

Date: Wednesday, 5 February 2025
Time: 10.00am
Meeting Room: Room 1, Level 26
Venue: Te Wharau o Tāmaki - Auckland House
135 Albert Street
Auckland

**Te Komiti mō te Kaupapa Here me te
Whakamahere / Policy and Planning Committee
Workshop - Auckland Council's submission on
the RMA Phase 2 Bill**

OPEN NOTES ITEM ATTACHMENTS

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A.	5 February 2025, Policy and Planning Committee Workshop: Auckland Council's submission on the RMA Phase 2 Bill - presentation	3

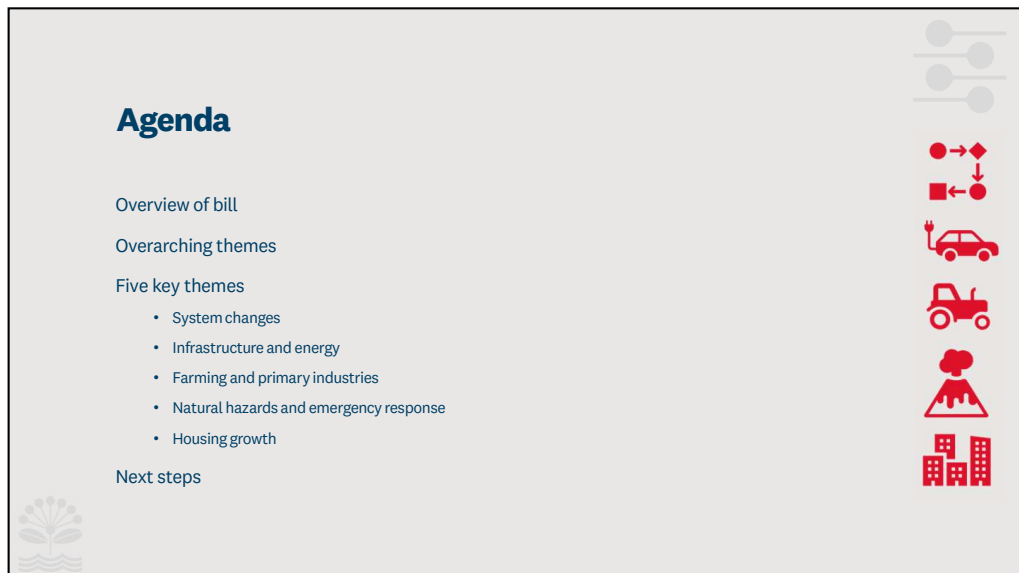
04/02/2025

Item 3



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Attachment A





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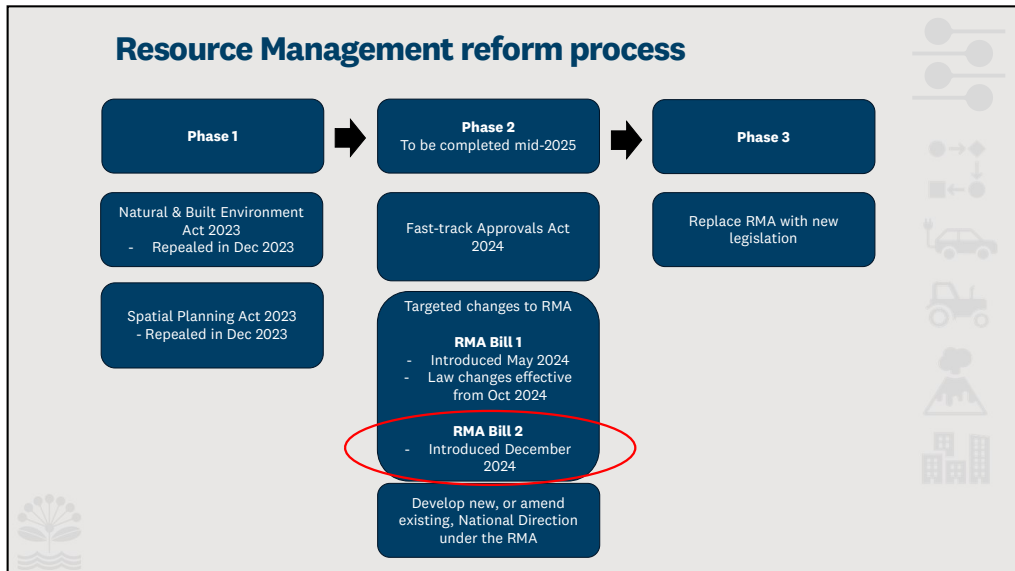
RMA Phase 2 amendment Bill

