# Resource Management (Freshwater and Other Matters) Amendment Bill

Government Bill

## Explanatory note

### General policy statement

The objective of the Resource Management (Freshwater and Other Matters) Amendment Bill (the **Bill**) is to reduce regulatory burden by making targeted amendments to the Resource Management Act 1991 (**RMA**) and national direction.

The Bill—

- excludes the hierarchy of obligations contained in the National Policy Statement for Freshwater Management 2020 (the **NPSFM 2020**) from resource consent application and decision-making processes until the NPSFM 2020 is replaced:
- aligns the consenting pathway for coal mining with other mineral extraction activities across the NPSFM 2020, National Policy Statement for Indigenous Biodiversity 2023 (the **NPSIB 2023**) and Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (the **NES-F**):
- modifies local authority obligations under the NPSIB 2023 to identify and include in district plans new significant natural areas (**SNAs**) for 3 years:
- amends the Resource Management (Stock Exclusion) Regulations 2020 in relation to sloped land:
- repeals the permitted and restricted discretionary activity regulations and associated conditions for intensive winter grazing from the NES-F:
- makes amendments to speed up the process to prepare or amend national direction under the RMA.

The Bill principally amends the RMA. It also amends the following legislation:

- the National Policy Statement for Freshwater Management 2020:

- the National Policy Statement for Indigenous Biodiversity 2023:
- the Resource Management (National Environmental Standards for Freshwater) Regulations 2020:
- the Resource Management (Stock Exclusion) Regulations 2020.

The Bill includes consequential amendments to the Resource Management (Freshwater Farm Plans) Regulations 2023 and the Resource Management (Infringement Offences) Regulations 1999.

## Proposals

*Excluding the hierarchy of obligations within the NPSFM 2020 from resource consent application and resource consent decision-making processes*

Under the RMA, the NPSFM 2020 primarily takes effect through objectives, policies, and rules in regional policy statements and plans, and is also relevant to resource consenting. Resource consent applicants must assess (in applications for resource consent), and consent authorities must have regard to (when considering an application for resource consent), any relevant provisions of a national policy statement.

The NPSFM 2020 includes the concept of Te Mana o te Wai, which refers to the fundamental importance of freshwater and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. Te Mana o te Wai includes a hierarchy of obligations that prioritises—

- first, the health and well-being of water bodies and freshwater ecosystems:
- second, the health needs of people (such as drinking water):
- third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

Managing freshwater in a way that prioritises the hierarchy of obligations is the stated (single) objective of the NPSFM 2020.

The Bill excludes the hierarchy of obligations within the NPSFM 2020 from resource consent application and decision-making processes by precluding—

- resource consent applicants from including an assessment against clause 1.3(5) or 2.1 of the NPSFM 2020 in applications for resource consent:
- consent authorities from requesting information from consent applicants or commissioning reports on clause 1.3(5) or 2.1 of the NPSFM 2020:
- consent authorities from having regard to clause 1.3(5) or 2.1 of the NPSFM 2020 when considering resource consent applications.

The Bill limits the application of this proposal to resource consent applications lodged with a consent authority after commencement.

The Bill requires the Minister for the Environment to make a recommendation to the Governor-General to repeal this proposal by Order in Council when recommending the approval of a new national policy statement for freshwater management to replace the NPSFM 2020.

Regional councils will remain obligated to give effect to the NPSFM 2020 (including the hierarchy of obligations) through their policy statements and plans.

*Aligning the consenting pathway for coal mining with other extractive activities across national direction*

The NPSFM 2020, NES-F, and NPSIB 2023 contain strong protections for wetlands and SNAs, but also provide specific consent pathways for mineral extraction activities that have adverse effects on wetlands or SNAs. The current pathway for coal mining has additional controls compared to other mineral extraction activities. The consent pathway is limited to the operation and expansion of existing coal mines and for thermal coal extraction, this consent pathway ceases on 31 December 2030.

The Bill therefore provides for measures to align the resource consent pathway for coal mining with other mineral extraction activities under the NPSIB 2023, NPSFM 2020, and NES-F. The Bill extends the consenting pathway for coal mines to new coal mines and removes the sunset clause on consent pathways for thermal coal.

*Modifying local authority obligations under NPSIB 2023 to identify new SNAs and include them in district plans for 3 years*

The NPSIB 2023 directs local authorities on how to discharge RMA requirements regarding indigenous biodiversity. It provides a consistent framework and assessment criteria for councils to identify and include SNAs within their policy statements and plans, and to manage the effects of development on SNAs. It also specifies time frames for those actions.

