

NATIONALLY AND REGIONALLY SIGNIFICANT PROJECTS AND OTHER MATTERS BILL

1 Title

This Act is the Nationally and Regionally Significant Projects and Other Matters Act 2023.

2 Commencement

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

PART 1

Preliminary provisions

3 Purpose

The purposes of this Bill are:

- (a) to promote social and economic development by providing for the effective and efficient consenting of projects of national or regional economic or social significance, and to combine the consenting, approval, and other processes for that purpose; and
- (b) amend other Acts to give effect to paragraph (a).

4 Interpretation

[tbc]

5 Act binds the Crown

This Act binds the Crown.

[Other introductory provisions TBC]

PART 2

Fast-track consenting of nationally and regionally significant projects

6 Application for referral

[Provision that says how to apply for referral and how decisions are made via OIC. Sections 20 - 27 of the (expired) COVID-19 Recovery (Fast-track Consenting) Act 2020 do this.

Like the COVID-19 Recovery Act, applications would be made to the relevant Ministers. The Ministers would have a power to request further information.]

7 Who makes referral decisions

- (1) Except as provided in **subsection (2)**, the referral of a project that is not specified in Schedule 1 to an expert consenting panel may be made by Order in Council on the recommendation of the Minister of Finance and the Minister for Infrastructure.

- (2) For projects relating to aquaculture in areas of the coastal marine area where the Crown has provided an authorisation to apply for aquaculture activities under the Māori Commercial Aquaculture Claims Settlement Act 2004, the Minister of Fisheries and the Minister of Māori Affairs may recommend that a project be referred to an expert consenting panel by Order in Council.
- (3) Before making a recommendation under **subsection (1)** or **subsection (2)**, the Ministers must consider the views of the territorial authorities in the area where the project would be located.
- (4) The relevant Ministers may, after having regard to the matters in **section 12**, decide not to recommend an Order in Council.

8 How consent applications for projects approved by Order in Council are made

- (1) **Schedule 2** sets out—

- (a) the requirements for consent applications to be made to, and notices of requirement to be lodged with, the Infrastructure and Natural Resources Unit in TBA; and
- (b) how the EPA provides applications and notices of requirement to the expert consenting panel appointed for a project; and
- (c) how the expert consenting panel conducts proceedings and makes decisions;
- (d) timeframes for processing consent applications made under this Act; and
- (e) appeal rights to the High Court on questions of law.

[The functions performed under clause 8 are the administrative tasks that are necessary to run a hearings process, such as organising hearings, receiving and publishing submissions online, etc. The role does not extend to providing substantive comment on applications or any decision-making role.]

[It is intended that timeframes for processing consent applications would be similar to those in the COVID-19 Recovery (Fast-track Consenting) Act 2020. Consent applicants would have an ability to suspend a timeframe, for example, to prepare additional information. The Panel would have a power to suspend a timeframe but it would have to give reasons.]

- (2) To avoid doubt, applications can be made under this Act—
 - (a) for a change or cancellation of a condition of consent in existence prior to the commencement of this Act (see section 127 of the Resource Management Act 1991); or
 - (b) to alter an existing designation.

9 Appeal and judicial review

- (1) Nothing in this Act limits or affects any right of judicial review a person may have in respect of any matter to which this Act applies.
- (2) However, if a person wishes to apply for judicial review of a final decision of an expert consenting panel and also appeal to the High Court against the same decision, the person must lodge the applications for judicial review and appeal together, unless the High Court grants leave for the person to lodge the applications separately.
- (3) If an application for judicial review and an appeal are lodged together, the High Court must try to hear the proceedings together, but need not if the court considers it impracticable to do so in the circumstances of the particular case.

10 Prohibited activities may not be referred

To be eligible for an application under **section 15**, the project must not include any activity that is described as a prohibited activity in the Resource Management Act 1991, regulations made under that Act (including a national environmental standard), or a plan or proposed plan.

