Guidance on Consenting Implications of the Resource Management (Consenting and Other System Changes) Amendment Act 2025

Disclaimer: This guidance note does not constitute legal advice and should not be relied on as such. Please seek specific legal advice if you have legal questions or issues.

Contents

1 Introduction

The Government is undertaking a three-phase work programme to reform the resource management system. While phase three will replace the Resource Management Act 1991 (RMA) in its entirety, the Resource Management (Consenting and Other System Changes) Amendment Act 2025 (**the Amendment Act**) makes targeted changes to the RMA in the interim.

This guidance document focuses on changes impacting consent processing, including important changes regarding requests for further information, consideration of compliance history in decision-making and for reviews, and the provision of draft conditions. The Amendment Act also introduces provisions facilitating consenting of new infrastructure, including for renewable energy, and an ability to decline some land use consents due to significant natural hazard risks.

While not discussed in this technical advice note, the Amendment Act also includes provisions affecting consent holders and other resource users such as increasing fines for

RMA offences, prohibiting the use of insurance to indemnify a person against financial penalties for RMA offences, and enabling cost recovery for monitoring some permitted activities.

All statutory references below are to the RMA (not the Amendment Act) unless stated otherwise.

2 Commencement of provisions

The changes discussed below appear in their order within the Amendment Act, and where they would impact on the consent process. The changes commence at different times however, with commencement dates summarised in Table 1 below.

Table 1. Dates when RMA amendments commence

Commencement date	Amendment
21 August 2025	• Ability to consider applicant's compliance history in consent decisions (s104(2EA) and s104(6A)) • Default 35-year duration and 10-year lapsing date for renewable energy and long-lived infrastructure consents (s123B and amendments to s125) • Ability to decline land use consents based on natural hazard risk (s106A) • Amendments to changes of conditions and reviews of aquaculture activities (s127 and s128) • Ability to review a consent if a condition has been contravened (s128)
21 October 2025	• Changes to requirements for acceptance of an application (s88) • Consent authority must consider whether it needs further information for s104 (s92) • Applications may be returned as incomplete following lack of response (s92AA) • Specific provision for review of draft conditions (s107G) • One year maximum processing timeframe for specified energy activities and wood processing activities (s88BA)

3 Amendments to requirements for acceptance of an application

While references to scale and significance are already included in Schedule 4 s2(3), the Amendment Act makes changes to section 88 of the RMA, clarifying that the level of detail required for the assessment of effects to be proportionate to the *"scale and significance of the effects that the activity may have on the environment"*[1]. Section 88 is also amended to provide that the consent authority may choose to accept an application that does not fully comply with Schedule 4 if the information provided is proportional to the scale and significance of the proposal's effects on the environment.

This provision comes into effect 21 October 2025 and applies to applications made on or after that date.

To assist with ensuring applications provide sufficient information, suitable to scale and significance, Waikato Regional Council recommends that applicants and consultants engage with our pre-application service. This is intended to assist the applicant in understanding the current state of the environment and the potential adverse effects of the proposal on that environment so it is better positioned to tailor the information it provides, proportionate to the likely scale and significance of environmental effects.

4 Consent authority must consider whether it needs further information for s104 RMA (i.e. the substantive decision)

The amendment applies to any applications made two months after Royal Assent (21 October 2025). The amendment adds matters which consent authorities must consider prior to seeking further information. New sub-section s92(2B) requires the consent authority to consider whether it needs the information for the purpose of s104 and whether the information it seeks is proportionate to the scale and significance of the effects that the activity may have on the environment.

This change should result in more efficient decision-making as the use of further information requests should be limited. Situations where it is likely to be appropriate to request further information is where there is missing information which is required to make an informed decision under s104 RMA (and which absence only becomes apparent after the application has been receipted[2]), or to resolve points of contention between experts to inform the substantive decision.

[1] New s88(2AA) RMA

[2] If this information is identified as missing at the time of the s88 check, it is likely to be appropriate to return the application as incomplete.

Where information is not required for s104 purposes, but where it may be useful (e.g. where an applicant wishes to provide more information to address potential notification), s37 may be used to extend the timeframe or applicants may use their suspension powers under s91A or D. Outside of s92 information requests, s95E(3) is also available to applicants to seek written approvals from affected persons prior to a decision on notification being made.

