35 years in the making: Dual Acts lay new foundations for resource management

Introduction

After months of drafting, consultation and parliamentary scrutiny, the wait is over – the Planning Act (**PA**) and the Natural Environment Act (**NEA**) have passed into law (together the **Acts**). The Acts replace the Resource Management Act 1991 (**RMA**), which has been the foundation of New Zealand's resource management framework for more than 35 years.

As we outlined in our previous article on the RMA reforms, the NEA focuses on environmental protection and enhancement, while the PA focuses on the use, development and enjoyment of land. This split system marks a significant shift in resource management, intended to promote efficient management of land use activities.

In this article, we unpack the key changes between the introduction of the Bills in December 2025 and their enactment, considering what they mean for anyone navigating New Zealand's new resource management system.

Goals

Each Act sets out a list of goals that define the purpose of the legislation. For example:

- supporting and enabling economic growth and change through the use and development of land (PA);
- enabling infrastructure to be provided to meet and respond to current and future demand (PA);
- safeguarding the life-supporting capacity of air, water, soil, and ecosystem (NEA); and
- protecting human health from harm caused by the discharge of contaminants (NEA).

The key instruments of the Acts must "seek to achieve" these goals. If compatibility between the goals cannot be achieved, the Minister has powers to resolve conflicts. Before enactment, the Acts were amended to clarify that the goals apply at the higher level of national instrument setting, rather than specific and localised decisions (such as the granting of a consent or permit).

Targeted changes have also been made to individual goals. In the PA, a goal of enabling competitive urban land markets was reframed to "create abundant development opportunities for residential and business use", to better serve competition. In the NEA, a new goal was added to "support and enable enhancement of the natural environment", which was previously a gap in the legislation as introduced.

Overall, the goals remain largely unchanged. The goals signal the themes that we can expect to see in the first round of national instruments.

Managing out-of-scope effects

A key theme underpinning the resource management reform is raising the effects management threshold so that only "minor" or "more than minor" effects are regulated. This element is retained, but the Acts were amended through the parliamentary process in two notable respects.

First, the Acts now make it explicit that individual 'less than minor' effects can be considered where they cumulatively amount to a 'minor' or 'more than minor' effect. This means that land users need to be aware of adjacent activities, as these may be particularly relevant in the consenting and permitting process.

Second, the Acts now expressly exclude consideration of the adverse effects of greenhouse gas emissions on climate change. While this provides the clarity many submitters sought, it is a notable change to the resource management system given this specific consideration was added to the RMA in 2022.

Environmental limits and Ministerial oversight

The new regime establishes environmental limits to protect human and ecosystem health, backed by action plans to prevent overuse. Initially, only significant infrastructure could breach these limits under a Ministerial exception proposed in the Natural Environment Bill. As enacted, the NEA goes further: National Standards may now authorise any specified activity or class of activities to exceed an environmental limit, provided the Minister is satisfied the public benefits outweigh the harm. This assessment is subject to the following safeguards:

- National Standards must identify the specific environmental limit and the activities authorised to breach it;
- a net public benefit test, weighing public benefits against harm (or potential harm) to ecosystem or human health; and
- consideration of wider implications for natural resource use and the criteria behind the original limit.

This is a significant expansion of Ministerial power and has raised concerns about whether environmental limits can serve their intended purpose.

New national instruments

The new planning system works like a funnel: higher order instruments such as National Policy Direction and National Standards flow down into Regional Spatial Plans, Land Use Plans and Natural Environment Plans. That architecture is largely unchanged but targeted amendments to the higher order documents will ripple across the system.

Notably, the Minister is no longer required to consider every submission on a proposed national instrument. Instead, the Minister will receive a summary report and decide on that basis. Given that submissions are the primary avenue for public participation by parties not directly consulted, this change has raised concerns about the role of public input and the opportunity to influence the highest order documents that will form the foundation of the new resource management system.

The Government has issued an exposure draft of the new National Policy Direction for feedback until 16 October 2026. You can see our separate report on this here.

Plans and plan changes

The Acts retain the underlying process of requiring territorial authorities to develop plans but consolidates them by requiring each region to maintain a single combined plan comprising a Regional Spatial Plan, Natural Environment Plan, Land Use Plans for each district, and the Land Use Plan for the Coastal Marine Area.

Regional Spatial Plans must include standardised provisions where directed by a national instrument, as part of the broader intention to streamline and standardise planning across the system. Where a local authority proposes a bespoke provision, it must prepare a justification report demonstrating the provision is authorised by, or not precluded by, a national instrument. This should accelerate plan-making but may reduce scrutiny of bespoke provisions.

