Hamilton City Council – Staff Submission

# Resource Management (Consenting and Other System Changes) Amendment Bill

## Parliament's Environment Select Committee

10 February 2025

Hamilton City Council
Te kaunihera o Kirikiriroa

# Improving the Wellbeing of Hamiltonians

Hamilton City Council is focused on improving the wellbeing of Hamiltonians through delivering to our five priorities of shaping:

- **A city that's easy to live in**
- **A city where our people thrive**
- **A central city where our people love to be**
- **A fun city with lots to do**
- **A green city**

The topic of this staff submission is aligned with all of Hamilton City Council's five priorities.

# Council Approval and Reference

This staff submission was approved by Hamilton City Council's Chief Executive on 10 February 2025.

Submission # 786

# Introduction

1. Hamilton City Council staff welcome the opportunity to make a submission to Parliament's Environment Select Committee on the **Resource Management (Consenting and Other System Changes) Amendment Bill.**

2. Hamilton City Council takes an active interest in the resource management space, as evidenced by our recent submissions to the:

   - **Application to have Projects Listed in Schedule 2 of the Fast Track Approvals Bill – 3 May 2024**
   - **Fast Track Approvals Bill – 19 April 2024 – Weblink**
   - **Engagement Draft of the Transitional National Planning Framework Proposal – 13 December 2023 – Weblink**
   - **Proposed National Policy Statement for Natural Hazard Decision-Making Discussion Document (September 2023) – 16 November 2023 – Weblink**
   - **Managing the Use and Development of Highly Productive Land – Discussion Document (September 2023) – 7 November 2023 – Weblink**
   - **Natural and Built Environment Bill – 17 February 2023 – Weblink**
   - **Spatial Planning Bill – 17 February 2023 – Weblink**

# Overall Comments/Feedback

3. We generally support the Resource Management (Consenting and Other System Changes) Amendment Bill in its entirety and have included some minor recommendations in the sections below.

4. There are numerous changes that relate to infrastructure throughout the Bill, however none of these changes capture waters infrastructure. It is anticipated that this was by design, taking into account incoming legislation relating to the Government's 'Local Waters Done Well' package. This means that waters infrastructure is completely removed from the advantages that these changes could provide waters infrastructure providers up to the transition of water services to CCOs. This includes a 35-year consent term (until such a time when Wastewater Environmental Performance Standards and Stormwater Environmental Performance Standards are in place) and any future changes proposed as part of the remainder of Phase 2 and Phase 3.

# Support for Other Key Submissions

5. We endorse the sector submissions from LGNZ and Taituarā on the Resource Management (Consenting and Other System Changes) Amendment Bill.

6. We also support the submission made by the Waikato CDEM Group to the Resource Management (Consenting and Other System Changes) Amendment Bill.

# Infrastructure and Energy

**7. Recommendations**

**8. Reinstate the requirement under s168A cl50 and s171 cl51 to assess alternative sites, routes or methods if the requiring authority has an interest in the land sufficient for undertaking the work.**

**9. Expand the definition for long-lived infrastructure to include waters infrastructure and clarify what is meant by 'long-lived' in relation to structures for transport.**

**10. Amend s125 cl43 to increase the lapse period for long lived infrastructure to 10 years.**

**11. Include a link to s123 under s184 cl 52 and s184 cl54 to avoid a backlog of resource consents needing reconsenting.**

**12. Include a definition for 'inland port' and clarify whether it is required to be operated under the Port Companies Act 1998.**

**13.** We support in part s88BA cl29. Including the definition for Treaty settlement is unnecessary in section 88BA(7) as this is repeated in the definitions in s2 cl4. We recommend deletion of s88BA(7).

**14.** We oppose s168A cl50 and s171 cl51. The amended sections remove the wording around consideration of alternative sites, routes, or methods if the requiring authority does have an interest in the land but there are significant adverse effects. Requiring Authorities should be doing this as best practice anyway. We recommend that consideration be given to whether there are any alternative sites, routes or methods if the requiring authority has an interest in the land sufficient for undertaking the work.

**15.** We support in part s2 cl4. The definition for long-lived infrastructure includes 'd) structures for transport on land by cycleways, rails, roads, walkways, or other means:'. This could be taken to mean bike racks, seats or electric car charging stations etc. This would not be appropriate in terms of specifying a 35-year duration of consent under s123b cl42. We recommend clarifying what structures for transport specifically relates to under the definition of long-lived infrastructure.

**16.** The definition for long-lived infrastructure includes roads and other transport structures, however, omits waters infrastructure. The definition should also include waters infrastructure, even as an interim measure until water services legislation and supporting documents (such as the wastewater environmental performance standards and stormwater environmental performance standards) have been developed. Hamilton City Council has long advocated for three waters networks and treatment facilities to be listed as 'significant infrastructure' due to the high levels of investment and criticality to social and economic wellbeing. This in addition to the fact that asset life usually has a long duration of approximately 50 to 100 years, and for some infrastructure may exceed that of the infrastructure listed in the definition. The benefit of including three-waters infrastructure within the definition of 'long-lived infrastructure' will see the continued development of waters infrastructure, as opposed to local authorities potentially deferring projects until more enabling and cost-effective planning mechanisms created by waters services legislation are in place. We recommend including waters infrastructure within the definition of long-lived infrastructure.