5 Applications may be returned as incomplete following lack of response

This amendment comes into effect on 21 October 2025 and introduces new provisions (s92AA) for when an applicant does not respond, or fails to respond within a specified period after a set or agreed date, to:

- a request for further information (under s92(1));
- a request to commission a report (under s92(2)(b));
- a request to pay an additional charge (under s36(5)); or
- provide written approvals (under s95E(3)).

In these situations, the consent authority is no longer required to consider applications under s104, although it may still do so. If it does not consider them under s104, the consent authority may instead return the application to the applicant (with reasons). Prior to doing this, the consent authority must inform the applicant of its intent to return the application.

The ability to return applications applies to applications in process at the date of commencement of the Amendment Act (i.e. 21 August 2025)[3], but the timeframe after which the application can be returned is one year after the date the response was due. For applications lodged on or after commencement of the Amendment Act, the application can be returned if there is no response three months after the date the response was due.

If the consent authority does continue to process an application with an outstanding request for further information, or a refusal to commission a report, then public notification would still be required (under s95C). If there are outstanding written approvals (for the purpose of s95E(3)), then limited notification is likely to be required.

If an application is returned under s92AA, any resubmission of the application is considered a new application.

[3] See Part 8, Schedule 12, s49B RMA and the Ministry for the Environment guidance note titled *Consenting Changes introduced by the Resource Management (Consenting and Other System Changes) Amendment Act 2025* and available at https://environment.govt.nz/assets/publications/RM-reform/consenting-rm2.pdf

6 Ability to consider compliance history in consent decisions

The RMA now includes specific provision (s104(2EA)) for consent authorities to have regard to any previous or current abatement notices, infringements notices, enforcement orders or convictions received by an applicant (whether a natural person or not) under the RMA. Where the non-compliant party is a natural person[4], the consent authority is restricted to considering relevant compliance history within the past seven years. This seven-year period does not apply to non-natural persons such as companies.

Associated with this ability to have regard to the compliance history of an applicant, the consent authority may under s108(2)(d) impose conditions to mitigate the risk that a consent holder may not comply with the conditions of a new consent (based on their history of previous non-compliance).

In addition, where there is a record of ongoing or repeated significant non-compliance[5] with the RMA and the applicant has also been subject of an enforcement order or conviction, consent may be declined on that basis (s104(6A)). Again, for natural persons, there is a seven-year time limit on the applicability of this provision (but not for non-natural persons).

Applicants are now required to include a declaration of their relevant compliance history in the information provided in their application. Applications can be returned as incomplete if this information is not included.

These provisions apply to any application lodged on or after commencement of the Amendment Act on 21 August 2025. The application form for making a resource consent application (i.e. Form 9 of the Resource Management (Forms, Fees and Procedure) Regulations 2003) has been amended to require a declaration by applicants of their compliance history and this will therefore be required for all new applications going forward. It is important in answering this declaration to recognise that it does not matter in which jurisdiction the non-compliance occurred, it is required to be declared as part of the application (i.e. it is not just non-compliance that occurred in Waikato which must be declared).

[4] A **natural person** is a living human being (or other entities specifically recognised as such under the law) as opposed to artificial entities like a company, which are also considered a "person" under the law.

[5] **Significant non-compliance** is not defined in the RMA. The Ministry for the Environment has indicated it could be considered per the dictionary definition (i.e. sufficiently great or important to be worthy of attention; noteworthy). Compliance history that must be declared by applicants includes any abatement, infringement, enforcement order or conviction. What constitutes "significant" non-compliance is therefore likely to be informed by the impact and magnitude of any incidence and assessed on a case by case basis.

7 Specific provision for review of draft conditions

This amendment comes into effect on 21 October 2025 and adds specific provisions (s107G) related to the consent authority providing draft conditions to applicants (and submitters, if any). Applicants may request draft conditions (only once) before the decision is issued, or before a report prepared under s42A is circulated prior to a hearing (in accordance with s42A(3)).