11 Treaty settlement land excluded

- (1) To be eligible to apply under **section 15**, the project must not include:
 - (a) an activity that—
 - (i) would occur on land returned under a Treaty settlement; and
 - (ii) has not been agreed to in writing by the relevant landowner:
 - (b) an activity that—
 - (i) would occur in a customary marine title area under the Marine and Coastal Area (Takutai Moana) Act 2011; and
 - (ii) has not been agreed to in writing by the holder of the relevant customary marine title order issued under that Act:
 - (c) an activity that—
 - (i) would occur in a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011 and have a more than minor adverse effect on the exercise of the protected customary right; and
 - (ii) has not been agreed to in writing by the holder of a relevant protected customary rights recognition order issued under that Act.
- (2) Nothing in this section limits the Public Works Act 1981, or section 57 of the Crown Minerals Act 1991.

12 Whether project contributes to achieving purpose of Act

- (1) In considering whether or not to recommend an Order in Council under **section 8(1)** or **section 8(2)**, the Ministers may have regard to the following matters, as they consider appropriate:
- (a) the project's effect on the social, economic, environmental and cultural well-being of current and future generations:
 - (b) whether the project would be likely to progress faster by using the processes provided by this Act than would otherwise be the case:
 - (c) whether the project may result in a significant national or regional benefit by, for example (but without limitation),—
 - (i) generating employment:
 - (ii) providing infrastructure in order to improve economic, employment, or environmental outcomes, and increase productivity:
 - (iii) increasing export growth and returns:
 - (iv) increasing housing supply:
 - (v) contributing to well-functioning urban environments:
 - (vi) contributing to the diversity or resilience of a regional economy:
 - (vii) improving environmental outcomes for coastal or freshwater quality, air quality, or indigenous biodiversity:
 - (viii) minimising waste:
 - (ix) contributing to New Zealand's efforts to mitigate climate change and transition more quickly to a low-emissions economy (in terms of reducing New Zealand's net emissions of greenhouse gases):
 - (x) promoting the protection of historic heritage:
 - (xi) strengthening environmental, economic, and social resilience, in terms of managing the risks from natural hazards and the effects of climate change:
 - (xii) whether there is potential for the project to have significant adverse environmental effects, including greenhouse gas emissions:
 - (xiii) promoting investor certainty in New Zealand;
 - (xiv) enhancing New Zealand's international competitiveness as a place to do business;

13 Expert consenting panel

- (1) For each approved project the expert consenting panel will include an Environment Court Judge or retired Environment Court Judge or senior resource management lawyer to act as convenor of the panel and up to three other persons who collectively have expertise in economic growth, resource management planning including Te Ao Māori experience, and the subject matter of the application.
- (2) All members of each expert consenting panel will be appointed by the Chief Environment Court Judge or a person appointed by them and may include (but is not required to) persons who are Environment Commissioners or Deputy Environment Commissioners.

14 Expert consenting panel considers listed projects and referred projects

- (1) In respect of an application under **section 15**, an expert consenting panel must be appointed under **section 13** for—
 - (a) each project described in **Schedule 1** (a **listed project**); and
 - (b) each project referred to an expert consenting panel by Order in Council made under **section 8** (a **referred project**).

15 What the expert consenting panel may determine

- (1) The promoter of a listed project or a referred project—
 - (a) may apply in accordance with this Act, instead of under the Resource Management Act 1991 or the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, for a resource consent relating to the project; and
 - (b) may, if the person is a requiring authority, lodge a notice of requirement under this Act, instead of under the Resource Management Act 1991, for a designation or to vary a designation relating to the project.
- (2) A promoter of a listed project or a referred project may also apply under this Act for:
 - (a) authorisations issued under sections 9, 14, 53 or 71 (or all) of the Wildlife Act 1953;
 - (b) an authority under the Heritage New Zealand Pouhere Taonga Act 2014;
 - (c) the following authorisations under the Reserves Act 1977:
 - (i) rights of way and other easements under section 48;
 - (ii) authorisations under section 50 (to take and kill non-indigenous fauna);
 - (iii) permissions over and leases of local purpose reserves under section 61;
 - (iv) exercise any power that the Commissioner can exercise under section 62(1) or (2) or an administering body can exercise under s 63;
 - (v) grant leases of recreation reserves under section 63(3); and
 - (vi) grant licences to temporarily occupy reserves under section 74,

- (d) concessions in the form of leases, licences, permits or easements under section 17Q of the Conservation Act 1987;
 - (e) a mining permit or access arrangement or minimum impact authority (or any combination of these) under the Crown Minerals Act 1991 over Crown land or land owned by a local authority;
 - (f) access arrangements over Crown land or land owned by a local authority;
 - (g) aquaculture decisions under part 9A of the Fisheries Act 1996; and
 - (h) any other lease, licence, access arrangement or similar authority under any other Act (but not the Building Act 2004 or the Hazardous Substances and New Organisms Act 1996).
- (3) An application under this section must not relate to any land described in Schedule 4 to the Crown Minerals Act 1991.

