Ministry for the Environment
Manatū Mō Te Taiao

PROACTIVE RELEASE COVERSHEET

Minister	Hon Chris Bishop	**Portfolio**	Minister Responsible for RMA Reform
Name of package	Supplementary Analysis Reports for the Resource Management (Consenting and Other System Changes) Amendment Bill Amendment Paper	**Date to be published**	11 August 2025

List of documents that have been proactively released		
Date	***Title***	***Author***
17 July 2025	Supplementary Analysis Report: Increasing development capacity in Auckland	Ministry for the Environment
22 July 2025	Supplementary Analysis Report: Regulation making power	Ministry for the Environment
22 July 2025	Supplementary Analysis Report: Removing heritage protections from Gordon Wilson Flats in Wellington	Ministry for the Environment

Information redacted YES

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Summary of reasons for redaction

Some information has been withheld from these Supplementary Analysis Reports under the following sections of the Official Information Act 1982:

- s9(2)(a) – to maintain the privacy of individuals,
- s9(2)(g)(i) – information provided is free and frank advice from officials, and
- s9(2)(h) – legal advice for ministers has been withheld.

Supplementary Analysis Report: Increasing development capacity in Auckland

Coversheet

Purpose of Document	
Decision sought/taken:	*Analysis produced to support the introduction of an amendment paper to the Resource Management (Consenting and Other System Changes) Amendment Bill.*
Advising agencies:	*Ministry for the Environment, Ministry for Housing and Urban Development*
Proposing Ministers:	*Minister Responsible for RMA Reform*
Date finalised:	*18 July 2025*

Problem Definition

There is an opportunity to strengthen Auckland Council's proposed intensification plan change, the Auckland Housing Planning Instrument (AHPI), to better enable development capacity and intensification, particularly around specified stations that will benefit from City Rail Link (CRL) investment.

There is also an opportunity to strengthen the AHPI by providing flexibility by enabling variations to the plan change, should Auckland Council seek or be directed to amend the plan change after it is notified.

Executive Summary

Background

Plan Change 78 (PC78) is Auckland Council's intensification planning instrument, a plan change designed to increase development capacity in Auckland by giving effect to the intensification provisions of the National Policy Statement for Urban Development 2020 (NPS-UD) and incorporating the medium density residential standards (MDRS) into the Auckland Unitary Plan. PC78 was required under the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. Auckland Council has faced challenges in progressing PC78.

The Resource Management (Consenting and Other Systems Changes) Amendment Bill (the Bill) will enable Auckland Council to withdraw PC78 but will require it to notify an alternative plan change (Auckland Housing Planning Instrument), with different development capacity requirements, including a requirement to increase densities around some stations that will benefit from investment in the City Rail Link (CRL).

The new plan change will be required to use the Streamlined Planning Process (SPP), which is a quicker plan change process that provides a greater level of ministerial oversight.

Policy problem and proposals

The CRL is a multi-billion-dollar investment for the Government and Auckland Council (approx. $5.5 billion to date)[1]. The Government aims to maximise its return on investment by enabling more people to live and work near stations benefitting from CRL investment, thereby unlocking the economic growth and productivity gains expected when the CRL opens in 2026. Key benefits of this approach include improved accessibility, enhanced productivity and reduced climate emissions.

The Minister Responsible for RMA Reform was authorised by Cabinet to make further policy decisions to strengthen the Auckland Housing Planning Instrument (AHPI) and related processes to better enable development capacity and intensification [ECO-25-MIN-0079]. The scope of the options considered reflects the Minister's direction.

The Minister is progressing two policy proposals, which will be introduced as amendments to the Bill. These proposals are:

1. further increasing the development capacity enabled in walkable catchments around specified stations, by requiring Auckland Council to enable building heights of at least 15 storeys around Maungawhau, Kingsland and Morningside stations, and at least 10 storeys around Mt Albert and Baldwin Ave stations;
2. enabling Auckland Council to progress variations to the AHPI, to provide greater flexibility should the Council seek or be directed to amend the plan change.

