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.

The Bill amends a range of existing RMA provisions across five themes:

Infrastructure and Energy – The Bill amends the RMA to specify default maximum timeframes for consent processing and establish default consent durations for renewable energy and infrastructure consents to improve process and outcome certainty for system users.

Housing Growth – The Bill amends the RMA to make it optional for councils to implement the Medium Density Residential Standards (MDRS) and provides plan making processes to deliver for housing. The aim is to increase flexibility and support housing growth. The Bill introduces new powers for the Minister to ensure compliance with national direction. The Bill also simplifies the listing and delisting of heritage buildings and structures.

Farming and the Primary Sector – The Bill clarifies the interface between the RMA and the Fisheries Act to balance marine protection with fishing rights. It amends certification and auditing of farm plans, ensures timely consent processing for wood processing facilities, and enables national direction to facilitate aquaculture improvements more easily. The objective is to enhance investment certainty and support growth.

Natural Hazards and Emergencies – Provides an increased suite of tools to deal with natural hazards and emergency events, aiming for better decision-making and efficiency.

System Improvements – The Bill amends the RMA to enhance compliance and enforcement and the consenting regime, reduce regulatory uncertainty, address system gaps, and clarify policy intent to support a well-functioning resource management system.

Proposals

Infrastructure and energy

The Bill introduces definitions to clarify the new provisions that apply to specified energy activities (renewable energy generation and electricity transmission) and long-lived infrastructure. To provide certainty a list of prescribed long-lived infrastructure is proposed, alongside a new regulation making power for the Minister for the Environment to add to that list.

The Bill aims to reduce delays in consenting for renewable energy generation by requiring 1-year decision-making on consents for specified energy activities and wood processing activities.

For new geothermal and hydroelectricity generation activities, consent authorities must extend the one-year timeframe at the request of the applicant and at the request of specified groups (to uphold treaty settlements and other arrangements).

For other renewable and existing hydroelectricity and geothermal generation activities, the consent authority must extend the one-year timeframe at the request of the applicant, and may extend the one-year timeframe at the request of specified groups (to uphold treaty settlements and other arrangements).

Extensions for specified groups are in recognition of the impact these activities can have on Māori freshwater rights and interests and to uphold Treaty settlements.

Any extensions to the 1-year timeframe for a decision only provides for up to one (1) additional year.

To increase certainty and reduce costs for operators the Bill introduces a default 35-year duration for time-limited consents for renewable energy generation (including hydro and geothermal) and long-lived infrastructure. It also provides exemptions to the default 35-year consent duration for the following reasons:

- The applicant requests a shorter period
- National direction expressly allows for a shorter period
- The consent authority decides to after considering a request from a “relevant group”.

A relevant group is defined in the Bill with the intent of enabling Māori rights and interests to be upheld.

The Bill doubles the lapse periods for renewable energy consents from 5 to 10 years, and the lapse period for designations is also increased from 5 to 10 years. This will provide greater certainty for operators and allow for more time to plan and design infrastructure, and to acquire land under the Public Works Act 1981.

Requirements and costs for designating authorities are simplified by restricting when an assessment of alternatives is required and simplifying other assessments and information requirements.

The Bill extends the duration of port permits under section 384A of the RMA for a period of 20 (twenty) years and enables requiring authority status for ports with landward operations.

To align with changes introduced by the RM (Freshwater and Other Matters) Amendment Act 2024 the Bill amends the scope of discharge rules under section 70 so that regional councils may include permitted activity discharge rules where standards will contribute to a reduction in effects over time.

Housing

The Bill enables councils to opt-out of the Medium Density Residential Standards (MDRS) if they demonstrate 30 years of housing growth capacity. It also requires councils to use the Streamlined Planning Process (SPP) for removing or altering the MDRS or withdrawal of an Intensification Planning Instrument (IPI), changes to the SPP decision-making will remove the need for ministerial approval.

The Bill provides the Minister for the Environment with new intervention powers to ensure compliance with national direction, including housing and business development capacity assessments. The Bill grants the Minister for the Environment new powers to direct councils to prepare or amend documents in accordance with national direction, and to direct what type of plan change is used to give effect to national direction (e.g., the SPP).

The Bill also provides for heritage buildings and structures to be listed or delisted using simplified planning processes.