16 Applicable Act for decision-making

- (1) Where a decision in relation to a consent, designation, authority, authorisation, approval, permit, access arrangement, lease, licence, easement, concession, or any other matter referred to in section 15 (**together, “consents and approvals”**) is made under this Act and not the Act under which it would otherwise be made;
- (a) the expert consenting panel must grant all consents and approvals applied for and may impose any conditions it considers appropriate on the consents and approvals;
 - (b) Part 2 of the Resource Management Act 1991 prevails over the purposes, principles and objects provisions of any other Act under which the decision would otherwise have been made, and those provisions have no application; and
 - (c) Relevant National Policy Statements (including the New Zealand Coastal Policy Statement 2010), regional policy statements and policy provisions in regional and district plans and proposed plans may be taken into account but need not be complied with.
 - (d) Any consents and approvals granted under this Act may be enforced by the relevant administering body as if the consents and approvals were issued by that administering body.
- (2) The expert consenting panel can require reasonable cost recovery from the promoter to cover the cost of compliance, monitoring and enforcement carried out by the administering body.

17 Change or cancellation of conditions on application by consent holder

- (1) The holder of any consents or approvals issued under this Act may apply to the EPA for a change or cancellation of a condition at any time.
- (2) An application for a change or cancellation of a condition shall be considered by:

- (a) the Chair of the expert consenting panel that determined the consents and approvals; or
 - (b) if the original Chair is not available, the Chief Environment Judge shall appoint another Environment Judge (and may appoint themselves).
- (3) The Chair may request the Chief Environment Judge to appoint any additional persons to form an expert consenting panel in accordance with section 13 to consider an application for change or cancellation of a condition.

18 Offsetting

- (1) In making decisions under section 15, the expert panel may impose conditions including that there must be an offset or compensation contribution by the promoter to wholly or partly address any adverse effects of the project so that the overall outcome for the environment is improved.
- (2) The offset or compensation contribution referred to in subsection (1) may be:
- (a) monetary;
 - (b) a contribution of land or other assets including land, assets, or infrastructure beyond the project;
 - (c) a pest control, waste management or environmental programme; or
 - (d) any combination of paragraphs (a), (b) and (c).

19 Overseas investment in significant business assets

- (1) A project in **Schedule 1** or referred to the expert panel by Order in Council is to be treated as satisfying the benefit to New Zealand test in section 16A of the Overseas Investment Act 2005.

[A consequential amendment may need to be made to the Overseas Investment Act 2005 as well.]

PART 3

The amendments in Part 3 to Part 5 are not confined to the significant projects addressed earlier and are of general effect.

RESOURCE MANAGEMENT ACT 1991

Amendments to Resource Management Act 1991

The Resource Management Act is the Act being amended by this part by re-instating and amending the following sections.

70A Application to climate change of rules relating to discharge of greenhouse gases

Despite section 68(3), when making a rule to control the discharge into air of greenhouse gases under its functions under section 30(1)(d)(iv) or (f), a regional council must not have regard to the effects of such a discharge on climate change, except to the extent that:

- (a) the use and development of renewable energy enables a reduction in the discharge into air of greenhouse gases, either—
 - (i) in absolute terms; or
 - (ii) relative to the use and development of non-renewable energy; or
- (b) the activity involves the direct discharge to air of greenhouse gases and the rule only relates to the control of that discharge and not to any associated or downstream discharges.