**17.** We are generally supportive of the intent to increase certainty and to enable renewable energy infrastructure to be designed and built. We recognise the importance of renewable energy in reducing greenhouse gas emissions. As well as the provisions in this Bill, we would support the government looking at other existing barriers and opportunities for rapidly increasing renewable electricity generation commercially and at the community and household scale.

18. We support in part s125 cl43. This amended section sets a default lapse period of 10 years for renewable energy consents. The designation duration has also been increased to 10 years. Not all projects for transport infrastructure (and potentially waters infrastructure, depending on the outcome of the submission on the definition of long-lived infrastructure) utilise a designation. There is benefit by increasing the lapse period for long-lived infrastructure to 10 years, which also aligns with the intent of changes to the designation lapse period. The advantage of this change would be that resource consents could be held for longer without lapsing (noting projects have been deferred due to funding), which in turn would be more cost-effective as a consenting process would not have to be re-entered. We recommend increasing the lapse period for long-lived infrastructure to 10 years.

19. We support in part s184 cl 52 and s184A cl53. These sections set a default duration for all consents relating to long-lived infrastructure to 35 years. Although long term certainty of these kinds of consents is welcome, this inadvertently captures land use consents which would have previously had an unlimited duration (as per s123 (b)). This would be a cost burden for infrastructure providers. We recommend a link back to s123 be retained within the new clause to avoid a backlog of resource consents needing reconsenting.

20. We oppose in part s166 cl48 as 'inland port' is not defined, and it is not clear if an inland port is required to be operated under the Port Companies Act 1998.

# Housing

21. **Recommendations**

22. **Amend s25A cl6 and 7 to include clauses for cost recovery from the government and ensure the Minister takes into account significance and timing of the direction to undertake a plan change.**

23. **Amend s80E cl22 to include climate change as a related matter.**

24. We oppose in part s25A cl6 and cl7. This section could result in Hamilton City Council being required to participate in a plan change process to meet national direction. This will come at the cost of staff time and expense. There is no ability to recover the cost of this time. Local authorities should be able to recover the costs of these directed amendments from central government. It is likely that there will be a number of requests of Territorial Authorities to update their planning documents to align, and to avoid duplication and contradictions resulting from recent legislative changes. This includes both the remainder of phase 2 (National Direction Package), as well as the suite of changes within the Local Government (Water Services) Bill. These processes are resource intensive in time and cost and have potential to cause issues with sequencing of policy and planning. We recommend clauses for cost recovery from government. We also recommend an amendment to include s7(4)(c) Minister must take into account the significance and timing of the direction. This is in alignment with other areas of the Bill which enable local government to recover costs of ancillary planning activities.

25. In addition, using the word 'document' in s25A cl6 and 7 is broad terminology. We recommend more specific wording on what type of document this refers to.

26. We are neutral on s77FA and FB cl17. This section makes the application of MDRS optional. Where MDRS is not adopted by a territorial authority, a plan change must be progressed to give effect to a 'revised National Policy Statement for Urban Development'. It is difficult to understand the ramifications of this until a revised NPS-UD is seen. In principle, optional application of MDRS is supported on the basis of environmental and level of service impacts on three waters infrastructure and roading performance when ad hoc, scattered and intensified urban development occurs, and/or when there is a need for unplanned, unfunded, and poorly integrated infrastructure response to manage the impact of MDRS requirements.

27. We support in part s80E cl22. We also recommend including climate change as a related matter in relation to an Intensification Planning Instrument to ensure New Zealand responds to the future effects of climate change from more extreme weather events.

# Emergency and Natural Hazards

28. **Recommendations**

29. **Amend s106A cl37 to include the cumulative effects on Natural Hazards.**

30. **Include a definition for significant risk.**

31. **Amend s331AA(4) cl64 to increase the 5 day time period for comments from regulatory authorities.**

32. We support rules relating to natural hazards having immediate legal effect.

33. We support in part s106A cl37. This section allows the consent authority to refuse a land use application in certain circumstances relating to natural hazards. We recommend that this section be widened to include cumulative effects from Natural Hazards as small increases in flooding can result in significant hazards over time.

34. We also recommend that a definition for significant risk is included. Judgements made on the definition of significant risk will lead to varying interpretations of what 'significant' is.

35. We support the ability of central government to create Emergency Response Regulations under s331AA cl64, however the five-day turnaround will put significant pressure on both the territorial and regional authorities that the regulations affect, notwithstanding that it is likely that those authorities will also be responding to the emergency itself. We recommend an increase to this time period.