Farming and primary sector

The Bill clarifies the relationship between the RMA and Fisheries Act 1996 by introducing definitions and restrictions on rules that control fishing. The intent is to ensure that where new rules are introduced, they do not raise new restrictions in unexpected areas (reduced scope of submissions), do not add to the regulatory burden on fishers, and do not apply to Māori customary non-commercial fishing rights. This will be achieved by requiring new rules to assess their effects on fishing and go through a pre-notification process with the Director-General of the Ministry of Primary Industries. The Bill also enables a National Environmental Statement to specify that a change or cancellation of conditions for an aquaculture consent be a Controlled or Permitted Activity rather than a Discretionary Activity.

The Bill amends Part 9A of the RMA to make farm plan certification and audit services more practical and cost-effective, allowing industry organizations to deliver these services.

To reduce delays in consenting the Bill requires resource consents for wood processing facilities to be decided within one year of application.

Emergencies and natural hazards

The Bill introduces new regulation-making powers to support emergency responses and recovery efforts. It also clarifies and reinforces councils' ability to decline land use consents or impose conditions when significant natural hazard risks are present. Plan changes that introduce new natural hazards rules will now have immediate legal effect.

System improvements

The Bill amends the compliance regime by increasing penalties, removing insurance against penalties, and enabling cost recovery for councils. It enables consideration of applicant's compliance history in consent decisions. The Bill makes changes to simplify

the consenting regime by clarifying the scope of further information requests, allows applicants to review consent conditions before decisions, and enables cost recovery for consent reviews due to national direction. It extends excessive noise directions and simplifies the issuing of directive abatement notices.

The Bill proposes changes to the Conservation Act 1987 to make technical amendments to Department of Conservation functions to align their ability to manage discharges with the proposed changes to the RMA.

It also enables councils to access the Streamlined Planning Process for de-listing heritage buildings in plans.

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?	NO
--	-----------

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
--	-----------

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p>Response to question 2.3 is in Appendix One.</p> <p>The Regulatory Impact Statements and Supplementary Analysis Reports will be published on the website of the Ministry for the Environment, and available via the following link: https://environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/rm-consenting-and-other-system-changes-amendment-bill</p>	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	YES
<p>The Ministry for Regulation provided an independent opinion on the quality of the following Regulatory Impact Statements:</p> <ul style="list-style-type: none">• Policy analysis of compliance and engagement proposals for inclusion in Resource Management Amendment Bill no.2• Policy analysis of designations proposals for inclusion in Resource Management Amendment Bill no.2• Policy analysis of natural hazards and emergency proposals for inclusion in Resource Management Amendment Bill no.2 <p>For the remaining Regulatory Impact Statements the Ministry for Regulation advised that its analysis role should be undertaken by a representative from each Ministry. The RIA panels for these included representatives from the Ministry of Housing and Urban Development, the Ministry for Primary Industries, Ministry of Business, Innovation and Employment, and the Department of Internal Affairs.</p>	

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
--	-----------

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?	YES
<p>The Supplementary Analysis Report (SAR) 'Resource Management Act Amendment Bill 2 – analysis to support introduction' has been prepared to support Cabinet consideration of the Bill.</p> <p>The purpose of the SAR is to provide an overarching assessment of the RM Bill 2 policy package. This scope has been agreed with the Ministry for Regulation (MfR). MfR consider that we have complied with impact analysis requirements for the scope of policy agreed by Cabinet in June 2024.</p>	
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?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
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?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

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?
--

The Ministry of Foreign Affairs and Trade assessed the consistency of the policy to be given effect by this Bill with New Zealand's international environment obligations and trade 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?

Response to question 3.2 is in Appendix Two.
--

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
---	------------

The Ministry of Justice are progressing a full NZBORA assessment. If the Bill appears to be consistent with NZBORA, the assessment will be published here: https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/the-bill-of-rights-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
---	------------

3.4 (a)

Clause 65 Section 339 amended (Penalties)

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

Clause 74 Section 39 amended (Other offences in respect of conservation areas)

3.4 (b)

Clause 47 New subpart 5 of Part 7AA inserted

Clause 59 New section 314A Environment Court may revoke or suspend resource consent

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

Clause 69 Schedule 1 amended. In Schedule 1, after clause 93, insert 93A.