Overall, these proposals will strengthen the AHPI by better enabling development capacity and intensification around specified stations and providing flexibility for Auckland Council to amend the AHPI if required. They build on earlier proposals in the Bill requiring the Council to enable building heights commensurate with the greater of accessibility and demand around Maungawhau, Kingsland and Morningside stations, and at least six storeys. This will have the added benefit of aligning housing and transport planning, by enabling intensification around key public transport infrastructure and is likely to increase development feasibility in these areas.

Stakeholder views

The Minister has publicly stated that the proposed changes to increase development capacity around specified stations are supported by the mayor and most councillors. However, as direct engagement with Auckland Council has been limited, its formal position on these proposals has not been confirmed.

While Auckland Council officials have previously raised concerns about specifying minimum enabled building heights around stations, due to the perceived lack of flexibility this creates, these risks are mitigated by the fact that the Council will still be able to modify building height and density requirements to the extent necessary to accommodate qualifying matters.

Treaty of Waitangi considerations

Due to time constraints, we have not been able to engage with Māori—including iwi authorities in Auckland—on the proposals in this Supplementary Analysis Report (SAR). As a result, we do not know how iwi authorities view these proposals. This is a key limitation of this SAR.

However, as the proposals in this SAR do not alter the process for the AHPI but rather legislate the content of specific parts of the plan change, they should have limited to no impact on Māori participation in the AHPI process.

Intensification around stations benefiting from CRL investment

Auckland Council will be responsible for determining the extent of walkable catchments around stations through the preparation of the AHPI, during which it will be required to consult with iwi authorities. The Council will also retain the ability to modify building height requirements to the extent necessary to accommodate qualifying matters, including matters

[1] Benefits and costings — City Rail Link

provided for under section 6 of the RMA (e.g. viewshafts to maunga) and matters necessary to implement, or ensure consistency with, iwi participation legislation.

Enabling Auckland Council to progress variations to the AHPI

While Auckland Council will be able to progress variations to the AHPI, these variations will be subject to many of the same requirements as any other plan change variation under the RMA, including iwi engagement requirements. These requirements help ensure that commitments in Treaty settlements and other arrangements are upheld.

Limitations and Constraints on Analysis

The quality of analysis in this SAR has been subject to a number of limitations and constraints, which should be taken into account when considering the proposals.

Minister's policy direction

The scope of the options considered in this SAR were constrained to the Minister Responsible for RMA Reform and Minister of Housing's direction. The Minister, in both his capacity as Minister for RMA Reform and Minister of Housing, directed officials to explore legislative options for inclusion in the Bill to require Auckland Council to enable greater density around stations that will benefit from CRL investment, and to widen the number of stations to which the density requirements apply.

Limits on data, evidence and engagement

Given timeframe constraints, officials were unable to conduct a comprehensive cost-benefit analysis of the proposed options, including monetising their costs and benefits. In some cases, the evidence used to inform the options analysis has been anecdotal (eg, developers explaining feasibility of different scales of development).

Given timeframe constraints, officials were unable to engage fulsomely with Auckland Council on the proposed changes. Officials are aware, from brief discussions with Auckland Council, that the Council has concerns about the lack of flexibility from specifying higher minimum heights around specific stations. s 9(2)(g)(i)

Responsible Manager(s) (completed by relevant manager)

Stephanie Gard'ner	*Fiona McCarthy*
Manager	*Manager*
Urban Policy	*Land Use and Land Settings*
Ministry for the Environment	*Ministry of Housing and Urban Development*
s 9(2)(a)	s 9(2)(a)
18 July 2025	*18 July 2025*

Quality Assurance (completed by QA panel)