As introduced, the PA would have allowed a local authority to refuse an application for a private plan change on broad grounds. The PA as enacted instead narrows the circumstances in which a private plan change application can be refused. A local authority may now only reject a request where the plan has been operative for less than 12 months, or where the substance of the request has already been considered, given effect to, or rejected by the local authority or the Environment Court within the last 12 months. Applicants should anticipate pressure on local authority capacity.

Another key change since introduction is that private plan changes can no longer be appealed to the Environment Court, instead the requester may apply to the Planning Tribunal for a review of a local authority's decision to adopt all or part of a private plan change request. Any challenge to a decision of the Planning Tribunal may be appealed to the Environment Court, but only on a question of law. Substantive appeal rights on plan decisions, including standardised and bespoke provisions and designations, remain with appeal rights to the Environment Court. These changes reflect the Government's deregulatory intent but will require significant adjustment from both submitters and local authorities.

Consenting requirements

The Acts streamline activity status provisions to reduce the number of resource consents required. The Government initially intended to remove controlled and non-complying activity categories entirely, but the "controlled activity" category was reinstated for environmental permits at the Select Committee stage to prevent more activities falling under more restrictive categories. This reinstatement was not extended to planning consents under the PA.

Activity status provisions have also been reframed as guidance rather than strict rules, and a more structured decision-making framework now applies to planning consents. The PA requires consent authorities to primarily assess planning consent applications against the provisions of the Land Use Plan (including any Proposed Land Use Plan) and applicable National Standards that directly affect the application. This effectively anchors the consenting assessment in the Land Use Plan and National Standards, providing a more direct and certain framework for classifying and deciding planning consent applications. Higher-order instruments, such as National Policy Direction and Regional Spatial Plans, remain important, but primarily through shaping the content of those plans and standards rather than requiring direct consideration at the consenting stage.

However, this creates a risk that local authorities adopt divergent interpretations of the activity status provisions, potentially undermining the standardisation the reform seeks to achieve. Engagement on the preparation of National Standards and Land Use Plans is recommended to ensure the controls are clear and fit for purpose.

Regulatory relief

The PA introduces regulatory relief, enabling affected landowners to seek compensation for losses caused by specified planning constraints. Despite significant opposition during submissions, the PA retains the relief regime with several amendments:

- Simplified requirements for local authorities to prepare a regulatory relief framework. Assessments focus on compliance costs and regulatory constraints affecting reasonable use of land ("enjoyment" is excluded), and the "materiality" test has been replaced with a "significant adverse impact" threshold based on prescribed criteria.
- Landowners may claim relief for the cumulative impact of multiple regulatory constraints over the same land, with specific assessment criteria to be set out in the framework.
- A submitter is excluded from relief if they successfully sought the application of a specific rule to their land, replacing the previous blanket exclusion for all submitters.
- Landowners may opt out of relief, and councils can rely on that decision.
- Relief may take the form of monetary payments, rates/fee waivers, additional development rights, land exchange, grant programmes, or mitigation activities. Full compensation is not required.

These provisions will be challenging for local authorities to implement fairly and consistently and to fund. How councils balance resourcing against adequate landowner compensation remains to be seen.

The Planning Tribunal

The Acts create a new Planning Tribunal (**Tribunal**), a dedicated division of the Environment Court designed to resolve lower-level disputes between system users and councils quickly and cost-effectively, without the formality of full court proceedings.

The Tribunal will handle a defined set of administrative disputes, including reviewing permit decisions (such as further information requests, notification decisions, and the interpretation of conditions), striking out permit conditions that fall outside the system's scope, reviewing time-frame extensions for an application of a planning consent under special circumstances, considering declined requests to work on designated land, and reviewing declined private plan change applications. Matters are decided on the papers unless a hearing is required, and the Tribunal may confirm, modify, quash, or remit decisions. The Tribunal does not hear appeals on plans, designations, notified permits involving third-party submitters, or enforcement matters, all of which remain with the Environment Court.

The Tribunal provisions attracted only technical, workability-focused amendments during the parliamentary process, suggesting this is one of the more broadly supported elements of the reform.

Compliance and enforcement

The 2025 RMA reforms significantly increased penalties for non-compliance and prohibited insurance against fines. Those settings are carried through into the new Acts, with maximum penalties of up to 18 months' imprisonment or $1,000,000 for an individual and $10,000,000 for a body corporate. At the Select Committee stage, "commercial gain" was removed as a factor in determining maximum penalties. These penalty levels and insurance restrictions are carried forward into the new regime, and land users should ensure their compliance frameworks reflect the updated requirements.

The new Acts also include a range of new compliance and enforcement tools that were not previously available under the RMA. These include adverse publicity orders, monetary benefit orders and pecuniary penalty orders, as well as an ability for regulators to require financial assistance and enforceable undertakings.