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
<p>The Ministry of Justice was consulted on the proposals to amend the compliance and enforcement provisions. Concerns from the Ministry of Justice for two proposals were not addressed (Clause 65 Section 339 amended (Penalties)):</p> <ul style="list-style-type: none"> • A reduction in the maximum term of incarceration for committing an offence under the RMA from 2 years to 18 months. <p>This will no longer allow for jury trials for these offences which raised concerns for basic legal rights.</p> <ul style="list-style-type: none"> • Increasing maximum RMA fines for a natural person from \$300,000 to \$1,000,000; and increasing the fine for a person other than a natural person from \$600,000 to \$1,000,000. <p>Because there is one fine for multiple offences and the level is not necessarily proportionate to the harm caused.</p>	

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
<p>Clause 32 New section 92AA inserted (Consequences of applicant's failure to respond to requests, etc)</p> <p>Clause 67 Section 352 amended (Service of documents)</p> <p>Both clauses relate to the use of the applicant's email address to contact them regarding service of documents and align with current practice regarding use of personal information.</p>	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	NO
--	-----------

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
Response to question 3.6 is in Appendix Two.	

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?	NO
---	-----------

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?	NO
--	-----------

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
<p>Clause 75-81 Amendments to Resource Management (Transitional, Fees, Rents, and Royalties) Regulations 1991 and validation</p> <p>These proposals apply to royalties collected by a regional council for the removal of sand and shingle and align the terminology with the Marine and Coastal Area (Takutai Moana) Act 2011 and validates the collection of these royalties. They do not amend the value of the royalty collected.</p>	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	YES
<p>Clause 51 of the Bill in new Part 8 inserted into Schedule 12 sets out the application of section 123B (Duration of consent for renewable energy and long lived-infrastructure).</p> <p>This proposal applies to applications submitted before RM Bill 2 is enacted, as long as a decision notice hasn't been served yet. If a hearing has already taken place and concluded, the new default 35-year consent duration won't apply. This ensures that parties involved in the hearing, who understood that consent duration was part of the decision, aren't affected by changes to consent duration settings after the hearing.</p> <p>This policy will also apply to relevant resource consent applications under the Fast-track Approvals Bill, when enacted.</p> <p>The proposal provides participants with the ability to meaningfully engage and submit on the issues while there is still an opportunity for them to be considered, including the duration of consent.</p>	

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?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
---	-----------

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?	NO
--	-----------

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
<p>Section 360 regulations</p> <p>The Bill enables the Minister for the Environment to prescribe an activity or thing to be added to the list of long-lived infrastructure.</p> <p>This Bill does not provide any criteria or safeguards for this power. Select Committee will be required to define and criteria for this power, which could be similar to the existing safeguards for the Minister when approving a requiring authority.</p>	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p>Emergency response regulations</p> <p>To better enable the rapid and effective response in an emergency event Clause 64 of the Bill proposes to insert a new section 331AA into the RMA that enables the Minister for the Environment to recommend that the Governor-General, by Order in Council, create emergency response regulations to:</p> <ul style="list-style-type: none"> • respond to a natural hazard event or other emergency in an area • enable recovery efforts in the affected area <p>A series of requirements that the Minister must be assured of before making the recommendation is proposed in the Bill. This includes consultation with other relevant portfolio Ministers.</p>	

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?	NO
--	-----------

Appendix One: Further Information Relating to Part Two

Regulatory impact analysis

2.3 – Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?

Regulatory Impact Statements (RIS) were prepared for the following proposals:

- Policy analysis of compliance and engagement proposals for inclusion in Resource Management Amendment Bill no.2
- Policy analysis of designations proposals for inclusion in Resource Management Amendment Bill no.2
- Policy analysis of natural hazards and emergency proposals for inclusion in Resource Management Amendment Bill no.2
- Resource Management Amendment Bill no.2 – Addressing the Resource Management Act 1991 – Fisheries Act 1996 Interface
- Extending the Duration of Port Coastal Permits under section 384A of the Resource Management Act 1991
- RM Bill 2 consenting – improving consent processing efficiency
- Enable Council to cost recover for activities directed by National Direction
- Clarify how a non-complying activity consent is considered
- Clarify and limit the kind of conditions that can be applied to consents and designations
- Streamlining change of consent conditions processes for marine aquaculture
- Implementing changes to the National Policy Statement on Urban Development 2020 and making the Medium Density Residential Standards optional for councils
- Better managing outcomes for historic heritage by enabling delisting of heritage buildings and structures through a streamlined planning process
- Consenting – providing more certainty on consent durations and lapse periods for certain activities
- More certainty on consent durations for wood processing facilities
- Amendments required to Part 9A of the Resource Management Act to provide for Industry Organisation delivery of freshwater farm plan certification and audit services
- Managing discharges under s70 of the Resource Management Act

