

Immediate implications of the RM Reforms

With the Planning Bill and the Natural Environment Bill passing their third reading, and royal assent imminent, we consider how this legislation will impact your current and future development projects.

Hot on the heels of the Select Committee reports, the Planning Bill and the Natural Environment Bill have raced through a second reading, the committee of the whole house, and passed their third reading on 22 September. A raft of amendments were introduced by Hon Chris Bishop and passed by the Committee of the Whole House. In relation to the transitional arrangements, these include:

- additional amendments to the Resource Management Act 1991 (**RMA**);
- amendments to the Fast Track Approvals Act 2024 to provide a transitional regime;
- ensuring the amendments to other legislation commences at the appropriate time, including in the event of a regional transition prior to national transition;
- enabling designations to be confirmed through the first regional spatial plans process, and before the specified transition date to be included as a designation in a RMA district plan;
- enabling the Minister to identify national standards under these Bill as initial national standards that will apply to the RMA; and
- transitional arrangements or survey plans submitted under the RMA for reclamation or subdivision;
- continuation of lawfully established activities, and

- continued application of specified provisions relating to emergency work.

The final step is royal assent from the Governor-General, Dame Cindy Kiro, which essentially "rubber stamps" the bills into law.

Other political parties have been vocal with their opposition to these changes and to the Planning Bill and Natural Environment Bill generally. However, the Labour party earlier indicated it would not repeal this legislation but would make changes to key parts.

This article looks at how the new legislation will impact existing and future development projects in the short term.

The transition to a new planning system

As the Select Committee recognised, transitioning to an entirely new system is complex, and a transition period that enables parts of the new system to be utilised while retaining parts of the RMA is beneficial.

The transition period will begin one month following royal assent of the Bills and is expected to remain in place for just over 4 years until the transition period ends in 2030.

A transition period (for a region or for the entire nation) can only be ended by an Order in Council which states a date which the transition period ends (called a specified transition date) and when the new legislation will apply from in full. It cannot be ended prior to 31 December 2027.

During the transition period:

- the Minister is to issue national policy direction under both Bills within 12 months of royal assent. [An illustrative national policy direction has been released](#) with comments sought by 16 October 2026; and
- local authorities are to focus on preparing planning instruments including regional spatial

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plans, natural environment plans and land use plans to the point of notification for submissions.

Whilst this is occurring, amendments to the RMA will take effect that enable a hybrid system to be employed during the transition period, beginning 1 month after royal assent. We discuss some of these amendments below.

Consenting

A key change to consenting under the RMA is proposed by the Bills in the transition period, with the introduction of 'out-of-scope' effects. A new section 104(1)(1A) of the RMA will require consent authorities considering the effects of a land use activity under a district plan to disregard specified 'out-of-scope' effects. These 'out-of-scope' effects include:¹

- any of the following where they relate to residential activities (except in relation to the protection of historic heritage):
 - the area of glazing;
 - the presence or absence of balconies;
 - the outdoor living space;
 - the internal layout;
 - the size of a residential unit; and
 - the size of landscaped areas (except in relation to permeability).
- negative effects of development on trade competition, including on competing providers of input goods and services;
- effects on retail distribution;
- in relation to a project: any lack of demand for the

project or the fact that the project is not financially viable;

- the type of residents to be housed in a new development; and
- views from private property.

With these effects out of scope, the feasibility of some projects during the transition period may become more easily realised. These changes only apply to applications made once the transition period begins and do not apply retrospectively to existing consent applications.

This means that developers may need to make a strategic call to wait or withdraw any current applications and re-apply at a potentially more enabling time for their projects.

Councils have also been given the power to amend their RMA district plans during the transition period to remove or modify 'out-of-scope' effects from their district plans without the need to follow the standard schedule 1 RMA process. A new section 76(6) will also be inserted into the RMA, providing that a rule must not require resource consent for an activity solely because it relates to an 'out of scope' effect.

Additionally, the special circumstances test for public notification will be removed from the RMA, along with consideration of out of scope effects for the purposes of notification under section 95D and 95E of the RMA.

Extension of duration for certain resource consents

To assist with the transitional period, Schedule 1 of the Planning Bill provides for most resource consents to be automatically extended if they were due to expire during the period beginning one day after the Bills receive royal assent to 2 years after the transition period ends,

¹¹ We note that a broader range of effects are out of scope under the Planning Act once it becomes fully operational, and the transition period ends.

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or 4 years after the transition period ends, if there are regulations are issued to that effect.

There are some exceptions. For example, water consents cannot be extended beyond a total term of 35 years, and this extension does not apply to resource consents for the construction or operation of a wastewater network.

Discharge or coastal permits

Amendments have also been made that expand the effects that can be allowed when granting a discharge or coastal permit under section 107(2A).

In addition to "any significant adverse effects on aquatic life", effects under section 107(2A) now include:

- the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;
- any conspicuous change in the colour or visual clarity
- any emission of objectionable odour; and
- the rendering of fresh water unsuitable for consumption by farm animals.

