



Supplementary Note – Resource Management (Consenting and Other System Changes) Amendment Bill

To Environment Select Committee

5 March 2025

Submitter details

This supplementary note is from the Parliamentary Commissioner for the Environment, Simon Upton.

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Parliamentary Commissioner for the Environment

The Parliamentary Commissioner for the Environment was established under the Environment Act 1986. As an independent Officer of Parliament, the Commissioner has broad powers to investigate environmental concerns and is wholly independent of the government of the day. The current Parliamentary Commissioner for the Environment is Simon Upton.

Ministerial intervention

Clauses 6 and 7 of the Bill add powers for the Minister to direct local authorities to achieve compliance with a national policy statement (NPS).¹ These powers will be applicable across all national policy statements, despite the Bill's explanatory note referring to these powers in the context of housing, with specific reference to Housing and Business Development Capacity Assessments (a document required by the NPS on Urban Development). No policy justification has been advanced for the breadth of these powers to apply across all national policy statements, introducing a significant extension to the Minister's ability to intervene in the operational matters of local authorities.

Only three NPSs contain the requirement for documents to be prepared: Freshwater Management, Indigenous Biodiversity and Greenhouse Gas Emissions from Industrial Process Heat. None of these documents are required for compliance purposes, which is the policy rationale for adding a power for the Minister to direct councils to prepare documents. The NPS-UD requires Housing and Business Development Capacity Assessments, the outcomes of which then determine whether a council is compliant. Ministerial oversight of that compliance is the policy justification for the Bill to provide for intervention. Extending this to all NPSs is unnecessary overreach as overall compliance

¹ Cl 6 – direct the preparation, or amendment, of a document required by a national policy statement and the period within which it must be done. Cl 7 – direct the preparation of a plan change to variation to comply with a national policy statement and the planning process to be applied.



with NPSs may be addressed by existing Ministerial intervention powers in respect of requiring information to be supplied, or to investigate the performance of a local authority's functions.²

In addition to the overall reform of the RM framework, the Government has signaled a project to review, amend, and add to RMA national direction. With the scope of change that is anticipated, it is unclear why such Ministerial intervention powers are considered necessary, beyond the scope of ensuring delivery of the Going for Housing Growth policy. The rationale to support the scope of these amendments has not been made out, and I do not support this aspect of the Bill.

Rt Hon Simon Upton

Parliamentary Commissioner for the Environment

Te Kaitiaki Taiao a Te Whare Pāremata

² RMA ss 24A and 27.