‘Amendments required to Part 9A of the Resource Management Act to provide for Industry Organisation delivery of freshwater farm plan certification and audit services’ and ‘Managing discharges under s70 of the Resource Management Act’ received a Meets outcome through Quality Assurance by Ministry of Primary Industry and Ministry of the Environment Regulatory Impact Assessment (RIA) Panels.

‘Better managing outcomes for historic heritage by enabling delisting of heritage buildings and structures through a streamlined planning process’ received a Does Not Meet outcome from the Ministry for Culture and Heritage and the Ministry for the Environment RIA Panel.

It was determined that ‘the RIS does not meet the standards required to demonstrate robust regulatory analysis of the objective, problem and options put forward; and that more time would be required to enable the analysis in the RIS to be further developed. Currently there is a lack of clarity on the problems, little evidence supporting the problems and their impacts other than anecdotes, and a lack of connection between the outcomes of the preferred option and the Government’s objectives.’

The remaining RIS were reviewed by relevant Ministries’ RIA Panel, and all received a Partially Meets outcome. It was noted that tight timeframes and limited opportunity for consultation constrained the development of policy and impacted the scope of analysis and supporting evidence with cost and benefit analysis restricted to qualitative methods. A heavy weighting was given to proposals that could be implemented quickly.

In addition to these a number of policy proposals were exempt from regulatory impact analysis requirements. These include:

- aligning section 322(1)(b) with section 314(1)(b) for preventative abatement notices (part of the policy to improve functionality of compliance and enforcement provisions)
- correcting a drafting issue in section 38 related to local authority ability to warrant officers of other agencies as RMA enforcement officers (part of the policy to improve resource management system effectiveness)
- repealing sections 38(3) and (4) of the RMA to enable the Minister of Conservation to authorise RMA enforcement officers in the same way and with the same enforcement functions and powers as other local authorities for specified offshore islands
- amending section 39(6) of the Conservation Act for discharging contaminants into a conservation area for biosecurity and pest control purposes, and
- amending the regulations for collection of sand and shingle royalties to replace references to 'land of the Crown in the coastal marine area' to align with the Marine and Coastal Area (Takutai Moana) Act 2011, and insertion of a clause confirming that past collections of the royalties were lawfully collected under the RMA and its regulations.

The Regulatory Impact Statements and Supplementary Analysis Report will be published on the Ministry for the Environment and the Ministry for Regulation website.

Appendix Two: Further Information Relating to Part Three

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?

The principles of redress, active protection and partnership are all relevant to assessed impacts on Māori rights and interests and Treaty settlements. Settled or claimant groups and the Crown are required to maintain and avoid risk to the durability of Treaty settlements.

The Government's strategic objectives for the resource management system includes "upholding Treaty of Waitangi settlements and other arrangements". This directive has informed policy development for this Bill.

A broad range of Māori rights and interests in the natural environment, including those recognised and provided for under the RMA in general and specific intersections with Treaty settlements and other arrangements, have been identified. Key impacts identified include:

- the ability of Māori to use their land in a manner they see fit,
- disproportionate impacts on Māori due to location and underdevelopment of Māori land,
- environmental and cultural impacts on freshwater and coastal marine taonga and sites of significance,
- limited influence in consenting processes, particularly as it relates to sites of significance, takutai moana groups, freshwater and coastal marine taonga, and
- precluding options for addressing freshwater and geothermal rights and interests.

RM Bill 2 has been developed within a relatively short time frame. This has impacted:

- Consultation – in particular, the availability of both officials and Māori groups to attend engagements, and the ability to provide detailed information on the policy changes, was limited. This has prevented full engagement with Māori including Post Settlement Governance Entities (PSGEs).
- Analysis of specific Treaty arrangements – full consideration of potential impacts to Treaty settlement arrangements, statutory acknowledgement areas or process, Takutai Moana applications and existing groups, or on Māori more generally. This analysis is usually also informed by engagement with affected groups.