Reviewing Agency:	*Ministry for the Environment, Ministry for Housing and Urban Development*
Panel Assessment & Comment:	*A Ministry for the Environment and Ministry for Housing and Urban Development Regulatory Impact Analysis (RIA) panel has reviewed the "Increasing development capacity in Auckland" Supplementary Analysis Report (SAR) and considers that it partially meets the RIA requirements for a SAR.*

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Resource Management (Consenting and Other System Changes) Amendment Bill

1. Cabinet has agreed to a three-phase approach to reforming the Resource Management Act 1991 (RMA). Phase 2 of RMA reform comprises of legislative amendments to the RMA, along with a suite of changes to National Direction.
2. The Resource Management (Consenting and Other System Changes) Amendment Bill (the Bill) is the last legislative component of Phase 2. The Bill delivers targeted amendments to the RMA which have immediate impact and provide some certainty and consistency ahead of the repeal and replacement of the RMA.

Development capacity in Auckland

3. The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (RMA-EHS) required specified territorial authorities (councils), including Auckland Council, to use an intensification planning instrument (IPI) to incorporate the medium density residential standards (MDRS)[2] into their district plans and give effect to the intensification provisions of the National Policy Statement for Urban Development 2020 (NPS-UD).[3]
4. Plan Change 78 (PC78) is Auckland Council's IPI. Auckland Council has so far made operative only those parts of PC78 that relate to the city centre. Auckland Council has faced challenges in progressing the remainder of PC78 due to natural hazard issues meaning that some sites require downzoning, which is not provided for through the RMA. Most councils have completed their IPIs, incorporating the MDRS and giving effect to the NPS-UD.
5. The Government intends to make the MDRS optional. For most councils, it will become optional as part of Phase 3 RM reform. For Auckland Council, MDRS optionality will be enabled by the Bill.
6. The Bill as reported back to the House from select committee[4] enables Auckland Council to withdraw the remainder of PC78, with a requirement to notify a new plan change (an "Auckland Housing Planning Instrument" (AHPI)) using the streamlined planning process (SPP)[5] by 10 October 2025 (before local elections). The new plan change must:
    a. provide at least as much housing capacity as PC78 would have enabled;

The Government intends to introduce an amendment paper requiring Auckland Council to seek direction on its replacement plan change by 10 October 2025, instead of notifying it as discussed in this SAR.

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[2] The MDRS aim to increase housing development opportunities by requiring specified territorial authorities to permit minimum densities, i.e. 3x three-storey townhouses on one site.

[3] The NPS-UD is a national policy statement, made under the RMA, that aims to support well-functioning urban environments and includes intensification provisions (Policy 3).

[4] The housing provisions of the Bill were substantially amended at select committee. Previous regulatory impact statements developed to support the housing provisions of the Bill are available:

- *https://www.hud.govt.nz/assets/Uploads/Documents/Proactive-Releases/RIS-Going-for-Housing-Growth-Freeing-up-land-for-development-and-enabling-well-functioning-urban-environments.pdf*
- *https://www.regulation.govt.nz/assets/RIS-Documents/RIS-Implementing-changes-to-the-NPS-UD-2020-and-making-the-MDRS-optional-for-councils.pdf*
- *https://environment.govt.nz/assets/SAR-RM-Amendment-Bill-2-analysis-to-support-introduction.pdf*

[5] The SPP is a quicker process than the standard schedule 1 process for progressing a plan change and has greater ministerial involvement.

b. enable building heights and densities of urban form around Maungawhau, Kingsland and Morningside stations commensurate with the greater of demand and accessibility; and

c. give effect to the intensification provisions of the NPS-UD.

7. This approach enables Auckland Council to 'start over' with its plan change in relation to implementing the NPS-UD outside of the city centre, so that it can take into account new natural hazard information. It will also enable the Council to implement the requirements of the NPS-UD within the Auckland Light Rail Corridor (including around Maungawhau, Kingsland and Morningside stations), which was excluded from the notified version of PC78, at the same time.

