



# Grinding Gears or green lights? RMA handbrakes and the consent and policy reforms

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The Resource Management (Consenting and Other System Changes) Amendment Act 2025 (“Act”) received royal assent on 20 August 2025 with most provisions coming into force the next day. Our previous article *“Sharper Teeth, Longer Memory”*, attached, summarises changes in the compliance and enforcement sphere. This article focuses on consenting and policy.[1]

The amendments are intended to make “sweeping changes to many of the handbrakes on New Zealanders’ lives”.<sup>[2]</sup> Whether these changes will really free up the congestion felt by many under the existing Resource Management Act 1991 (“RMA”) is still to be seen. The real test is whether the handbrake comes off smoothly or just grinds on in the background.

### *Changes to consenting regime*

Transitional Provisions - With limited exceptions (discussed below where relevant), the Act does not apply to consent applications lodged before 21 August 2025 and accepted as complete.<sup>[3]</sup>

Compliance History - The Act allows compliance history to be considered in consenting:

- *Past non-compliance and new RCs* - Consent authorities can now have regard to past or current RMA compliance action against an applicant when considering a new consent application or application to transfer a consent.<sup>[4]</sup> Three things to note:
  - this is not mandatory (“may” not “must”);
  - “compliance action” means an abatement or infringement notice, enforcement order or conviction under the RMA received by an applicant (so wouldn’t incorporate informal steps like warning letters or negative inspection reports); and
  - where the applicant is a natural person the compliance action must have been received within the previous 7 years.
- *Conditions mitigating non-compliance* - It is now clearly anticipated that conditions can be included to mitigate future non-compliance risk where the applicant has a history of non-compliance. Non-compliance has the same meaning as set out above.<sup>[5]</sup>
- *Decline due to compliance history* - Consent applications can now be declined based solely on poor compliance history. Most consent authorities will have a few prolific offenders who come to mind. The test is - the applicant must have a significant, ongoing or repeated non-compliance record, which has been subject to an RMA enforcement order or conviction (anytime for companies or in the last 7 years for natural persons).<sup>[6]</sup>

- *Conditions review due to breach* - S 128 reviews can now be triggered where consent conditions are breached. While this applies to all consents irrespective of when they were granted, it is limited to breaches occurring after 21 August 2025.[7]
- *Revoke or suspend consents* - The Environment Court can now revoke or suspend a consent and associated consents (in whole or part, with or without conditions) due to significant, ongoing or repeated non-compliance that has been the subject of an RMA enforcement order or conviction.[8]
- *Disclosure of poor history required* - In making a consent application, applicants must now disclose any non-compliance history (within the last 7 years for individuals or any time for companies).[9]

Information must be proportionate - Information provided in a consent application must be proportionate to the scale and significance of effects the proposal may have on the environment. Councils can now accept an application not fully compliant with information requirements if satisfied it is proportionate to the scale and significance of effects on the environment.[10] It is important to note that this change does not apply until 21 October 2025.[11]

Further information clarified - Both whether the information is really needed to determine the application, and whether the request is proportionate to the effects, must now be considered by consent authorities before a further information request is made.[12] As above, this does not apply until 21 October 2025.

Abandoned applications - Councils can now return incomplete applications if no response is received to specific requests (e.g. for further information) where 3 months has passed since the original request was not met and the applicant has been advised the application will be returned.[13]

Note - while these changes don't generally apply until 21 October 2025,[14] interestingly the transitional provisions[15] provide that the new s 92AA does apply to applications lodged before 21 August 2025 if no decision has been made and where no response to a request has been received for 12 months.[16]

Natural hazard risk provisions strengthened - The ability to decline subdivision

consents (and now, also land-use consents) due to significant natural hazard risk, or impose related conditions, has been reinforced with additional clarity provided on how to assess risk.[17] Councils are also able to consider the latest natural hazard information when assessing applications, even where the information isn't yet in the relevant plan. However, the provisions don't apply to land use consents for infrastructure or primary production activities.[18]

Draft consent conditions - While already common, applicants can now request to review draft conditions and can (along with submitters not notified applications) provide comments. Processing can be suspended for review. Practically, comments must be provided within a reasonable timeframe; however, impractically, comments may be taken into account only to the extent they cover "technical and minor matters".[19] As above, this applies from 21 October 2025.