104E Applications relating to discharge of greenhouse gases

When considering an application for a discharge permit or coastal permit to do something that would otherwise contravene section 15 or section 15B relating to the discharge into air of greenhouse gases, a consent authority must not have regard to the effects of such a discharge on climate change, except to the extent that:

- (a) the use and development of renewable energy enables a reduction in the discharge into air of greenhouse gases, either—
 - (i) in absolute terms; or
 - (ii) relative to the use and development of non-renewable energy; or
- (b) the activity involves the direct discharge to air of greenhouse gases and regard is had only to the control of that discharge and not to any associated or downstream discharges.

EXPLANATORY NOTE:

1 The purpose of sections 70A and 104E is to streamline the climate change regulation and revert to what the RMA said before it was amended by the Resource Management Amendment Act 2020. These amendments enabled decision-makers to consider the effects on climate change when making rules or assessing consent applications relating to discharges of greenhouse gases (including downstream effects).

2 This is **not** about saying that managing and coordinating NZ's response to climate change is unimportant. Rather, it is a recognition that this should be done once, and done right via climate change legislation and regulatory tools.

360AA Regulations amending regional policy statements, regional plans and district plans in relation to specified projects

Note: This provision is a generalisation of a provision that currently only applies to aquaculture

- (1) In this section “specified project” means-
 - (a) a project described in **Schedule 1**; and
 - (b) any other project that is not a permitted activity and which the Minister for the Environment and the Minister for Infrastructure is satisfied will contribute to the purposes of this Act and the Nationally and Regionally Significant Projects Act and which the Minister is also satisfied is able to be undertaken in a manner that is consistent with relevant national policy statements.
- (2) The Governor-General may, by Order in Council, on the recommendation of the Minister for the Environment and the Minister for Infrastructure, amend provisions in a regional policy statement or proposed regional policy statement, regional plan or proposed regional plan, or district plan or proposed district plan that relate to or affect a specified project.
- (3) An amendment made under **subsection (2)**-
 - (a) Becomes part of an operative policy statement or plan (as the case may be) as if it had been notified under clause 20 of Schedule 1; and
 - (b) May be amended-
 - (i) Under this section; or
 - (ii) In accordance with Schedule 1; or
 - (iii) Under any other provision of this Act.
- (4) Regulations made under **subsection (2)** must, if amending existing regional or district rules, or providing new regional or district rules-
 - (a) Provide for all activities associated with a specified project which are subject to restrictions under Part 3 of this Act; and
 - (b) Provide for all such activities as permitted or controlled activities; and
 - (c) Provide for the new or amended rules to take immediate effect.
- (5) Where regulations made under **subsection (2)** make an activity associated with a specified project a permitted activity the regulations must specify any performance standards or conditions the activity must meet, and must specify that failure to meet any specified performance standard or condition will make the activity a controlled activity, with control reserved only over those standards or conditions for a permitted activity that are not met.
- (6) Subject to **subsection (5)**, where regulations made under **subsection (2)** make an activity associated with a specified project a controlled activity the regulations must-
 - (a) Specify the matters over which the consent authority retains control and in respect of which conditions may be imposed on resource consents; and

- (b) Specify whether a resource consent application for the project must be processed as a non-notified, limited notified or fully notified application.
- (7) Where the specified project is the continuation or expansion of an existing activity the Minister may, but need not, consult with the local authorities whose plans or policy statements would be affected by any regulations the Minister recommended, prior to declaring the project to be a specified project.
- (8) Where the specified project is a new activity the Minister may but need not consult with the local authorities whose plans or policy statements would be affected by any regulations the Minister recommended, and consult with other parties prior to declaring the project to be a specified project.
- (9) As soon as practicable after regulations are made under **subsection (2)** a regional council whose operative or proposed regional policy statement or regional plan, and a district council whose operative or proposed district plan is or will be amended by the regulations must-
 - (a) Give public notice that the regulations have been made, of the date on which the regulations come into force, and that provides a general description of the nature and effect of the regulations; and
 - (b) Amend the plan or policy statement in accordance with the regulations-
 - (i) Without using the process in Schedule 1; and
 - (ii) By any date specified in the regulations for that purpose or, if not date is specified, as soon as practicable after the regulations come into force.

Consequential amendments

Amend section 24 by adding a new subsection (ea) to read:

- (ea) determining whether projects are specified projects for the purpose of section 360AA and recommending the making of regulations under section 360AA that amend regional policy statements, regional plans and district plans in relation to such specified projects:

Amend section 86B by adding a new subsection (3)(f) to read

- (f) provides for or related to a specified project under section 360AA.