The Bill suspends NPSIB 2023 requirements for councils to identify and notify new SNAs using the NPSIB 2023 assessment criteria and principles for 3 years. This suspension does not affect NPSIB 2023 obligations on councils for SNAs already existing in policy statements, proposed policy statements, plans, proposed plans, or plan changes before the commencement of this Bill. The 3-year suspension period for the implementation of new SNAs will allow time for a review of the operation of SNAs more broadly.

The Bill also amends timing provisions within the NPSIB 2023 for when local authorities must publicly notify any policy statement or plan or changes necessary to give effect to NPSIB 2023 provisions about SNAs (subpart 2 of Part 3 of the NPSIB), except indigenous biodiversity outside an SNA (see clause 3.16 of the NPSIB 2023). The date is extended to 31 December 2030.

The Bill clarifies that it does not affect councils' existing obligations under the RMA for indigenous biodiversity which includes the requirement to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

The changes in the Bill do not affect or prevent identification or notification of new SNAs in policy statements, proposed policy statements, plans, proposed plans or plan changes during the 3-year suspension period if required by a court order or other out-

come as a result of existing proceedings or processes, which are preserved by sections 32 to 33 of the Legislation Act 2019.

*Amending stock exclusion regulations in relation to sloped land*

The Resource Management (Stock Exclusion) 2020 regulate the access of cattle, pigs, and deer to water bodies.

A map of low slope land is currently incorporated by reference in the regulations and acts as a land-based trigger for requirements to exclude non-intensively grazed beef cattle and deer from water bodies (and all stock in relation to wetlands greater than 500 square metres).

The Bill repeals the map of low slope land and associated requirements, meaning that exclusion of affected stock types will instead be managed by freshwater farm plans and/or regional plan rules.

*Repealing intensive winter grazing regulations in the NES-F*

The NES-F includes regulations that allow intensive winter grazing to occur as a permitted activity, provided certain conditions are met or where a farm has a certified freshwater farm plan. Otherwise, a restricted discretionary resource consent is required to undertake intensive winter grazing.

The NES-F also includes stand-alone regulations to minimise adverse effects on freshwater from any pugging and to ensure a vegetated ground cover is established after livestock have finished grazing.

The Bill repeals the permitted and restricted discretionary activity regulations and associated conditions from the NES-F. However, the stand-alone regulations will be retained.

*Amendments to speed up process to prepare or amend national direction*

The process for preparing or amending a national direction is set out in subpart 1 of Part 5 of the RMA.

The Bill—

- removes the now redundant board of inquiry process to provide a clear default process for preparing a national direction:
- makes it easier to make simple updates to national direction:
- removes unnecessary prescription from the process to make or amend a national direction:
- amends evaluation report requirements as they relate to a national direction to make them more flexible and less onerous.

This proposal applies to preparing or amending a national environmental standard, national planning standard, national policy statement, or a New Zealand coastal policy statement.

### Departmental disclosure statement

The Ministry for the Environment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2024&no=47

### Supplementary Analysis Reports

The Ministry for the Environment produced 2 Supplementary Analysis Reports on 13 and 14 May 2024 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of these Supplementary Analysis Reports can be found at—

- Supplementary Analysis Report: amending the consenting pathway for coal mining in or around wetlands and significant natural areas https://www.mbie.govt.nz/dmsdocument/28364-supplementary-analysis-report-amending-the-consenting-pathway-for-coal-mining-in-or-around-wetlands-and-significant-natural-areas
- Supplementary Analysis Report: Supplementary Analysis Report Streamlining National Direction Processes https://environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/streamlining-national-direction-processes

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* provides that this Bill comes into force on the day after Royal assent.

*Clause 3* provides that this Bill amends the Resource Management Act 1991 (the **principal Act**).

## Part 1
## Amendments to Resource Management Act 1991

*Clause 4* amends section 2 to insert definitions of the National Policy Statement for Freshwater Management 2020 and the National Policy Statement for Indigenous Biodiversity 2023.

*Clause 4* also inserts a definition of national direction, which means a national environmental standard, a national planning standard, a national policy statement, or a New Zealand coastal policy statement.

*Clauses 5 and 6* amend sections 32 and 32AA so that the evaluation requirements in those sections do not apply to national direction proposals.