8. The new plan change will not have to incorporate the MDRS into Auckland's Unitary Plan. Instead, as the 'quid pro quo' for MDRS optionality, the Bill requires Auckland Council to provide at least as much housing capacity as PC78 would have enabled.

9. The Bill as reported back from select committee also seeks to enable more development capacity around key rapid transit stations, that will benefit from the investment in the City Rail Link, by requiring Auckland Council to enable building heights and densities around Maungawhau, Kingsland and Morningside stations commensurate with the greater of demand and accessibility, and in each case no less than six storeys (a minimum of six storeys is required by the NPS-UD around rapid transit stations).

Cabinet decision and ministerial delegations for detailed decision-making

10. On 9 June 2025 Cabinet agreed to strengthen the Auckland Housing Planning Instrument and related processes to better enable development capacity and intensification. Cabinet authorised the Minister Responsible for RMA Reform to make further policy decisions (including necessary consequential amendments to the RMA) and issue drafting instructions to PCO to implement that recommendation [ECO-25-MIN-0079].

11. The options discussed in this SAR are those which were considered by the Minister when making his delegated decisions.

What is the policy problem or opportunity?

Increasing density around stations benefiting from CRL investment

12. The City Rail Link (CRL) is the largest transport infrastructure project in New Zealand's history. Together, the Government and Auckland Council have invested $5.5 billion in the CRL to date. Given the significance of this investment (approx. $2.75 billion for central government), the Government is seeking to maximise its benefits.

13. A key part of maximising these benefits is enabling housing and businesses nearby these train stations. This requires ensuring that planning rules enable sufficient building heights and densities to meet demand.

14. Under Policy 3(c) of the NPS-UD, Auckland Council is required to enable building heights of at least six storeys within at least a walkable catchment of rapid transit stops.

15. Stations such as Maungawhau, Kingsland and Morningside, by virtue of both their proximity to the city centre and their location at the centre of Auckland's rail network, offer a high level of accessibility, meaning that people living around these stations can easily access jobs, community services and natural and open spaces.

16. Enabling building heights of up to just six storeys would likely undershoot the demand for housing in these areas and would not maximise the benefits of CRL investment for these stations. This would represent a missed opportunity to enable a level of development around these stations commensurate with degree of accessibility they

offer and the demand for housing and business land in these locations. So too for Mt Albert and Baldwin Ave stations.

17. Status quo: the Bill as reported back from select committee additionally requires Auckland Council to enable building heights and densities of urban form around Maungawhau, Kingsland and Morningside stations commensurate with the greater of demand and accessibility, and in each case no less than six storeys. These requirements go further than Policy 3 of the NPS-UD but may not maximise the benefits of CRL investment.

18. Officials have heard from developers that development feasibility at six storeys is often challenging, with development either below four storeys or at 8-10+ storeys more likely to be feasible. A key reason for this is the costs associated with meeting fire and accessibility requirements in the Building Code.

19. While Auckland Council may choose to enable higher building heights in these locations, and Mayor Wayne Brown has indicated his support more development along rapid transit corridors,[6] given that existing residents can sometimes be reluctant to support increased housing densities near their homes, central government direction is necessary to ensure that councils enable adequate density in appropriate locations. This was the case with PC78, with some local groups opposing housing intensification and six storey height limits in and around the areas subject to these proposals.

20. The purpose of the AHPI is to enable greater intensification across Auckland and increase housing capacity. This offers an opportunity to simultaneously maximise the benefits of CRL investment by increasing building heights enabled around specified stations benefitting from CRL investment.

21. The Minister, both in his capacity as Minister Responsible for RMA Reform and as Minister of Housing, directed officials to explore legislative options for inclusion in the Bill to require Auckland Council to enable greater density around stations that will benefit from CRL investment, and to widen the number of stations to which the density requirements apply.