This limited consultation means it is not possible to quantify or comprehensively understand the full spectrum and scale of potential costs and benefits of the proposals.

Mechanisms have been built into the policy to enable requirements in Treaty settlement legislation to be met. However, mechanisms for meeting requirements in other arrangements (e.g. Mana Whakahono ā Rohe and iwi management) do not exist across all proposals.

Specific impacts identified for each policy proposal is summarised below.

Infrastructure and energy

Changes to resource consent processes are likely to have increased impacts on Māori. The extent of impacts will likely be dependent on the consenting process, including whether Māori have had an appropriate and adequate opportunity to be involved prior to the consent being granted.

The Bill requires a one-year maximum timeframe for consent processing of existing 'specified energy activities' and establishes default consent durations for renewable energy and infrastructure consents to improve process and outcome certainty for system users.

These consent processing times have also been applied to new hydro and geothermal energy developments but with the ability for the applicant or Treaty Settlement entities, iwi authorities, or a recognised customary rights group to request an extension of 1 year. This is due to the significance of freshwater and geothermal resources on Māori economic and social wellbeing, and on Māori rights and interests in freshwater. These developments often involve taking, diverting, damming, or altering water flow, affecting the rights Māori hold in relation to freshwater and geothermal resources as taonga (treasures) guaranteed by the Treaty of Waitangi.

New hydro and geothermal developments may also preclude recognised rights and interests in freshwater and geothermal from being addressed by limiting future availability of resource allocation and options for governance.

Extending coastal port permits for another 20 years will enable ports to continue to operate lawfully under the RMA. However, it limits the ability of Māori (including Takutai Moana applicants and groups with statutory acknowledgements over the area) to influence consenting, as consents would only likely result in a decline if there were a serious irreversible environmental impact.

This poses risks to the Māori-Crown relationship and was raised as a concern by Māori groups engaged with. The coastal marine area is a significant taonga to Māori, and the need for environmental protections was expressed, including as a food source for future generations.

RM Bill 2 does include a requirement for ports to notify Māori of any proposal for new or modified consents. However, councils will also have the ability to include review conditions on extended permits which may provide a limited opportunity to address some aspirations or concerns from Māori, particularly where there is a formal relationship through a Treaty settlement or other arrangement.

Designation changes are likely to have an increased negative impact compared to the status quo. In particular, the proposal to allow the landward part of ports to be designated will have negative impacts on access to the coast and coastal marine area by Māori.

This will also have impacts on Marine and Coastal Area (Takutai Moana) Act areas, particularly areas that are currently under claim, Māori land and sites of cultural significance.

Increasing the designation default lapse period from five years to ten years will also mean requiring authorities have longer to implement designations, acquire land and compensate directly affected landowners. This longer period of uncertainty could lead to a lack of investment in the land, and a loss of social and economic wellbeing for affected Māori, as well as other landowners and parts of the community with interests in the land.

Housing growth

This policy change is expected to enable more housing that is less expensive for all people, including Māori.

Through limited engagement with PSGEs there has been support for initiatives that will enable more affordable housing. However, concerns have also been raised about housing quality, particularly in relation to more vulnerable groups within Māori communities such as the elderly, who are both more likely to need more affordable housing, and more vulnerable to poor health outcomes because of poor-quality housing.

Farming and the primary sector

Both the RMA and Fisheries Act can be used to control the effects of fishing on biodiversity, potentially resulting in duplication of responsibility and uncertainty for users. Changes are proposed to clarify the role of these two statutes, including ensuring RMA decisions do not prevent customary non-commercial fishing, and requiring RMA decisions to specifically consider effects on fisheries. These changes are expected to reduce uncertainty for fishers, Māori, and other interested parties, and provide a more effective balance between the use and protection of fishing resources and protection of the environment.

The Minister for the Environment will now approve industry organisations to certify and audit Freshwater Farm Plans instead of regional councils. Māori have an interest in the quality and compliance of Freshwater Farm Plans, as it impacts freshwater quality. Groups who have a relationship agreement with regional council through a Treaty settlement or other arrangement will still be able to raise compliance or practice concerns to regional council who will continue to monitor the delivery of certification and audit services.