*Clause 7* inserts *new section 32AB* to provide requirements for evaluation of national direction proposals. An evaluation of a national direction proposal must consider—

- the effectiveness of the proposal; and
- the impact on the environment and the economy; and
- reasonably practicable alternative options.

*Clause 8* consequentially amends section 32A, which provides for consequences for failure to carry out an evaluation.

*Clause 9* consequentially amends section 42, which relates to protection of sensitive information.

*Clause 10* replaces section 44(3) with a new provision enabling the Minister to recommend a change to a national environmental standard without undergoing the full process if the reason for the change is—

- to align with a New Zealand standard:
- to implement New Zealand's obligations under international conventions, agreements, or protocols:
- to give effect to provisions in an emissions reduction plan or national adaptation plan:
- to change the time frame for implementation of any part of a national environmental standard:
- to remove provisions in a national environment standard that are no longer required as a consequence of changes to legislation:
- to make changes that are no more than minor in effect, to correct errors, or to make similar technical alterations.

*Clause 11* amends section 46A, which relates to the process for preparing national environmental standards and national policy statements.

Section 46A(4)(b) currently requires the process to include a requirement that those notified be given adequate time and opportunity make submissions. Section 46A(4)(b) is replaced with a new provision that requires that those notified must be given what the Minister considers to be adequate time and opportunity to make submissions.

*Clause 12* consequentially amends section 46B, which relates to incorporation of material.

*Clause 13* repeals sections 47 to 51, which requires a board of inquiry process for making national environmental standards or national policy statements.

*Clauses 14 and 15* make minor and consequential amendments to sections 51A(3) and 52.

*Clause 16* replaces section 53(2)(a) with a new provision enabling the Minister to amend a national policy statement without undergoing the full process if the amendment is for a reason specified in *new section 44(3)*.

*Clauses 17 and 18* consequentially amend sections 57 and 58D.

*Clause 19* amends section 58E to reflect that the process of making a national planning standard does not include any further evaluation in accordance with section 32AA.

*Clause 20* replaces section 58H(2) with a new provision enabling the Minister to change a national planning standard without undergoing the full process if the change is for a reason specified in *new section 44(3)*.

*Clause 21* inserts *new section 78*, which modifies local authority obligations under the NPSIB 2023 to—

- assess and identify areas of significant indigenous vegetation or significant habitats of indigenous fauna that qualify as a SNAs:
- include those SNAs in a proposed plan, plan, or plan change.

*New section 78(2)* provides that the following provisions of the NPSIB 2023 do not apply for 3 years after the commencement of this Bill:

- clause 2.2, Policy 6 (which requires a consistent approach in identifying significant indigenous vegetation and significant habitats of indigenous fauna as SNAs):
- clause 3.8(1), (6), and (8) (which require a territorial authority to conduct assessments to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna that qualify as SNAs):
- clause 3.9(1) (which requires a territorial authority to notify a plan or plan change to include areas identified as qualifying as SNAs):
- clause 3.9(3) (which requires that when a local authority does its 10-yearly plan review, that it assess its district in accordance with clause 3.8(1) and (2) to determine whether changes are needed).

*New section 78(3)* provides that the obligation of a local authority to give effect to the NPSIB 2023 as soon as reasonably practicable excludes the provisions of the NPSIB 2023 described above during that 3-year period.

*New section 78(6)* provides that section 78 does not affect any SNA that is included in a policy statement, proposed policy statement, plan, proposed plan, or plan change, before the commencement of this Bill.

*Clause 22* amends section 92 by inserting a new subsection that prohibits a consent authority from requesting information or commissioning reports on clause 1.3(5) or 2.1 of the NPSFM 2020. Those clauses establish a hierarchy of obligations that prioritises (in descending order of importance) the health and well-being of water bodies and freshwater ecosystems, the health needs of people, and the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

*Clause 23* amends section 104 to require that a consent authority must not have regard to clause 1.3(5) or 2.1 of the NPSFM 2020 when considering an application for resource consent and any submissions received.

*Clause 24* consequentially amends section 360B.

*Clause 25* consequentially amends clause 47 of Schedule 1.

*Clause 26* amends Schedule 4, which sets out the information required in an application for resource consent. Clause 2 of Schedule 4 is amended to provide that an assessment required by clause 2(1)(g) and (2) must not include an assessment of the activity against clause 1.3(5) or 2.1 of the NPSFM 2020.

*Clause 27 and Schedule 1* amend Schedule 12 to provide for transitional provisions.