If an applicant requests draft conditions to be circulated for comment, the consent authority must provide them and has an associated power to suspend timeframes (once only) while conditions are considered and comments (if any) on them are provided. The consent authority must specify a reasonable time-period in which comments must be provided. While timeframes are suspended, the consent authority may continue processing the application. The consent authority may only take comments (if any) into account to the extent that they cover technical or minor matters.

While the applicant can formally request the conditions only once, the Council can, at its own discretion, provide the conditions more than once, and can provide them to any submitters irrespective of any applicant request. However, the ability to suspend the timeframe applies only to an applicant request.

Relevantly this new provision appears aimed at reducing technical issues with conditions, rather than discussing the need for conditions. As timeframes can only be suspended once, consent authorities will need to continue to advance applications to decision even if draft conditions are provided further times after the suspension has been used or utilise s37 extension where further condition discussions are considered useful.

8 Default 35-year duration and 10-year lapse period for some consent activity types

The amendments have introduced provisions affecting consent duration for renewable energy and long-lived infrastructure consents and a new default lapse period for renewable energy.

- **Long-lived infrastructure** has a new definition in s2 and includes pipelines for the transmission and distribution of natural or manufactured gas, the telecommunication network (as per s5 of the Telecommunications Act 2001), facilities for the generation of electricity and any part of the electricity network; structures, facilities or infrastructure for transport of any means[6]; and facilities for loading or unloading cargo and passengers.
- **renewable energy** was already defined in the RMA and means energy produced from solar, wind, hydro, geothermal, biomass, tidal, wave, and ocean current sources.

New section 123B provides a default duration of 35 years for resource consents for renewable energy and long-lived infrastructure. There is scope to deviate from this default duration by the consent authority or where the applicant requests a shorter duration, but it is limited when a national planning document (e.g. a National Environmental Standard) specifies a shorter

[6] i.e. including cycleways, walkways, roads, rail, bridges or ports

duration, or where a shorter duration is appropriate due to a request from a relevant group[7]. There is also an exception for associated s9 land use activities which are often short term activities (eg earthworks) but which can, under the RMA, also have an unlimited duration (as do territorial land use consents).

New s123B applies to applications in process at the Amendment Act's commencement date, 21 August 2025, where no final decision has been made and served on the applicant, unless a hearing has already been held.

In addition, the default lapsing period (in s125) has also been increased from five to 10 years for renewable energy projects for a relevant resource consent granted on or after 21 August 2025.

9 Maximum one-year processing timeframe for specified energy activities and wood processing activities

The Amendment Act has also introduced section 88BA which imposes a maximum timeframe of one year for processing and deciding applications related to specified energy activities and wood processing activities. This amendment comes into effect on 21 October 2025. These amendments also introduce new definitions in s2 which include:

Specified energy activity includes the establishment, operation, maintenance and upgrade of:

- any activity producing energy from solar, wind, geothermal, hydro or biomass sources;
- any part of the electricity network;
- any activity storing or discharging electricity;
- the establishment, operation, maintenance, or upgrade of thermal electricity generation facilities; and
- any supporting or subsidiary activity related to those activities above.

Wood processing activity includes the establishment, operation, maintenance of facilities that:

- provide for storage of logs, processed wood products or hazardous materials produced by the operation of the facility; or
- specialise in the productions of long-lived wood products, produced from wood fibre, or wood-derived bioenergy e.g.
    - sawn timber;
    - panel products (e.g. veneer, plywood, laminated veneer, lumber, particle board, or fibreboard);
    - pulp, paper and paperboard;
    - wood chips; or
    - bioproducts, chemicals and materials.

[7] ***Relevant group*** *means a group who may be, or is required to be, involved in processes under the RMA that related to planning documents or resource consents by virtue of Treaty settlements, The Ngā Rohe Moana o Ngā Mapū o Ngāti Porou Act 2019, or the Marine and Coastal Area (Takutai Moana) Act 2011.*

This one-year timeframe is inclusive of any timeframe exclusions (e.g. for further information requests under s92) or suspensions (e.g. under s91A or D) and applies as well as the standard RMA processing timeframes (i.e. the 20-working days for non-notified applications, 130 for a publicly notified application etc.).