Targeted changes to improve efficiency and effectiveness and deliver commitments to:

- double the amount of renewable energy available
- enable the delivery of high-quality infrastructure
- unlock development capacity for housing
- enable primary sector growth and development



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Overarching themes

- Commencement dates
- Alignment with Local Government (Water Services) Bill
- Impacts on Māori
- Central government control





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1. System changes

The Bill intends to:

- enhance coordination between national, regional and local planning
- improve efficiency of the consenting process
- give applicants an opportunity to review draft conditions
- drive greater compliance (e.g. increasing penalties)
- increase Ministerial oversight and control



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System changes	
Key Changes	Draft Position
New section that allows Council to return applications where response to a further information request has not been provided	<ul style="list-style-type: none"> Support. However, it is unclear why an additional 3-months beyond the agreed date has been included.
Amendment to Council's obligation to hold a hearing	<ul style="list-style-type: none"> Oppose. The proposed amendment means that Council <u>must not</u> hold a hearing if it has sufficient information to make a determination regardless of whether or not a submitter has requested a hearing. There are concerns around natural justice and the level of information provided in submissions.
Amendment to give Council discretion to consider compliance history in its decision-making on resource consent applications	<ul style="list-style-type: none"> Support ability to consider a consent holder's compliance history in its determination of a resource consent.
New section to allow Environment Court to revoke / suspend a resource consent due to non-compliance	<ul style="list-style-type: none"> Support the inclusion of this section to disincentivise non-compliance
New section that requires Council to pre-circulate draft conditions	<ul style="list-style-type: none"> Support with amendments. Circulation of draft conditions is already best practice for Council however no timeframes are specified.
Increase in the maximum fine for penalties	<ul style="list-style-type: none"> Support any increase in the maximum fine to incentivise compliance with resource consent.
New section that prevents insurance cover for sites where fines / infringements are outstanding	<ul style="list-style-type: none"> Support the prevention of insurance for sites / activities where there are outstanding fines / infringements.

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2. Infrastructure and energy

The Bill intends to:


Increase certainty for infrastructure providers around the processes and outcomes they can expect from the planning system, via:

- fast-track consenting (one year) for renewable energy and wood processing.
- increase the lapse period for designations and renewable energy projects from 5 to 10 years
- default 35-year consents for long-lived infrastructure
- extend duration of (coastal) ports permits to 2046

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Infrastructure and energy

Key Changes	Draft Position
Defining 'long-lived infrastructure', with a default consent duration of 35 years.	<ul style="list-style-type: none"> • Amend definition to fully capture Auckland Transport and three waters infrastructure • Support 35-year consents - this is common practice. Amend to allow councils to set shorter durations where activities are temporary (like construction) or the environment is changing (e.g. instances of managed retreat).
Extension of ports permits (issued in 1993) until 2046.	<ul style="list-style-type: none"> • Support duration extension for ports permits • Original permit issued to Ports of Auckland covers land now owned by Auckland Transport and Eke Panuku. Amend provisions to allow a review of the permit area to align with the current reduced extent of the Port's occupation.





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3. Farming and primary industries

The Bill intends to:

- qualify how regional councils might introduce controls as it affects fishing (RMA and Fisheries Act interface)
- Simplify how consents for aquaculture activities are treated when consent holder seeks change or cancellation of conditions
- enable 'approved industry organisations' to provide farm plan certification and auditing services

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Farming and primary industries	
Key Changes	Draft Position
RMA / Fisheries Act interface – new provisions that restrict how rules in coastal plans can be used to control fishing	<ul style="list-style-type: none"> Oppose in part: Director – General of MPI does not need to concur with council's assessment of impacts on fishing prior to plan notification of proposed rules, noting that council can and do work collaboratively with Ministry staff as they develop biodiversity related proposals that have a bearing on fishers' activities
Aquaculture: NES can specify that an application to change or cancel consent conditions is a controlled or restricted discretionary activity	<ul style="list-style-type: none"> Support, as level of risk unlikely to warrant treatment of such changes as discretionary activity by council officers
Farm planning – allowing 'approved industry organisations' to undertake certification and auditing services	<ul style="list-style-type: none"> Support in principle 'approved industry organisations' to undertake certification and auditing roles, provided that independent system performance checks are in place, and such organisations work with regional councils on assessing catchment outcomes, and sharing of information to ensure that certifying and auditing standards are met

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4. Natural hazards and emergency response


The Bill intends to:

- strengthen disaster resilience planning
- improve management of natural hazard risks in:
 - land use decisions (e.g. new ability for councils to refuse a land use consent application if it would create or increase a significant risk from natural hazards)
 - plan-making, by allowing natural hazard rules to take effect sooner (from plan change notification)

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Natural hazards and emergency response

Key Changes	Draft Position
New section that requires Council to consider implication of land use consents to risk to natural hazards	<ul style="list-style-type: none"> Support the inclusion of this section. Further guidance for assessing risk to natural hazards has been requested.
Immediate legal effect of natural hazard rules	<ul style="list-style-type: none"> Support, but note Auckland cannot utilise this new ability until PC78 is completed. The Bill prevents PC78 from being withdrawn so the effect of this power is delayed



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5. Housing growth

The Bill intends to:









- provide MDRS optionality (but does not), so councils can:
 - Retain, alter or remove MDRS if incorporated in a plan
 - (Partially) withdraw an Intensification Planning Instrument incorporating MDRS (i.e. PC 78)
- control implementation of a yet-to-be revised NPS-UD that is likely to:
 - Set ambitious growth targets to increase land supply
 - Require changes to increase development capacity
- retain Ministerial control over MDRS optionality and a future NPS-UD process
- enable the removal of scheduled heritage buildings' / structures' protection in plans (does not apply to sites of significance)

MDRS – Medium Density Residential Standards
IPI – Intensification Planning Instrument
NPS-UD – National Policy Statement on Urban Development
PC78 – Plan Change 78





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Proposed changes in the use of Streamlined Planning Process (SPP) in plan changes

Optional Use of SPP	Mandatory Use of SPP (as proposed in the Bill)
 Community Need  Combined Plan  Urgency  National direction  Unintended consequences  NEW Delisting heritage buildings	 NEW Housing Instrument*  NEW NPS Non-compliance * Required if PC 78 withdrawn

If MDRS option or IPI withdrawn, councils must implement yet-to-be revised NPS-UD using SPP. Minister may appoint half the panel of every SPP.




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MDRS – Medium Density Residential Standards
SPP – Streamlined Planning Process (RMA process amended by Bill)
IPI – Intensification Planning Instrument (required to give effect to MDRS and current NPS-UD)

Housing growth

Key Changes	Draft Position
Allows councils to retain, alter or remove MDRS if already incorporated in plans	<ul style="list-style-type: none"> Support but note that this would not apply to Auckland Council, until PC78 was made operative and if Council later decided to remove or alter MDRS
Allows councils that have not incorporated MDRS to proceed with or (partially) withdraw its IPI	<ul style="list-style-type: none"> Support but as drafted this option is not available to any council. Amend: 1) commencement date, 2) requirement to use SPP for replacement, 3) binary option to progress or withdraw by enabling MDRS flexibility too. Seek bespoke solution for Auckland
Allows councils to use SPP process to remove a building or structure from heritage schedule	<ul style="list-style-type: none"> Neutral as the use of SPP is optional. Support limited scope: no sites of significance to mana whenua, listed buildings / structures only
Amends SPP for changes to council plans	<ul style="list-style-type: none"> Oppose the Minister's power to appoint up to half of the panel Oppose the Minister's power to require for NPS non-compliance
Adds a 'housing instrument' to give effect to a revised NPS-UD and requires the use of the SPP to change a council's plan	<ul style="list-style-type: none"> Oppose mandatory requirement to use SPP if IPI withdrawn. Oppose that Minister can give direction on both quantity and location of development capacity to meet revised NSP-UD requirements



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Next steps

5 Feb	Policy & Planning Committee workshop - elected members to provide direction to staff on submission development.
6 Feb	Local board brief feedback is due, to be appended to the council submission. Feedback is to be provided through the delegated authority process.
5-7 Feb	Delegated members sign off submission.
10 Feb	Submissions close.
2025+	Other aspects of phase two resource management reform will continue while the Bill progresses through the law-making process. This includes consultation on national direction.

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Further information

- Overview: Karryn Kirk (Policy)
- System changes: Tommy Ma (Resource Consents) & Freya Fortzer (Licensing and Compliance)
- Infrastructure and Energy: Megan Howard (Infrastructure Strategy) & Alina Wimmer (Planning)
- Farming and primary industries: Dave Allen (Natural Environment Strategy)
- Natural hazards and emergency response: Ben Brooks (Policy)
- Housing: Ilze Gotelli (Growth & Spatial Strategy) & Rebecca Greaves (Planning)

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