Wildlife approvals

The NEA introduces a new pathway for obtaining wildlife approvals for activities that would otherwise breach specified provisions of the Wildlife Act 1953. An applicant for a natural resource permit whose activity may affect protected wildlife may seek an additional wildlife approval alongside that permit application, assessed by the same permit authority. The NEA pathway does not extend to activities on public conservation land or within marine reserves, a limitation added at the Select Committee stage.

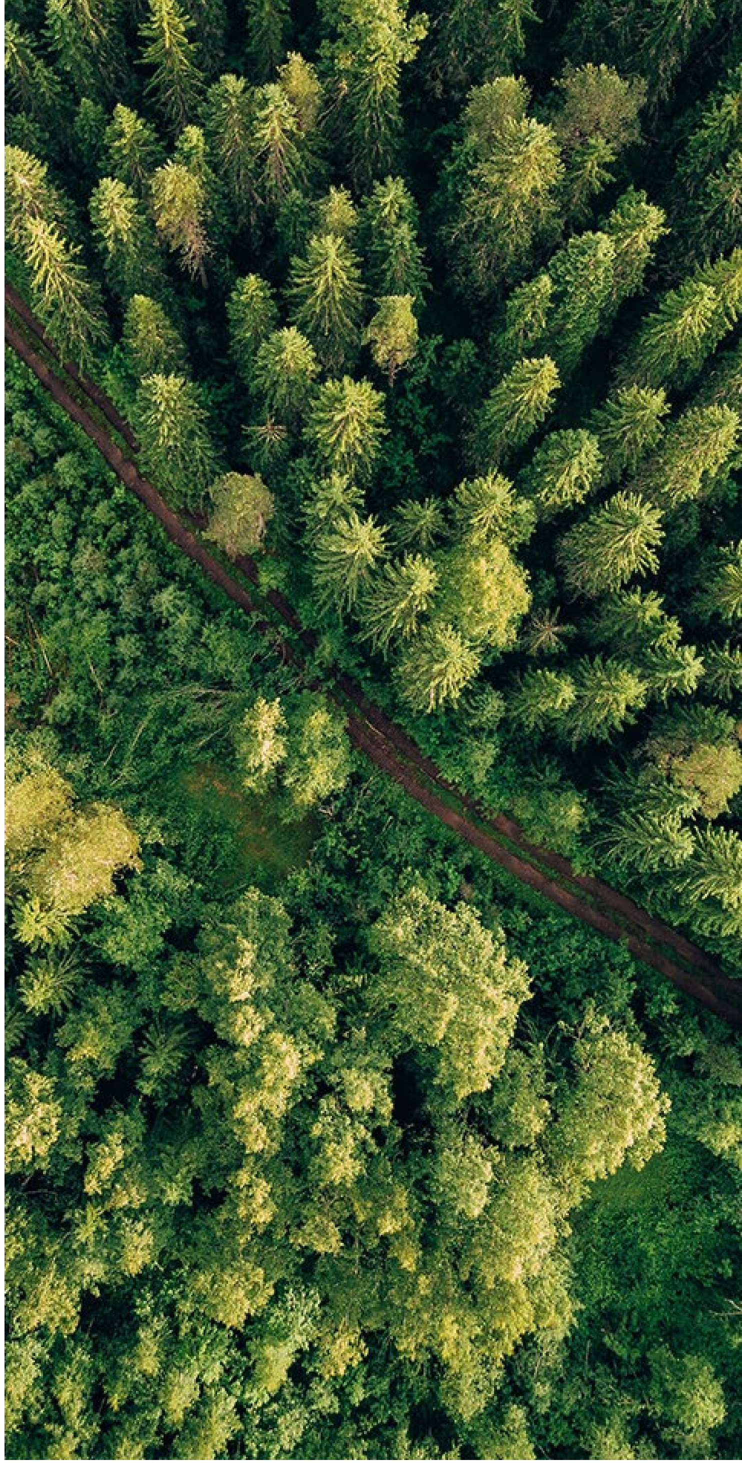
The regime also recognises Treaty settlement obligations and Māori interests. Rather than creating separate Treaty of Waitangi rules for wildlife approvals, the Act applies its existing general Treaty settlement provisions to this area as well, adding two extra safeguards: permit authorities must notify affected iwi authorities or Post-Settlement Governance Entities where relevant, and must have regard to Māori relationships with the protected wildlife affected by the application. Where a Post-Settlement Governance Entity wishes to preserve the effect its existing redress or arrangement had under the RMA, the Crown will work with it to agree how that same or equivalent effect can continue. This process is available for two years after the Act commences. Until any such agreement is reached, existing settlement arrangements automatically continue to have equivalent effect under the new regime.

