



Ngā kawenga me ngā herenga i raro i te Ture Taiao Tūturu me te Hanga 2023

Responsibilities and restrictions under the Natural and Built Environment Act 2023

New laws are being phased in that aim to help Aotearoa New Zealand protect and manage the environment and its resources. The Spatial Planning Act 2023 (SPA) and the Natural and Built Environment Act 2023 (NBA) were enacted on 23 August 2023.¹

Like the Resource Management Act 1991 (RMA), the NBA sets out duties and responsibilities that apply to everyone carrying out activities under the Act.²

Activities include actions like building houses, clearing vegetation, moving earth, taking water from a stream, and other actions that could affect the environment or people nearby.

As well as these broad duties and responsibilities, the NBA introduces a new general environmental responsibility³ that applies to everyone carrying out activities under the Act.

¹ The Climate Adaptation Act is also planned, which will address managed retreat, and funding and financing of climate adaptation. A date for introduction of the Bill is not yet confirmed.

² Part 2 sections 17–29 of the NBA.

³ Section 17 of the NBA.

Consistent with the ethic of stewardship, everyone will have a responsibility to protect and sustain the health and wellbeing of the natural environment for the benefit of present and future generations. While wide ranging, this responsibility is not by itself enforceable against any person, and it does not create any liability to any other person.

The new provisions will apply at different times in each region. They will apply from a region's NBEA date, which is 10 working days after a regional planning committee has notified the decisions version of its first natural and built environment plan (NBE plan).

This fact sheet contains:

- general duties and responsibilities
- restrictions and prohibitions.

General duties and responsibilities

Section 3 of the NBA sets out the Act's purpose (to uphold Te Oranga o te Taiao). The purpose must be achieved in ways that, first and foremost, protect the health of the natural environment. It also enables the use and development of the environment to promote the wellbeing of present and future generations – but that must be done in ways that protect the natural environment.

Part 2 of the NBA also includes duties and responsibilities of all people carrying out activities under the Act. As well as the new general environmental responsibility mentioned above, the NBA prescribes that everyone must:

- avoid, minimise, remedy, offset, or provide compensation for any adverse effect on the environment arising from an activity⁴
- use best practice to avoid emitting unreasonable noise from land or water (including aircraft noise from airport activity that breaches restrictions in a National Planning Framework (NPF) rule⁵ or an NBE plan rule).⁶

Restrictions and prohibitions

The NBA sets restrictions that apply to activities and uses in the following areas:⁷

- land and subdivision of land
- use of the coastal marine area
- the use of river and lake beds
- water and discharges.

All these restrictions are similar to the existing provisions in the RMA.

⁴ Section 18 of the NBA.

⁵ An NPF rule is a rule in the National Planning Framework.

⁶ Section 19 of the NBA.

⁷ Sections 21–29 of the NBA.

Table 1: Summary of restrictions under the Natural and Built Environment Act 2023

Restrictions relating to:	Restrictions
land ⁸	<ul style="list-style-type: none"> A person must not use land in a way that contravenes an NPF rule or NBE plan rule. Land use must not contravene the NBA requirements on places of national importance.⁹
subdivision ¹⁰	<ul style="list-style-type: none"> A person must not subdivide land under the NBA unless allowed by an NPF or NBE plan rule or a resource consent. <p>Note: this doesn't apply to Māori land unless the Te Ture Whenua Māori Act 1993 provides otherwise.¹¹</p>
use of the coastal marine area (CMA) ¹²	<ul style="list-style-type: none"> Occupation or the removal of natural material and activities that relate to structures or reclamation, introducing plants, or have adverse effects on the foreshore or seabed or plants and animals, are not allowed unless expressly allowed by an NPF or NBE plan rule or a resource consent is granted. Other activities may also be controlled by the NPF or a plan. Existing lawful activities operating under a resource consent can continue, and any other existing lawful activities are allowed (unless a subsequent plan change prevents them).
use of river and lake beds ¹³	<ul style="list-style-type: none"> Most activities that disturb the bed of a lake or river, or introduce plants or other material to it, are not permitted unless they are allowed by an NPF or NBE plan rule or a resource consent. Some listed activities are permitted where the NPF or NBE plan rule does not prevent them from occurring (eg, crossing the bed of a lake or river or removing plants). These activities can be undertaken if allowed by a resource consent or permitted activity notice, or where they are an existing lawful activity.
water ¹⁴	<ul style="list-style-type: none"> Activities taking, using, damming or diverting water are not permitted unless they are allowed by an NPF or NBE plan rule or a resource consent. Existing lawful activities are allowed. The following are permitted (only to the extent not likely to have an adverse effect on the environment): <ul style="list-style-type: none"> taking freshwater for a person's reasonable domestic needs or their animals' reasonable needs for drinking water¹⁵ taking geothermal water, heat, or energy to be used in accordance with tikanga Māori for the communal benefit of the tangata whenua of the area¹⁶ taking coastal water for a person's reasonable domestic or recreational needs¹⁷ taking water for emergency or emergency training purposes.¹⁸

⁸ Section 21 of the NBA.

⁹ Section 21(1)(c) of the NBA.

¹⁰ Section 22 of the NBA.

¹¹ Section 22(2) of the NBA.

¹² Section 23 of the NBA.

¹³ Section 24 of the NBA.

¹⁴ Section 25 of the NBA.

¹⁵ Section 25(4)(b) of the NBA.

¹⁶ Section 25(4)(c) of the NBA.

¹⁷ Section 25(4)(d) of the NBA.

¹⁸ Section 25(4)(e) of the NBA.

Restrictions relating to:	Restrictions
discharges	<ul style="list-style-type: none"> • A person must not discharge contaminants into water (including geothermal and coastal water) or onto land in a way in which it may enter water; or discharge contaminants into air or onto land from industrial or trade premises,¹⁹ or generally discharge contaminants to air in breach of the NPF or a plan rule,²⁰ unless these activities are allowed by the NPF or other regulations made under the NBA, an NBE plan rule or a resource consent. • Existing lawful activities are allowed to continue (except that, for lawful activities not operating with a resource consent, a subsequent plan change may stop them). • In the coastal marine area, dumping or incinerating waste or other matter offshore is not allowed unless it is permitted by a resource consent.²¹ • There are exceptions for discharges of harmful substances or contaminants from ships or offshore installations where, after reasonable mixing, it is unlikely to give rise to certain effects or, in relation to air, the substance or contaminant is not likely to be noxious, dangerous, offensive, or objectionable to the extent that it has, or is likely to have, a significant adverse effect on the environment.

¹⁹ Section 26(1) and (2) of the NBA.

²⁰ Section 26(3) and (4) of the NBA.

²¹ Sections 27–29 of the NBA.

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