*New Part 7 of Schedule 12—*

- provides for the application of the NPSIB 2023 in respect of SNAs that are included in a policy statement, proposed policy statement, plan, proposed plan, or change before the commencement of this Bill; and
- requires that specified provisions of the RMA that limit the effect of clauses 1.3(5) and 2.1 of the NPSFM 2020 only affect resource applications lodged on and from the commencement of this Bill; and
- provides for the repeal of those specified provisions when the NPSFM 2020 is replaced; and
- provides that specified amendments to the NPSFM 2020, NES-F, and NPSIB 2023 that affect coal mining do not apply to resource consent applications lodged before the commencement of this Bill (regardless of any provision to the contrary in the RMA).

## Part 2
## Other matters

*Clause 28 and Schedule 2* provide for amendments to secondary legislation made under the principal Act.

The Resource Management (Freshwater Farm Plans) Regulations 2023 are amended by replacing the definition of critical source area.

The Resource Management (National Environment Standards for Freshwater) Regulations 2020 are amended by—

- revoking the provisions regulating intensive winter grazing as a permitted activity (regulations 26 and 27 to 31); and
- revoking regulation 45D(7) (which restricts resource consent applications for discretionary activities involving coal extraction where certain activities affect natural inland wetlands); and
- revoking regulation 45D(8) (which, after 31 December 2030, would restrict resource consent applications involving the operation or expansion of existing

coal mines (other than for coking coal) where certain activities affect natural inland wetlands).

The Resource Management (Stock Exclusion) Regulations 2020 are amended by—

- revoking the provisions regulating the grazing of beef cattle and deer on low slope land:
- revoking the provisions requiring stock on low slope land to be excluded from natural wetlands of 0.05 hectares or more.

The Resource Management (Infringement Offences) Regulations 1999 are amended by removing references to provisions of regulations that have been revoked.

The National Policy Statement for Freshwater Management 2020 is amended by replacing clause 3.22(1)(e)(i) to remove restrictions on coal mining activities.

The National Policy Statement for Indigenous Biodiversity 2023 is amended by modifying the exceptions in clause 3.11 to the requirement that adverse effects specified in clause 3.10(2) on an SNA of a new subdivision, use, or development must be avoided. The amendments—

- remove the restriction in clause 3.11(1)(a)(ii) that prevents coal mining from being a mineral extraction to which that provision applies; and
- revoke clause 3.11(1)(a)(iv), which provides an exception for pre-established coal mines that, after 31 December 2030, would apply only to coal mines that extract coking coal.

The NPSIB 2023 is also amended by extending the time frame in clause 4.2 by which local authorities must publicly notify any policy statement, plan, or changes necessary to give effect to subpart 2 of Part 3 of the NPSIB 2023 (which relates to SNAs). However, the extended time frame does not apply to clause 3.16 of the NPSIB 2023 (which relates to indigenous biodiversity outside of SNAs).

*Hon Chris Bishop*

# Resource Management (Freshwater and Other Matters) Amendment Bill

Government Bill

## Contents


| | | Page |
|---|---|---|
| 1 | Title | 2 |
| 2 | Commencement | 2 |
| 3 | Principal Act | 2 |
| | **Part 1**<br>**Amendments to Resource Management Act 1991** | |
| 4 | Section 2 amended (Interpretation) | 3 |
| 5 | Section 32 amended (Requirements for preparing and publishing evaluation reports) | 3 |
| 6 | Section 32AA amended (Requirements for undertaking and publishing further evaluations) | 3 |
| 7 | New section 32AB inserted (Evaluation of national direction) | 4 |
| | 32AB Evaluation of national direction | 4 |
| 8 | Section 32A amended (Failure to carry out evaluation) | 4 |
| 9 | Section 42 amended (Protection of sensitive information) | 4 |
| 10 | Section 44 amended (Restriction on power to make national environmental standards) | 4 |
| 11 | Section 46A amended (Single process for preparing national directions) | 5 |
| 12 | Section 46B amended (Incorporation of material by reference in national direction) | 6 |
| 13 | Sections 47 to 51 repealed | 6 |
| 14 | Section 51A amended (Withdrawal of proposed national policy statement) | 6 |