Natural resource levies and planning consent levies

The Acts introduce two new levy mechanisms to help fund operation of the resource management system. A levy is a charge imposed on particular classes of users, applicants, or permit holders to recover the costs of specified statutory functions. Both levies are established through regulations.

Planning consent levies fund central government functions associated with the planning consent system. The levy recovers costs from those who use or benefit from the planning consent regime. Natural resource levies fund activities associated with the management, allocation, and use of natural resources. Regulations may empower regional councils to set levy rates and administrative arrangements. Levy-funded activities may include administering allocation frameworks, managing natural resource permits, operating natural resource permit trading systems, and undertaking spatial planning or regulatory planning relating to the coastal marine area.

Through the parliamentary process, the scope of levy-funded activities was narrowed. Levies will no longer fund certain investigations, public information and education activities, unspecified administrative functions, or development of new allocation methods. New activities were added, however, including natural resource permit trading and spatial or regulatory planning in the Coastal Marine Area. Ministers and regional councils must also consider whether levy-funded activities benefit levy payers or the wider public.



Contaminated land

A significant gap in the Acts as introduced was the absence of any specific provisions for contaminated land. Both the NEA and PA now adopt a polluter-pays approach – enabling recovery of costs incurred in avoiding, minimising, remedying, or mitigating contamination from the responsible polluter. Landowners must disclose contamination to their regional council, and financial assurances will apply to "high-risk" activities and sites, expressly including contaminated land. This framework draws on the Natural and Built Environment Act 2023 and is designed to close gaps in how contaminated land is identified and managed. Detailed technical and procedural requirements will follow through National Direction.

Designations

Designations continue under the new regime in a similar form to the RMA, but with notable refinements. The Acts clarify how a recommending authority assesses "strategic need": it must consider whether the project and designation are necessary to meet the designating authority's objectives and whether the proposed general location is appropriate, but expressly does not need to assess alternative sites, routes, or methods. The pool of designating authorities has also expanded, with water service providers (as defined in the Local Government (Water Services) Act 2025) now joining Ministers of the Crown, local authorities, and approved core infrastructure operators as eligible designating authorities. A transitional provision enables designations confirmed through the first Regional Spatial Plan process before the specified transition date to be included as a designation in a district plan under the RMA. Separately, the RMA mechanism for existing designations to be incorporated into the first Land Use Plans will apply.

Timing/transitional provisions

An important consideration is the timing and sequencing of when each aspect of the new Acts will be implemented, which is set out in the transitional provisions of the PA (applying to both Acts). The RMA will remain in effect during a transitional period while the new system is established. Local authorities raised concerns about the original timeframes, and in response the Government extended the total transition period by approximately nine months. Key deadlines now require National Policy Direction within 12 months of the PA commencing (up from 9), National Standards on human and ecosystem health limits within 18 months (up from 9), and notification of draft Regional Spatial Plans within 21 months of enactment (up from 9).

RMA compliance tools (including abatement notices and enforcement orders) will continue to have effect after the transition, and proceedings for RMA offences commenced under the RMA will continue under that legislation.

Implications and conclusion

After more than 35 years, the RMA has been replaced. While some underlying aspects of the RMA framework remain, the Acts represent substantial changes to New Zealand's resource management system. Most notably, the new dual-Act structure – separating environmental protection from land use planning – and the more refined and consolidated planning and consenting processes mark a significant departure from the current regime.

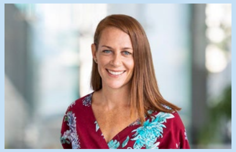
Other important changes include the introduction of environmental limits backed by broad Ministerial override powers under the NEA, a wider range of enforcement tools, a new regulatory relief scheme under the PA enabling landowner compensation for planning constraints, the creation of the Planning Tribunal to resolve lower-level disputes more efficiently, and significant amendments to the contaminated land and wildlife approvals frameworks.

Navigating the new system will be a significant challenge for all participants. Local authorities face tight timeframes to develop the first round of national instruments, prepare combined plans, and establish regulatory relief frameworks, while consent holders and landowners will need to familiarise themselves with the new consenting pathways, activity status classifications, and substantially increased penalties for non-compliance.

How these reforms are implemented in practice – and the extent to which the new system delivers the consistency and efficiency it promises – remains to be seen. During the transition period, we will be closely monitoring how the Acts take effect and the new systems come to fruition. If you have any questions about the transition period, the new Acts, or how they might affect you, please reach out to our team.

Your key contacts

Bianca Tree
Partner
View profile here



Stephanie de Groot
Partner
View profile here

Kate Storer
Special Counsel
View profile here

Olivia Pahulu
Senior Associate
View profile here

Tom Atkins
Senior Associate
View profile here