The amendments prohibit extension of the one-year processing **time-period**[8] under s37[9] for processing and deciding applications related to specified energy activities or wood processing activities. Applicants can request an extension (under s88BA(2)(i)) of the processing of up to a year, increasing the one-year timeframe for a decision to a maximum of two years. Certain other **relevant groups**[10] can also request an extension when the extension recognises or provides for a Treaty Settlement or other arrangement.

The consent authority must provide an extension if requested by the applicant and must also grant the request when it is by a relevant group, and the application is related to establishing hydroelectricity or geothermal activities[11]. When a relevant group makes a request in relation to any other specified energy activity or a wood processing activity, the consent authority may (rather than must) make the extension.

Applicants may make extension requests multiple times provided the maximum two-year time-period is satisfied, other groups may only make an extension request once up to the two-year maximum.

Finally, the applicant may request the processing and decisions on an application are "paused" (s88BA(5A)). If this pause is requested, the consent authority must cease processing, and the pause period does not count toward the one (or up to two) year maximum timeframe to process the application.

10 Ability to decline land use consents based on natural hazard risk

The Amendment Act introduces a new section 106A which details the circumstances when land use consents can be declined, or conditions imposed, on the basis that there is a significant risk from natural hazards. An assessment of natural hazard risk requires a consideration of:

[8] Refer to s88BA(1) RMA

[9] Refer to new sub-section s37(1B) RMA

[10] **Relevant groups** are those specified in s88BA(4) RMA being:
(a) iwi authorities:
(b) post-settlement governance entities:
(c) ngā hapū o Ngāti Porou as defined in section 10 of the Ngā Rohe Moana o Ngā Hāpu o Ngāti Porou Act 2019:
(d) iwi or hapū who are party to a Mana Whakahono a Rohe or joint management agreement that applies in the region:
(e) customary marine title groups (within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011):
(f) protected customary rights groups (within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011):
(g) applicant groups (within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011"

[11] Hydro-electricity and geothermal activities here must also fall within the "specified energy activity" definition that s88BA applies to. This means they must be for the establishment of an activity that produces energy from hydro or geothermal sources,

- the likelihood of natural hazards occurring;
- material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards;
- whether the proposed land use would accelerate, worsen or result in material damage (as described in the bullet point above); and
- whether the proposed land use would result in adverse effects on the health or safety of people.

This new section does not apply to land use consents related to the construction, maintenance, or operation of infrastructure or primary production activities (as defined in the National Planning Standards).

This change came into effect on 21 August 2025 but does not have retrospective effect and therefore only applies to applications made on or after that date.

11 Amendments to changes of conditions and reviews of aquaculture activities

Amendments are made to provisions related to changes of conditions (under s127 RMA) to aquaculture consents, and any review (under s128 RMA) of aquaculture consents where they had their duration extended via the RMA amendments in September 2024.

Changes of conditions (s127 RMA)

Section 127 specifies that any application to change or cancel a condition of consent is treated as a discretionary activity, with discretion limited to the effects arising from the proposed change or cancellation. The Amendment Act has now provided for an alternative activity status (controlled or restricted discretionary activity) to be applied to changes of conditions for an aquaculture consent if specified as such in a national environmental standard.

Reviews (s128 RMA)

For those resource consents affected by the amendments in September 2024, consent authorities now have until 3 September 2030 to commence consent reviews under the specific provisions in s165ZFHI. Any other consent review unders128 is restricted, until 3 September 2030, to situations where a relevant national environmental standard or national planning standard is made, or if the consent contains a review condition related to an adaptive management approach (as specified in s165ZHHA(3)).

12 Amendment enabling review of conditions if a condition has been contravened

The Amendment Act amends s128 (review of conditions) to enable the consent authority to initiate a review of conditions in the event that consent authority determines that the holder of the consent has contravened a condition of the consent. This amendment applies to a resource consent granted before, on, or after commencement but only in relation to any contravention of a condition of the consent that occurred after commencement.

13 Final Comments

This Amendment Act contains numerous provisions that will impact on the consenting process. We encourage applicants to utilise our pre-application service to ensure that they are aware what matters are of concern and the level of information needed to address those matters.