### *Changes to policy regime*

Discharges - The Act enables wider permitted activities for discharges, with the MfE fact sheet referring to recent court decisions "potentially constraining" the use of s 70 of the RMA.[20] Regional councils can now make discharges permitted activities which would otherwise have fallen foul of s 70 requirements provided that:(a) the effects already exist; (b) the rule includes permitted activity standards; and (c) the council is happy the standards will help reduce effects within 10 years.[21]

The amended provisions will enable discharges to continue as permitted activities (including in already degraded water bodies), provided the provisions can show an improvement and reduction of adverse effects over time. Note these changes apply to plans notified before, on or after 21 August 2025, including plans subject to appeal or court proceedings.[22]

Ministerial Removal of Provisions - The Minister can now modify or remove provisions of policy statements or plans by regulation where the provisions have a negative impact on economic growth, development capacity or employment.[23] These amendments are presented as "a targeted tool" needed where "local processes aren't delivering on national priorities".[24] No schedule 1 plan process is required to make such changes. Note these powers are intended to be a "stop gap" measure and expire at the end of 2027. The Minister has

already commenced an investigation in relation to the plan provisions restricting operations at Eden Park under this new provision.

Natural Hazards – Natural hazards move to the front seat:

- *Land-use Consents* – as noted above, consent authorities can now refuse land use consents where there is a significant risk from natural hazards; and additional clarity has been provided on how to assess risk.[25]
- *Immediate Legal Effect* - New natural hazards provisions in plans, notified on or after 21 August 2025,[26] have legal effect when notified.[27]
- *Natural Hazards Don't Stop* - The plan stop (discussed further below) does not apply to natural hazards – these are automatically exempt.[28]

On your marks, get set, STOP your plan – In anticipation of a sparkling new RM system, the Act stops proposed and draft plans, changes, variations and policy statements until 31 December 2027 (with limited exceptions). The rationale being to conserve council resources and avoid lengthy and costly processes potentially incompatible with the new system.[29]

- *Which Plans Stop?* - The plan stop will not apply: (I) to private plan changes (accepted by councils but not adopted; (II) if a proposed plan has already been notified and heard (in whole or part); (III) if a hearing is set down within five days of 21 August 2025; (IV) if a whole plan is being reviewed and hearings have already started on some parts; (V) if an exemption applies.

The plan stop will apply to (I) draft plans (II) proposed plans (or parts of rolling plan reviews) notified but not heard and the hearing is after 28 August 2025. Any such notified plans must be withdrawn within 90 working days unless an exemption applies or an exemption application is made. No new planning documents can be notified from 21 August 2025 unless an exemption applies or the Minister grants an exemption.[30]

- *Automatic Exemptions* – Councils must assess if an exemption applies (such decisions are open to judicial review). Exemptions apply to proposed plans: using the Streamlined or Intensification Processes; implementing a new NPS if required in the NPS; those directed or called in by the Minister; relating to

natural hazards (see above); relating to the Kermadec and Subantarctic Islands Regional Plan; or that give effect to a Treaty of Waitangi settlement or deed, Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 or Marine and Coastal (Takutai Moana) Act 2011 right or obligation.[31]

- *Exemption Applications* - An application can also be made to the Minister if one or more of the specified criteria are satisfied. The criteria relate to water, stormwater or wastewater; fixing problematic provisions (or errors); responding to RMA changes; climate change; high risk land and erosion management; Treaty of Waitangi settlements; Environment Court recommendations; and works considered appropriate by the Minister. Applications must include sufficient information to allow for assessment. A draft application form is available here. No deadline applies to decisions.[32] Note the two deadlines for exemption applications: (I) for proposed planning documents - 15 January 2026; and (II) for draft planning documents - 31 December 2027.

In summary, the Act introduces a suite of changes aimed at streamlining consenting processes, clarifying council powers, and allowing more nuanced consideration of compliance history and natural hazards. While some provisions promise to reduce delays and improve proportionality in decision-making, others — such as the plan stop — will require careful navigation. The practical impact of the reforms will depend not only on how councils implement them, but also on how applicants respond, e.g. to new disclosure and compliance requirements. Whether the handbrake has truly been lifted — or simply painted a different colour — will become clear as the amendments get put to use.