# Resource Management System Improvements

36. **Recommendations**

37. **Delete s70 cl15 as it contravenes Te Ture Whaimana o te Awa o Waikato.**

38. **Amend s92AA cl32 to state that where a timeframe cannot be agreed, the consent authority shall specify an appropriate date to provide the information.**

39. **Amend s92AA to clarify when s95C still applies.**

40. **Amend s100 cl34 to give the consent authority the option of holding a hearing e.g. 'The consent authority may not hold a hearing…'**

41. **Amend s107G cl38 to enable the consent authority to consider any feedback on conditions while maintaining overall discretion and decision-making.**

42. We oppose s70 cl15 which enables a regional council to include a rule in a regional plan that allows, as a permitted activity, certain types of discharge that may allow significant adverse effects on aquatic life if the council is satisfied that there already adverse effects of that kind in the receiving waters; and the rule includes standards for the permitted activity; and the council is satisfied that those standards will contribute to a reduction of those adverse effects over a period of time specified in the rule. This contravenes Te Ture Whaimana o te Awa o Waikato, which requires 'restoration' and protection of the river. It does not consider accumulative effects from other discharges, nor the value of aquatic life and ecosystems, mahinga kai and swimmability.

**43.** We support amendments to s88(2AA) and (2AB) cl28 which ensures the information provided by an applicant is proportionate to the effects of the application and allows an ability for the consent authority to accept an application that does not fully comply with s88 2(b). This will provide consent authorities with the ability to exercise their judgement when making decisions to accept application.

**44.** We support amendments to s92(2B) cl 30. The amendments are consistent with current practice and ensures any further information requests are necessary, appropriate and proportionate to the effects of the application.

**45.** We support amendments to 92A(3) cl31 replacing 'must' with 'may'.

**46.** We support in part s92AA cl32. The amended section allows the consent authority to return an application if the requested information is not provided by an agreed time. In principle, we support its intent, however, in practice it may make it difficult to return an application if a timeframe cannot be agreed. We recommend where a timeframe cannot be agreed, the consent authority shall **specify** an appropriate date.

**47.** We support the amendment to s92B(2) cl33 replacing 'must' with 'may'.

**48.** There is a lack of clarity under s92AA whether s95C still applies. If a consent authority can return an application under s92AA then s9C appears to be redundant. We recommend clarifying the circumstance where s95C still applies given the introduction of amendments to s92AA.

**49.** We oppose s100 cl34 in part. This section relates to removing the right to hold a hearing unless the consent authority deems there is insufficient information to make a decision. This clause will limit the participatory process for submitters and extinguish the ability of submitters to present further evidence that may be critical in an overall recommendation or decision. Further, the amendment appears to assume that the purpose of a hearing is to make a decision in the absence of information. In practice, consent authorities will ensure that all relevant information has been provided prior to hearing with the hearing panel left to make a recommendation on the merits of the evidence. We recommend replacing the word 'must' with 'may' e.g. 'The consent authority **may** not hold a hearing'.

**50.** We support s104 cl36. This section allows a consent authority to take into account any previous or current abatement notices received by the applicant. This is a positive amendment, but may be difficult to apply to applicants outside of the territorial authority's jurisdiction. We recommend further guidance and clarification on this section. An option might be to amend FORM 9 (Resource Management (Forms, Fees, and Procedure) Regulations 2003) to require all applicants to identify if they have been the subject of previous or current enforcement action.

**51.** We support s104(2E), s104(6A) cl 36 and s108(2)d cl39. The amendment provides a consent authority with the ability to take into account the enforcement history of an applicant and decline an application in certain circumstances. This is a positive amendment to the Bill. The practical application of this provision may need some guidance as in our experience applicants that have been the subject of enforcement proceeding tend to operate under various trading names which may affect the ability of this provision to achieve its intent.

**52.** We support in part s107G cl38. This clause formalises the draft condition review process which is a common step in the consenting process. S107G(H) states that a consent authority can only take into account comments that are only technical and minor matters. Limiting comments to these matters may limit the value of this provision to applicants. We recommend this provision is broadened to allow a consent authority to consider any feedback while still maintaining its overall discretion to amend, delete or impose additional conditions as appropriate.

# Further Information and Hearings

**53.** Should Parliament's Environment Select Committee require clarification of the submission from Hamilton City Council staff, or additional information, please contact **Mark Davey** (Unit Director – Urban and Spatial Planning) on **021 242 8024**, or email **mark.davey@hcc.govt.nz** in the first instance.

**54.** Hamilton City Council representatives **do wish to speak** to Parliament's Environment Select Committee at the hearings in support of this submission on the **Resource Management (Consenting and Other System Changes) Amendment Bill.**

Yours faithfully

**Lance Vervoort**
**CHIEF EXECUTIVE**

**FURTHER INFORMATION**
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