

Short-Form Supplementary Departmental Disclosure Statement

Natural and Built Environment Bill

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.

This supplementary disclosure statement provides a limited supplement to the original disclosure statement for the Natural and Built Environment (NBE) Bill dated 10 November 2022, which can be found at [this link](http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2022&no=186):
<http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2022&no=186>

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.

18 July 2023

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
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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
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Compulsory acquisition of private property

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

5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?	NO
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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
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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
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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?	YES
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Clause 402 of the NBE Bill / section 217D of the Resource Management Act 1991 (RMA) set land use thresholds where certified freshwater farm plans are required.

The proposed amendments allow the Minister for the Environment to set larger thresholds than those currently specified in clause 402 of the NBE Bill / section 217D of the RMA when recommending an Order in Council (OIC) to apply Part 9A and the Freshwater Farm Plan Regulations 2023 (the Regulations) to an area (under clause 401 of the NBE Bill / section 217C of the RMA).

The amendments allow the Minister for the Environment to consider the land use thresholds when recommending an OIC – the amendments could also grant an exemption to the size of farm the Regulations would ordinarily apply to.

The current land use area thresholds do not allow for different thresholds to be considered when Part 9A (or Subpart 2 of Part 6 of the NBE Bill) and the Regulations are applied through an OIC. It is considered that additional flexibility around these thresholds is needed as the Regulations are implemented, so regulatory requirements can be tailored to meet the unique needs of each region, district or part of New Zealand.

This power is constrained and very limited in scope. It would only allow the Minister for the Environment to set larger land use thresholds than those currently specified. No additional groups would be affected by the amendment, nor would any existing regulated parties be more materially impacted or subject to further penalties due to this change.

This power would only be exercised by the Minister for the Environment, after consulting with the Minister of Agriculture, recommending an OIC to the Governor-General. Cabinet would scrutinise any exercise of this power.

10. Do the proposed amendments create or amend any other powers to make delegated legislation?	NO
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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?	NO
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