The uncertainty around the cost and outcome of aquaculture applications means that marine farmers are less likely to seek resource consents to change their consent conditions. RM Bill 2 proposals will enable more flexibility to change or cancel consent conditions related to aquaculture activities. This increased certainty to be able to vary consent conditions will benefit all aquaculture participants, including Māori aquaculture participants.

Natural hazards and emergencies

Proposed changes will enable better response and recovery from emergency events (including from natural hazards) and help ensure decisions on where development occurs is based on up-to-date information on natural hazard risks.

Māori land including marae, Papakāinga, urupā, and other wāhi tapu are often located beside or near rivers or streams, making them vulnerable to flooding or inundation. As such, it is possible that both disproportionate benefits (long-term avoided hazard risk) and costs (eg. the opportunity cost of developments not going ahead) may occur as a result of the natural hazard related changes.

There may be some implications for Treaty settlements where new regulation-making powers enable broad changes to the RMA, including removing the need for a resource consent for certain activities and thereby removing the need to notify affected protected customary rights groups, affected customary marine title groups, or statutory acknowledgement area groups etc.

Other regulation-making powers which could include the amendment of notification pathways, and the removal of Environment Court appeals could have adverse effects on Māori. These potential impacts are reduced by the inclusion of safeguards for all regulation-making powers, including the requirement for the Minister to consult with relevant Māori groups when making regulations.

System improvements

A range of changes are proposed to compliance and enforcement provisions in the RMA, principally to increase fines and improve enforcement processes and procedures. These changes were included in the now repealed NBA. The feedback from Māori ranged from general support to no objection.

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?

A summary of engagement undertaken on the policy proposals is provided below.

Letters were sent by the Minister Responsible for RMA Reform in late March 2024 outlining the Government's overall policy intent for this Bill. These letters went to iwi (including Post Settlement Governance Entities, and groups yet to settle their historical Treaty of Waitangi claims iwi), as well as local government, industry sector stakeholders, non-government environmental organisations, and practitioners. A total of 58 responses were received and considered in the final scoping of matters for this Bill and the wider RM reform agenda.

Discussions with some of these groups ran from June to October 2024. Not all groups were available to discuss these matters with officials within the timeframes available and/or under the given circumstances (e.g., some groups indicated they understood that the policy decisions had already been taken, referencing the letters from the Minister Responsible for RMA Reform to support this view).

Alongside the sector specific engagement detailed below, officials have drawn on the relevant engagement undertaken through development of the Natural and Built Environment Act 2023.

Infrastructure and Energy – Targeted engagement on proposals affecting infrastructure and energy was undertaken through late June to early September 2024. Officials from the Ministry for the Environment, Ministry of Business, Innovation and Employment and Department of Internal Affairs met with local authorities, industry stakeholders, system practitioners and environmental non-governmental organisations.

Targeted engagement on the proposal to extend port permits took place between May and July 2024. Ministry for the Environment and Ministry of Transport officials met with the New Zealand Port Company CEO Group, representative from regional councils, port companies and mana whenua.

Housing Growth – Targeted engagement on proposals affecting housing growth was undertaken through late June to mid-August 2024. Officials from the Ministry for the Environment, Ministry of Business, Innovation and Employment, Department of Internal Affairs and Ministry of Housing and Urban Development met with local authorities, system practitioners, environmental non-governmental organisations, and the RM Reform Working Group for Business, Infrastructure, and Development.

Farming and the Primary Sector – Targeted engagement on marine aquaculture took place on 20 June 2024. Officials from the Ministry of Primary Industry and Ministry for the Environment met with representatives from regional councils, the research sector, industry stakeholders and Te Ohu Kaimoana.

Written feedback on the interface of the RMA and Fisheries Act was received from local government authorities and members of the Iwi Fisheries Forum.

Natural Hazards and Emergencies – In September 2024 officials from the Ministry for the Environment met separately with local government practitioners, representatives of environmental non-governmental organisations and the infrastructure sector.

System Improvements – In July 2024 officials from the Ministry for the Environment met with members of the New Zealand Planning Institute Advisory Group to discuss monitoring and compliance matters.