15 Section 52 amended (Consideration of recommendations and approval or withdrawal of statement) 6
16 Section 53 amended (Changes to or review or revocation of national policy statements) 6
17 Section 57 amended (Preparation of New Zealand coastal policy statements) 7
18 Section 58D amended (Preparation of national planning standards) 7
19 Section 58E amended (Approval of national planning standard) 7
20 Section 58H amended (Changing, replacing, or revoking national planning standards) 7
21 New section 78 inserted (Time-limited modifications to NPSIB 2023) 7
78 Time-limited modifications to NPSIB 2023 7
22 Section 92 amended (Further information, or agreement may be requested) 8
23 Section 104 amended (Consideration of applications) 9
24 Section 360B amended (Conditions to be satisfied before regulations made under section 360A) 9
25 Schedule 1 amended 9
26 Schedule 4 amended 9
27 Schedule 12 amended 9

**Part 2**
**Other matters**

28 Amendments to secondary legislation made under Resource Management Act 1991 9

**Schedule 1**
**New Part 7 inserted into Schedule 12** 10

**Schedule 2**
**Amendments to secondary legislation made under Resource Management Act 1991** 12

**The Parliament of New Zealand enacts as follows:**

### 1 Title

This Act is the Resource Management (Freshwater and Other Matters) Amendment Act **2024**.

### 2 Commencement

This Act comes into force on the day after it receives the Royal assent.

### 3 Principal Act

This Act amends the Resource Management Act 1991.

# Part 1
# Amendments to Resource Management Act 1991

## 4 Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

**national direction** means, except as provided in section 80B(3),—

(a) a national environmental standard; or

(b) a national planning standard; or

(c) a national policy statement; or

(d) a New Zealand coastal policy statement

**National Policy Statement for Freshwater Management 2020** or **NPSFM 2020** means the National Policy Statement for Freshwater Management 2020 that was approved by the Governor-General under section 52(2) on 3 August 2020 and that came into effect on 3 September 2020

**National Policy Statement for Indigenous Biodiversity 2023** or **NPSIB 2023** means the National Policy Statement for Indigenous Biodiversity 2023 that was approved by the Governor-General under section 52(2) on 31 May 2023 and that came into effect on 4 August 2023

## 5 Section 32 amended (Requirements for preparing and publishing evaluation reports)

(1) Replace the heading to section 32 with "**Evaluation of proposal (other than national direction)**".

(2) In section 32(1), after "under this Act", insert "for a proposal other than a national direction".

(3) In section 32(3), delete "national planning standard, regulation".

(4) Replace section 32(5) with:

(5) The person who must have particular regard to the evaluation report must make the report available for public inspection at the same time as the proposal is notified.

(5) In section 32(6), definition of **proposal**, delete "national planning standard, regulation, regulation".

## 6 Section 32AA amended (Requirements for undertaking and publishing further evaluations)

(1) Replace the heading to section 32AA with "**Further evaluation of proposal (other than national direction)**".

(2) In section 32AA(1), after "Act", insert "of a proposal other than a national direction".

(3) Replace section 32AA(1)(d)(i) with:

(i) be published in an evaluation report that is made available for public inspection at the same time as the decision on the proposal is notified; or

(4) In section 32AA(3), definition of **proposal**, replace "statement, national planning standard," with "regional policy statement,".

### 7 New section 32AB inserted (Evaluation of national direction)

After section 32AA, insert:

#### 32AB Evaluation of national direction

(1) An evaluation report required under this Act of a proposal that is a national direction must include consideration of—

(a) the effectiveness of the proposal; and

(b) the impact on the environment and on the economy (whether adverse or beneficial) when proposing whether to regulate; and

(c) reasonably practicable alternative options in the proposal.

(2) The analysis for the report must begin early in the process of developing the proposal.

(3) The report must be prepared and presented in a way that—

(a) is cost-effective; and

(b) provides a level of detail that is proportionate to the scale and significance of the proposal; and

(c) is succinct and plainly expressed; and

(d) is useful for decision makers and the public.

### 8 Section 32A amended (Failure to carry out evaluation)

(1) In section 32A(1), replace "or 32AA" with ", 32AA, or **32AB**".

(2) In section 32A(1), delete "49,".

(3) In Section 32A(2), after "32", insert "or **32AB** as applicable".

(4) In section 32A(3), replace "statement, national planning standard" with "national direction, regional policy statement, standard".

### 9 Section 42 amended (Protection of sensitive information)

In section 42(6)(b)(i), replace "section 47 or 149J" with "section 149J".

### 10 Section 44 amended (Restriction on power to make national environmental standards)

(1) In section 44(1)(b), replace "section 32" with "**section 32AB**".

(2) In section 44(1)(d), replace "section 46A(4)(c) or 51(2), as the case requires" with "section 46A(4)(c)".