Provided the consent authority is satisfied those effects are already in the receiving waters, imposes condition on the permit and is satisfied those conditions will contribute to a reduction of those effects over the duration of the permit, consent can be granted.

This will have immediate legal effect – applying to applications lodged on or after the date the Bills receive royal assent, applications lodged prior to royal assent but where a decision has not yet been received, and applications where a decision to grant has been made but it is the subject of an appeal or ongoing court proceedings.

Alternative Permitted Pathway

During the transition period, an alternative permitted activity pathway is provided for. Under this pathway, a consent authority *may* give notice that a district land use activity that despite non-compliance with a rule or standard relating to a matter that is an "out-of-scope effect" is a permitted activity, either on its own initiative or after receiving an application for a resource consent for the activity.

These notices must be in writing and meet specified information requirements. A notice will lapse 5 years after the date of the notice, unless the permitted activity is given effect to.

Initial National Standards

The Government has been frank that clearer national direction is on the way and have made provision that enables direction to be in place earlier under the RMA to guide the transition period. The Minister through an initial national standard (**INS**) may identify provisions including national rules (and other content) relevant to decision making under the RMA. An INS must not directly amend an RMA plan, direct a local authority to amend an RMA plan or direct an RMA plan be amended to implement a provision of the INS without the using schedule 1 process.

The Ministry for Cities, Environment, Regions and Transport has indicated that INSs will introduce 'new system' standards that can be applied earlier under the RMA. These are being scoped and expected to be consulted on, coming into effect in 2027. For those seeking consents during the transition period, INSs may affect some resource consent processes.

RMA National Direction

The RMA national direction remains applicable during the transition period but can be overruled by INSs. Section 43AC sets out the relationship between INSs and other instruments during the transition period. It provides that if there is any conflict or duplication

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between an INS and a national policy statement, a New Zealand coastal policy statement, a national environmental standard, a regional policy statement, or a plan or proposed plan, the INS will prevail.

This means that while current national direction under the RMA will continue to remain applicable, INSs have the potential to govern much of the planning regime during the transition period.

Plan Changes

The existing plan stop legislation (preventing local authorities from initiating plan changes without approval of the Minister) continues to apply and a further restriction on private plan changes being notified from 1 January 2028 will come into effect.

We consider this is to enable the first regional spatial plans to be implemented without private plan changes undermining that process. In any event, if you have rezoning aspirations, you should get it in quick or you will have to wait for the spatial planning and land use processes to occur.

Procedural Principles

Procedural principles will guide decision makers in the new planning system, and are intended to ensure that decisions are clear, timely, proportionate, and evidence based.

During the transition period, additional procedural principles will apply to all resource consent decisions, or a decision or recommendation on a notice of requirement under section 18B of the RMA. These principles will ensure that all documents can be readily understood by ensuing documents are succinct and use plain language, decision-makers should ensure they have sufficient information to understand the implications of their decisions, taking into account the costs, feasibility of obtaining that information and the significance of the matter; and act in a pragmatic way that supports practical solutions.

These procedural principles are additional to those already in section 18A of the RMA which require timely, efficient, consistent and cost-effective processes proportionate to the function or powers being performed or exercised, along with requirements for policy statements and plans, and promoting collaboration between local authorities on common resource management issues.

These principles directly address some of the key hold ups that the Government has identified as drivers for reform.

Fast-track Applications

A number of changes to the Fast-track Approvals Act 2024 (**FTAA**) are provided for in the Bills. The first tranche will apply one day after royal assent and sets out how applications will be dealt with in relation to the transition period as well as removing FTAA references to Mana Whakahono ā Rohe (iwi participation agreements).

The second tranche occurs one month after royal assent and is an amendment to Schedule 5, where an assessment of an activity's effects on the environment does not need to include any out of scope effects as set out in section 104(1A) to the RMA.

The third tranche will be implemented by Order in Council at a later date to align the FTAA with the terminology and processes in the new legislation.

Key amendments applicable to the transition period

During the transitional period, a transitional regime under the FTAA will also apply in relation to RMA approvals sought in referral and substantive applications. In summary:

- Any application lodged **prior** to the transition period commencing, must continue to be

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processed and determined² under the FTAA and in relation to the RMA, as in force at the time the application was made.

- Once the transition period begins, an application for a district land use consent does not need to include any of the "out of scope effects" under the RMA as identified earlier in this article.
- For any application lodged **during** the transition period **but not determined before the specified transition date**, the application must continue to be processed and determined under the FTAA and RMA as they were in force at the time the application was made.

Conclusion

The new hybrid planning system will provide certain projects with advantages before the new planning system can take full effect; however, the benefits of the Fast-track Approvals process remain and will be enhanced for some projects by the changes to the RMA during the transition period, particularly around 'out of scope' effects.

The key considerations as to which is the most appropriate process to utilise still remain the key effects of the project and the costs associated with each process.

Want to know more?

If you have any questions about this article or the reforms more generally, please contact our specialist Environment and Planning Team.

² Means for a referral application: the application has been granted or declined under section 21 and means for a substantive application, a decision document has been issued under section 88.