[1] This summary does not consider: the streamlined planning process, designations, electricity/energy/infrastructure, freshwater, wood processing, national planning standards, housing, heritage, farming/the primary sector or location specific provisions.

[2] RMA reforms to deliver jobs and growth | Beehive.govt.nz, 14 August 2025.

- [3] Irrespective of when acceptance occurs. See new Part 8 in Sch 12 of the RMA – refer s 90 and s 49 of Sch 2 of the Act.
- [4] See s 104 RMA amended to include new ss 104(2EA) – refer s 38 of the Act.
- [5] See s 108 RMA amended to include new ss 108(2)(da) – refer s 42 of the Act.
- [6] See s 104 RMA amended to include new s 104(6A) – refer s 38 of the Act.
- [7] See new s 128(1)(aa) RMA – refer s 49 of the Act and see transitional provisions in s 54 of Sch 2 of the Act which includes new Part 8 in Sch 12 of the RMA.
- [8] See s 314 RMA amended to include new ss 314(1)(ea) and 314(4A) – refer s 71 of the Act.
- [9] Refer Form 9 in Sch 1 of the Resource Management (Forms, Fees and Procedure) Regulations 2003 (“Regulations”) amended to include new para 15 – refer s 93 and 94 of the Act.
- [10] See s 88 RMA amended to include new ss 88 (2AA) and (2AB) – refer s 32 Act. See also new ss(2) in Sch 4 cl (1) RMA – refer s 89 of the Act.
- [11] See s 2(2) of the Act.
- [12] See s 92 RMA amended to include new ss 92(2B) – refer s 34 of the Act.
- [13] New s 92AA inserted into RMA – refer s 36 Act. See also “may” not “must” amendments to s 92A(3) and s 92B(2) RMA in s 35 and s 37 of the Act.
- [14] See s 2(2) of the Act.
- [15] See new Part 8 in Sch 12 of the RMA – refer s 51 of Sch 2 of the Act.
- [16] Instead of the 3 months in s 92AA(1)(b).

- [17] See s 106 RMA amended to replace s 106(1A) re subdivision – refer s 39 of the Act and new s 106A inserted re land use– refer s 40 of the Act.
- [18] See new ss 106A(4) RMA – refer s 40 of the Act.
- [19] See new s 107G RMA – refer s 41 of the Act.
- [20] Fact sheet – Section 70 Discharges, MfE, August 2025, publication number INFO 1323.
- [21] See new s 70(1)(c) and (3) RMA – refer s 16 of the Act. In addition, “floatable or suspended materials” is no longer required to be considered as an effect when drafting discharge rules.
- [22] Refer transitional provisions – see new Part 8 in Sch 12 of the RMA – refer s 50 of Sch 2 of the Act.
- [23] See new s 360I to 360O RMA – refer s 86 of the Act.
- [24] Fact sheet – Regulation-making Power to Alter Local Authority Plans and Policy Statements, MfE, August 2025, publication number INFO 1342.
- [25] See s 106 RMA amended to replace s 106(1A) re subdivision – refer s 39 of the Act and new s 106A RMA inserted re land use– refer s 40 of the Act.
- [26] See transitional provisions in new Part 8 in Sch 12 of the RMA – see s 58 of Sch 2 of the Act.
- [27] See s 86B RMA amended by new s 86B(3)(f) – refer s 28 of the Act. See also s 149N RMA amended to include new (8)(a)(v) – refer s 50 of the Act.
- [28] See new s 80U(2)(f) RMA in new Subpart 5B – refer s 26 of the Act.
- [29] MfE publication on the Resource Management (Consenting and Other System Changes) Amendment Bill – summary of amendments, INFO 1340, August 2025. See new subpart 5B inserted into RMA i.e. new s 80O – 80Y – refer s 26 of the Act. See also new s 58JA and 79(10) RMA – refer s 15 and 19 of the Act – refer s 26

of the Act.

[30] See s 80P, 80Q and 80S of the RMA - refer s 26 of the Act.

[31] See 80U of the RMA - refer s 26 of the Act.

[32] See 80V and 80W of the RMA - refer s 26 of the Act. The first exemption decision was made on 14 Sept 2025 - Plan Change 96 by Auckland Council.