(3) In section 44(2)(a), replace "section 46A(4)(c) or 51, as the case requires" with "section 46A(4)(c)".

(4) Replace section 44(3) with:

(3) The Minister need not follow the process referred to in section 46A if the Minister is recommending the making of an amendment for 1 of the following reasons:

(a) to align with a New Zealand Standard within the meaning of section 4 of the Standards and Accreditation Act 2015:

(b) to implement New Zealand's obligations under any international convention, protocol, or agreement to which New Zealand is a party:

(c) to give effect to provisions in an emissions reduction plan or national adaptation plan:

(d) to change the time frame for implementation of any part of a national environmental standard:

(e) to remove provisions in a national environmental standard that are no longer required as a consequence of changes to legislation:

(f) to make changes that are no more than minor in effect, to correct errors, or to make similar technical alterations.

(4) An amendment under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**11 Section 46A amended (Single process for preparing national directions)**

(1) Replace the heading to section 46A with "**Process for preparing national environmental standards and national policy statements**".

(2) Repeal section 46A(1).

(3) Replace section 46A(2) and (3) with:

(2) This section sets out the requirements for preparing—

(a) a national environmental standard; or

(b) a national policy statement.

(3) If the Minister proposes to issue a national environmental standard or national policy statement, the Minister must establish and follow a process that includes the steps described in subsection (4).

(4) In section 46A(4), replace "subsection (3)(b)" with "**subsection (3)**".

(5) Replace section 46A(4)(a)(i) with:

(i) the proposed national environmental standard or national policy statement (the **proposal**); and

(6) In section 46A(4)(a)(ii), replace "proposed national direction" with "proposal".

(7) Replace section 46A(4)(b) with:

(b) those notified must be given what the Minister considers to be adequate time and opportunity to make a submission on the subject matter of the proposal; and

(8) In section 46A(4)(c), replace "national direction; and" with "proposal.".

(9) Repeal section 46A(4)(d).

(10) Replace section 46A(5) with:

(5) In preparing a national environmental standard or national policy statement, the Minister may, at any time, consult on a draft of that document.

(11) Repeal section 46A(6).

### 12 Section 46B amended (Incorporation of material by reference in national direction)

(1) In the heading to section 46B, replace "**national direction**" with "**national environmental standard or national policy statement**".

(2) In section 46B, replace "national direction" with "national environmental standard or national policy statement".

### 13 Sections 47 to 51 repealed

Repeal sections 47 to 51.

### 14 Section 51A amended (Withdrawal of proposed national policy statement)

Repeal section 51A(3).

### 15 Section 52 amended (Consideration of recommendations and approval or withdrawal of statement)

(1) Replace section 52(1)(a) with:

(a) first, must consider a report and any recommendations made under section 46A(4)(c); and

(2) In section 52(1)(c), replace "section 32" with "**section 32AB**".

### 16 Section 53 amended (Changes to or review or revocation of national policy statements)

(1) Replace section 53(1) with:

(1) The Minister may review, change, or revoke a national policy statement after following the process referred to in section 46A.

(2) In section 53(2), replace "without using a process referred to in subsection (1)" with "without following the process referred to in section 46A".

(3) Replace section 53(2)(a) with:

(a) amend a national policy statement if the Minister is recommending the amendment for a reason specified in **section 44(3)**, which applies as if

a reference in that section to a national environmental standard were a reference to a national policy statement; or

**17 Section 57 amended (Preparation of New Zealand coastal policy statements)**

In section 57(1), replace "using one of the processes referred to in section 46A(3), as if references in sections 46 to 52" with "after following the process referred to in section 46A as if references in that section".

**18 Section 58D amended (Preparation of national planning standards)**

In section 58D(3)(b), replace "section 32" with "**section 32AB**".

**19 Section 58E amended (Approval of national planning standard)**

Replace regulation 58E(1) with:

(1) Before approving a national planning standard, the Minister must consider the report and recommendations made under section 58D(3)(d)(ii).

**20 Section 58H amended (Changing, replacing, or revoking national planning standards)**

Replace section 58H(2) with:

(2) The Minister need not follow the process set out in sections 58D and 58E if the Minister is recommending a change to a national planning standard for a reason specified in **section 44(3)**.

**21 New section 78 inserted (Time-limited modifications to NPSIB 2023)**

After section 77T, insert:

**78 Time-limited modifications to NPSIB 2023**

(1) For the purposes of this section, the **3-year period** means the period that—

(a) commences on the date of commencement of the Resource Management (Freshwater and Other Matters) Amendment Act **2024**; and

(b) expires on the date that is 3 years after commencement.