COASTAL PERMITS

Section 384A(2) of the Resource Management Act 1991 is amended by deleting “30 September 2026” and substituting “30 September 2061”

EXPLANATORY NOTE:

This will extend port company coastal permits by a further 35 years. There is insufficient time, (and very little benefit) to completing the required process by 30 September 2026.

COAL MINING LICENCES

Add specific provision to Schedule 12 of the Crown Minerals Act 1991 to read:

- (1) All existing coal mining licences continue in force until all necessary consents, approvals, authorities and permits (“**consent or approval**”) required to replace the rights granted under that licence (being without limitation the right extract the coal, the right to access the land and resource consents under the Resource Management Act 1991) are granted, issued or otherwise provided under the Resource Management Act 1991 or the Significant National and Regional Projects Act 2023.
- (2) Despite **subsection (1)**, any consent or approval issued as a replacement for an existing consent or approval may come into force on a date specified in the replacement consent or approval, and the existing consent or approval ceases to be in effect on and from that date.
- (3) This section applies despite any expiry provisions in the coal mining licence or in this Act that would otherwise apply.

EXPLANATORY NOTE:

Addition of a savings provision is necessary because transition from the Coal Mines Act 1979 to the Crown Minerals Act 1991 is not effective and cannot be practically implemented in the remaining time before coal mining licences expire.

Addition of a savings provision is necessary because the Crown Minerals Act 1991 has taken away the right of the holder to apply for a renewal of the term of the licence and thus the expiry date is a drop dead date after which no mining (or rehabilitation) can take place. Practically there is not enough time to apply and be granted new approvals before the expiry dates.

AMENDMENT TO THE PUBLIC WORKS ACT 1981

Add a new section 23(3A) of the Public Works Act 1981:

- (3A) No person may object to the taking of land under section 23(3) for projects referred to an expert consenting panel under the Nationally and Regionally Significant Projects and Other Matters Act 2023.

EXPLANATORY NOTE:

This stops objectors using the PWA from arguing that central or local government projects should be relocated.

NATIONAL POLICY STATEMENTS

Amendments to National Policy Statements (NPS)

The necessary amendments to ensure extractives are treated equally, and by their effects rather than the product extracted are set out below:

National Policy Statement for Fresh Water Management (NPSFM)

Amend clause 3.22(1)(d)(i) to read “the activity is necessary for the purpose of quarrying or other extraction of minerals and ancillary activities; and”

Amend clause 3.22(1)(d)(ii) to read “the extraction of the aggregate activity will provide significant national or regional economic or social benefits; and”

Delete clause 3.22(e).

Amend clause 3.22(f)(ii)(C) to read “is required to support the extraction of aggregate or other minerals as referred to in paragraph (d); ~~or~~ and”

Delete clause 3.22(f)(ii)(D)

National Policy Statement for Highly Productive Land (NPSHPL)

Delete clause 3.9(2)(iii)

Amend clause 3.9(2)(iv) to read “aggregate or mineral extraction that provides significant national or regional public benefit ~~that could not otherwise be achieved using resources within New Zealand~~”

National Policy Statement for Indigenous Biodiversity (NPSIB)

Delete clause 3.11(a)(ii)

Amend clause 3.11(a)(iii) to read “aggregate or other mineral extraction that provides significant national or regional public benefit ~~that could not otherwise be achieved using resources within New Zealand; and;~~

Delete clause 3.11(a)(iv)

EXPLANATORY NOTE:

1 These amendments address inconsistent treatment of different types of mineral extraction.

2 The intent of these amendments is that the focus should be on the impacts of the extractive activity, not the use to which the extracted material might be put. It is consistent with the reversion to the original sections 70A and 104E.