(2) The following provisions of the NPSIB 2023 do not apply during the 3-year period:

(a) clause 2.2, Policy 6 (which requires a consistent approach in identifying significant indigenous vegetation and significant habitats of indigenous fauna as SNAs):

(b) clause 3.8(1), (6), and (8) (which requires a territorial authority to conduct assessments to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna that qualify as SNAs):

(c) clause 3.9(1) (which requires a territorial authority to notify a plan or plan change to include areas identified as qualifying as SNAs):

(d) clause 3.9(3) (which requires that a local authority must, when doing its 10-yearly plan review, assess its district in accordance with clause 3.8(1) and (2) to determine whether changes are needed).

(3) Clause 4.1 of the NPSIB 2023 (which requires a local authority to give effect to the NPSIB 2023 as soon as reasonably practicable)—

(a) does not apply during the 3-year period in relation to the provisions of the NPSIB 2023 specified in **subsection (2)**; but

(b) continues to apply in relation to the other provisions of the NPSIB 2023.

(4) This section does not affect any function or requirement under other provisions of this Act relating to indigenous biological diversity, including in relation to areas of significant indigenous vegetation or significant habitats of indigenous fauna.

(5) However, an area of significant indigenous vegetation or significant habitat of indigenous fauna that, after commencement, is included in a policy statement, proposed policy statement, plan, proposed plan, or change is not to be treated as an SNA regardless of how it is described in that document.

(6) This section does not affect any SNAs that are included in a policy statement, proposed policy statement, plan, proposed plan, or change before commencement (*see also* **clause 40 of Schedule 12**).

(7) The Minister for the Environment may amend the NPSIB 2023 to make any changes that the Minister is satisfied are required as a result of the enactment of the Resource Management (Freshwater and Other Matters) Amendment Act **2024** to—

(a) remove an inconsistency or a potential inconsistency between the NPSIB 2023 and that Act; or

(b) clarify the relationship between the NPSIB 2023 and that Act.

(8) In this section,—

**commencement** means the commencement of the Resource Management (Freshwater and Other Matters) Amendment Act **2024**

**SNA** means a significant natural area as defined in clause 1.6 of the NPSIB 2023.

(9) An amendment under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(10) This section is repealed on the close of the date of expiry of the 3-year period.

### 22 Section 92 amended (Further information, or agreement may be requested)

After section 92(2), insert:

(2A) However, a consent authority must not request further information nor commission a report on clause 1.3(5) or 2.1 of the NPSFM 2020 (which relates to the hierarchy of obligations in the NPSFM 2020).

### 23 Section 104 amended (Consideration of applications)

After section 104(2E), insert:

(2F) When considering an application and any submissions received, a consent authority must not have regard to clause 1.3(5) or 2.1 of the NPSFM 2020 (which relates to the hierarchy of obligations in the NPSFM 2020).

(2G) **Subsection (2F)** applies despite subsection (1)(b)(iii) and any other provision of this Act.

### 24 Section 360B amended (Conditions to be satisfied before regulations made under section 360A)

In section 360B(2)(d), replace "32" with "**32AB**".

### 25 Schedule 1 amended

In Schedule 1, clause 47(1), delete "51,".

### 26 Schedule 4 amended

In Schedule 4, after clause 2(2), insert:

(2A) An assessment required by subclauses (1)(g) and (2) must not include an assessment of the activity against clause 1.3(5) or 2.1 of the NPSFM 2020 (which relates to the hierarchy of obligations in the NPSFM 2020).

(2B) **Subclause (2A)** applies despite subclauses (1)(g) and (2) and any other provision of this Act.

### 27 Schedule 12 amended

In Schedule 12,—

(a) insert the Part set out in **Schedule 1** of this Act as the last Part; and

(b) make all necessary consequential amendments.

## Part 2
## Other matters

### 28 Amendments to secondary legislation made under Resource Management Act 1991

Amend the secondary legislation specified in **Schedule 2** as set out in that schedule.

# Schedule 1
# New Part 7 inserted into Schedule 12

s 27

## Part 7
## Provisions relating to Resource Management (Freshwater and Other Matters) Amendment Act 2024

### 39 Interpretation

In this Part, unless the context otherwise requires,—

**amendment Act** means the Resource Management (Freshwater and Other Matters) Amendment Act **2024**

**commencement** means the date that the amendment Act comes into force

**specified provisions relating to the NPSFM 2020** means—

(a) **section 92(2A)**; and

(b) **section 104(2F) and (2G)**; and

(c) **clause 2(2A) and (2B) of Schedule 4**.

### 40 Effect of certain amendments on significant natural areas before commencement

(1) The NPSIB 2023, as it was immediately before commencement but subject to the specified amendments, continues to apply in respect of an SNA described in **section 78(6)**.

(2) In this clause, **specified amendments** means the amendments made by section 28 and Schedule 2 of the amendment Act to—

(a) clause 3.11(1)(a)(ii) and (iv) of the NPSIB 2023:

(b) clause 4.2 of the NPSIB 2023.

### 41 Specified provisions relating to NPSFM 2020

(1) The specified provisions relating to the NPSFM 2020 apply only in relation to an application for a resource consent that is lodged with a consent authority in accordance with section 88 on and from commencement.

(2) To avoid doubt, an application referred to in **subclause (1)** includes any application that is treated as a new application under section 88(4) and lodged with a consent authority on and from commencement.

### 42 Repeal of specified provisions relating to NPSFM 2020 by Order in Council

(1) The Governor-General in Council may, on the recommendation of the Minister, repeal the specified provisions relating to the NPSFM 2020.

(2) The Minister must make a recommendation under this clause when recommending the approval of a new national policy statement under section 52 to replace the NPSFM 2020.

(3) An Order in Council under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**43 Effect of certain amendments on existing applications for resource consents**

(1) The amendments affecting coal mining do not apply to an application for a resource consent that is lodged with a consent authority before commencement regardless of any provision to the contrary in this Act.

(2) In this clause, the **amendments affecting coal mining** mean the amendments made by section 28 and Schedule 2 of the amendment Act to—

(a) regulation 45D(7) and (8) of the Resource Management (National Environment Standards for Freshwater) Regulations 2020:

(b) clause 3.22(1)(e)(i) of the NPSFM 2020:

(c) clause 3.11(1)(a)(ii) and (iv) of the NPSIB 2023.

# Schedule 2
# Amendments to secondary legislation made under Resource Management Act 1991

s 28

**Resource Management (Freshwater Farm Plans) Regulations 2023 (SL 2023/113)**

In regulation 3, replace the definition of **critical source area** with:

> **critical source area** means a landscape feature such as a gully, swale, or depression that—
>
> (a) accumulates runoff from adjacent land; and
>
> (b) delivers, or has the potential to deliver, 1 or more contaminants to 1 or more rivers, lakes, wetlands, or drains, or their beds (regardless of whether there is any water in them at the time)

**Resource Management (National Environment Standards for Freshwater) Regulations 2020 (LI 2020/174)**

In regulation 3, revoke the definition of **critical source area**.

Revoke regulation 26.

In regulation 26A(1), delete "in accordance with regulation 26".

In regulation 26B(1), delete "in accordance with regulation 26".

Revoke regulations 27 to 31.

Revoke regulation 45D(7) and (8).

**Resource Management (Stock Exclusion) Regulations 2020 (LI 2020/175)**

Revoke regulation 3(4) and (7).

In regulation 3A, replace "14 to 18" with "16 and 17".

In regulation 4, revoke the definition of **low slope land**.

In regulation 7, replace "12(b), or 14(b)" with "or 12(b)".

Revoke regulations 14, 15, and 18.

**Resource Management (Infringement Offences) Regulations 1999 (SR 1999/359)**

In Schedule 1A, table, revoke the items relating to regulations 14(a), 14(b), 15, and 18.

**National Policy Statement for Freshwater Management 2020**

Replace clause 3.22(1)(e)(i) with:

> (i) the activity is necessary for the purpose of the extraction of minerals and ancillary activities; and

### National Policy Statement for Indigenous Biodiversity 2023

In clause 3.11(1)(a)(ii), delete "; but this subparagraph does not apply to any mineral extraction that is coal mining, and subparagraph (iv) applies instead".

In clause 3.11(1)(a)(iii), replace "New Zealand:" with "New Zealand; and".

Revoke clause 3.11(1)(a)(iv).

In clause 4.2(1), replace "subpart 2 of Part 3 (significant natural areas)" with "clause 3.16 (indigenous biodiversity outside SNAs)".

After clause 4.2(1), insert:

(2) Local authorities must publicly notify any policy statement or plan or changes to these necessary to give effect to subpart 2 of Part 3 (except clause 3.16) by 31 December 2030.

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2024