Local authorities must give effect to National Policy Statements

An alternative approach to requiring local authorities to give effect to national policy statements consistently is to repeal section 55 of the Resource Management Act and replace with the following:

55 Local authority recognition of national policy statements

- (1) In subsections (2) and (3), document means—
 - (a) a regional policy statement; or
 - (b) a proposed regional policy statement; or
 - (c) a proposed plan; or
 - (d) a plan; or
 - (e) a variation.
- (2) A local authority must amend a document, if a national policy statement directs, or an Order in Council is made under section 360AA of the Act,—
 - (a) so as to include specific objectives and policies set out in the statement; or
 - (b) so that objectives and policies specified in the document give effect to objectives and policies specified in the statement; or
 - (c) if it is necessary to make the document consistent with any constraint or limit set out in the statement.
- (3) The local authority must—
 - (a) make the amendments referred to in subsection (2) without using the process in [Schedule 1](#); and
 - (b) give public notice of the amendments within 5 working days after making them.
- (4) The local authority must also make all other necessary amendments to a document that are required to give effect to any provision in a national policy statement that affects the document.
- (5) The local authority must make the amendments referred to in subsection (4) using the process in [Schedule 1](#).
- (6) In all cases, the local authority must make the amendments—
 - (a) as soon as practicable; or
 - (b) within the time specified in the national policy statement (if any); or
 - (c) before the occurrence of an event specified in the national policy statement (if any).

- (7) Local authorities must give effect to all aspects of national policy statements and must not adopt policies or other provisions that are more stringent or more lenient than those contained in national policy statements.
- (8) A local authority must also take any other action that is directed by the national policy statement.

EXPLANATORY NOTE:

New section 55, and in particular section 55(7), prevents local authorities from changing the effect of any NPS by adopting more stringent or lenient policies. That will require changes to some NPS. For example:

NPSFM

Amend clause 3.1(2) to read:

“Nothing in this Part:

~~(a) prevents a local authority adopting more stringent measures than required by this National Policy Statement; or~~

~~(b) limits a local authority’s functions and duties under the Act in relation to freshwater.~~

PART 4

WILDLIFE ACT 1953

Amendments to the Wildlife Act 1953 to ensure consistent treatment of applications for Wildlife authorisations

The Wildlife Act 1953 is the Act being amended by this part by adding the following new provision:

53A Resource consent may authorise taking or killing of wildlife

- (1) Where a resource consent granted under [the RMA] contains a provision that states that it is an authority to which this section applies:
 - (a) **section 15** of the National and Regional Significant Projects and Other Matters Act applies to the processing of the authority;
 - (b) The authority may address any situation and contain any condition that the Director-General could have addressed or imposed if the authority had been granted under section 53;
 - (c) The Director-General may enforce the authority as if it were an authority issued under section 53; and
 - (d) The Director-General must not vary any condition of the authority, or revoke the authority, without the written consent of the holder of the authority.

- (2) Every person to whom is granted an authority for the purposes of this section who commits a breach of or fails to comply with any condition on which the authority is granted commits an offence and is liable on conviction to the penalty set out in section 67(5).

(Consequentially amend section 67(6) by including a paragraph (da) referring to section 53A)

Amend section 239 of the Natural and Built Environment Act 2023, or section 88 of the Resource Management Act 1991 as appropriate by adding the following:

- (X) In this section, an application may include an application for an authority under **section 53A** of the Wildlife Act 1953.

EXPLANATORY NOTES

- 1 The purpose of these provisions is to make the consenting and authority provisions more efficient and consistent by having Wildlife Act authorities and other similar approvals (and their conditions) set under the NBE Act (or RMA Act) at the same time and in the same process as resource consent conditions are determined.
- 2 Once granted, the Director-General would administer the authority, but cannot revoke or amend it without consent of the authority holder.
- 3 The resource consent must identify that the authority is granted for the purposes of section 53A so that there can be no uncertainty as to whether the section applies.
- 4 There is no desire to avoid the proper involvement of the Director General. On the contrary, the intent is to activate the Director-General and get their involvement in a timely and efficient way.
- 5 So, the applicant should be required to give the Director-General adequate notice of:
 - (a) what is being sought;
 - (b) what consultation and engagement has taken place with relevant affected parties; and
 - (c) what conditions are proposed by the applicant.
- 6 The Director-General should have an explicit right to make submissions, and be heard.

Amend the Wildlife Act by repealing section 71, and adding a savings clause that everything under section 71 is brought under section 53 of the Act, to read:

X Section 71 is repealed

- (3) Section 71 of this Act is repealed.
- (4) Any authority, approval or consent sought, granted, issued or entered into under this section must be treated as an authority granted under section 53 of the Act.

EXPLANATORY NOTE:

- | | |
|---|---|
| 7 | Section 71 of the Wildlife Act adds a further complication for operators whose activities are authorised by Coal Mining Licences under the Coal Mines Act 1979 and Mining Licences under the Mining Act 1971. |
| 8 | The effect of section 71 is that, where an operator needs a Wildlife authorisation, it must obtain approval from two ministers: the Minister of Conservation and the Minister of Energy and Resources. |
| 9 | Obtaining an approval from two ministers is unwieldy and creates further unnecessary delay. |

PART 5

HERITAGE NEW ZEALAND POUHERE TAONGA 2014

Amendments to the Heritage New Zealand Pouhere Taonga Act 2014

The Heritage New Zealand Pouhere Taonga Act 2014 is the Act being amended by this part by adding after section 46:

46A Resource consent authority to modify or destroy archaeological site

- (1) Where a resource consent granted under [the NBE Act/Resource Management Act] contains a provision that states it is an authority to which this section applies:
- (a) **section 15** of the National and Regional Significant Projects and Other Matters Act applies to the processing of the authority;
 - (b) the authority may address any situation and contain any condition that Heritage New Zealand Pouhere Taonga could have addressed or imposed if the authority had been granted under section 48 or section 56;
 - (c) the authority may approve any person nominated to undertake the authority; but section 45(3) applies if it is necessary to replace that person;
 - (d) Heritage New Zealand Pouhere Taonga may enforce the authority as if it were an authority granted under section 48 or section 56; and

- (e) Heritage New Zealand Pouhere Taonga must not initiate a review of the conditions of the authority, or revoke the authority, without the written consent of the holder of the authority.


CONSEQUENTIAL AMENDMENTS REQUIRED AND EXPLANATORY NOTES:

- 1 The resource consent must identify that the authority is granted for the purposes of section 46A so that there can be no uncertainty as to whether the section applies.
- 2 There is no desire to avoid the proper involvement of HNZPT, nor its Māori Council. On the contrary, the intent is to activate the HNZPT, and get their involvement in a timely and efficient way.
- 3 So, the applicant should be required to give HNZPT adequate notice of;
 - (a) what is being sought;
 - (b) what consultation and engagement has taken place with relevant affected parties; and
 - (c) what conditions are proposed by the applicant.
- 4 HNZPT should have an explicit right to make submissions, and be heard.
- 5 Section 53(1)(b) must not be allowed to apply. This means HNZPT cannot initiate a review; see section 46A(d) above. That means section 53(6) and (8) would not apply.
- 6 Section 54 to be amended so that subsection (3) does not apply (irrelevant) and the duration of the authority is to be the same as the duration of the resource consent.
- 7 Section 56 allows for authorities to carry out exploratory investigations. That might happen before a resource consent is sought.
- 8 They can be granted in the resource consent process (see s46A(a)) if anticipated then.
- 9 During the life of the consent, the need for more investigations might arise. There are time limits (10 working days).
- 10 There is a right to appeal under section 58(2)(g) to the Environment Court.
- 11 As to other appeals, those under paragraphs (b) to (f) of section 58(2) should be negated because they go to the Environment Court that will likely have determined the matter anyway.
- 12 The appellant can be “Any person who is directly affected” which might extend to neighbours, iwi, and others.
- 13 Section 88(1) (Offences) should be amended to include contravening or failing to comply with any conditions imposed under section 46A(a).

SCHEDULE 1

Projects of National or Regional Significance

9(2)(f)(iv)



It is implicit that projects that obtain consents under this Act are implemented without delay, and the risk of “consent banking” is minimised. Clauses 38(7) and (8) of Schedule 6 to the COVID-19 Recovery (Fast-track Consenting) Act 2020 included a two year maximum lapse period. They are shown below for reference and could be added to this Bill at clause 15 if desired:

- (7) The decision must also specify the date on which a resource consent or designation lapses unless it is given effect to by the specified date.
- (8) The date specified under subclause (7) must not be later than 2 years—
 - (a) from the date of commencement, in the case of a resource consent; or
 - (b) from the date on which a designation is included in a district plan.