Enabling variations to the Auckland Housing Planning Instrument

22. The Bill does not currently enable Auckland Council to vary the AHPI once it has been notified. ‘Variations’ are the statutory process to amend the plan change once it has been notified, and are provided for as part of a Schedule 1 (ie, regular) plan change process. Not being able to vary the AHPI may hinder the ability of the Council to response to unforeseen circumstances, particularly as the Bill also prohibits the Council from withdrawing the AHPI.

23. The risks of a lack of flexibility were demonstrated with PC78, as a limited scope meant Auckland Council was unable to vary its plan change to downzone sites in response to new natural hazard information.

24. Enabling Auckland Council to progress variations to the AHPI would provide greater flexibility should the Council seek or be directed to vary the plan change. This would allow the Council to respond better to unforeseen circumstances, should they arise. It would also allow the Minister to exercise powers under section 25A of the RMA to direct the Council to prepare a variation to the AHPI, should there be reason to do so.

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[6] https://www.nzherald.co.nz/nz/politics/city-rail-link-government-forces-auckland-to-allow-more-houses-around-crl-stations-u-turns-on-coalition-agreement-density-deal/SOQOUICNGNCVJHMKNKJNMR2INI/.

What objectives are sought in relation to the policy problem?

25. The objective sought is to strengthen the Auckland Housing Planning Instrument and related processes to better enable development capacity and intensification and provide greater confidence that the outcomes sought will be achieved. This includes:
    a. maximising the benefits of central government investment in the CRL, by enabling greater building heights and densities around key stations; and
    b. providing flexibility for the SPP process for the AHPI, by enabling Auckland Council to progress variations to the plan change.

Section 2: Deciding upon an option to address the policy problem

What scope will options be considered within?

26. As noted in the context section, the scope of policy options considered in this SAR was constrained by direction set by the Minister Responsible for RMA Reform and Minister of Housing, while the overarching scope provided by the Cabinet recommendation was options to strengthen the Auckland Housing Planning Instrument and related processes to better enable development capacity and intensification.
27. Regarding increasing density around key stations, the Minister directed officials to explore legislative options for inclusion in the Bill to require Auckland Council to enable greater density around stations that will benefit from CRL investment, and to widen the number of stations to which the density requirements apply. This limited officials' ability to consider non-legislative options, such as working alongside Auckland Council to determine appropriate heights and densities for these areas.
28. The options considered were premised on Auckland Council being required, and being able to notify, a plan change (Auckland Housing Planning Instrument) before the local government election (October 2025).

The Government intends to introduce an amendment paper requiring Auckland Council to seek direction on its replacement plan change by 10 October 2025, instead of notifying it as discussed in this SAR.

What options were considered by Cabinet?

Increasing density around stations benefiting from CRL investment

29. The following options were considered for increasing density around stations benefitting from CRL investment:
    a. **Status quo (the Bill):** require Auckland Council to enable building heights within walkable catchments around Maungawhau, Kingsland and Morningside stations commensurate with the greater of demand and accessibility, and in each case no less than six storeys.
    b. **Option 1 (Government's preferred option):** amending the Bill to require Auckland Council to enable more development capacity within walkable catchments around specified stations, by:
        i. extending the requirement for the Council to enable heights and densities commensurate with the greater of demand and accessibility to walkable catchments around Mt Albert and Baldwin Ave stations; and
        ii. requiring the Council to enable building heights of at least 15 storeys around Maungawhau, Kingsland and Morningside, and of at least 10 storeys around Mt Albert and Baldwin Ave stations.

Enabling variations to the Auckland Housing Planning Instrument

30. The following options were considered for enabling variation to the AHPI:

    a. **Status quo (the Bill):** the Bill does not enable Auckland Council to progress variations to the Auckland Housing Planning Instrument.

    b. **Option 1 (Government's preferred option):** amending the Bill to enable Auckland Council to progress variations to the Auckland Housing Planning Instrument.

What was the Government's preferred option, and what impacts will it have?

31. The Government's preferred options will strengthen the Auckland Housing Planning Instrument and related processes to better enable development capacity and intensification.

Increasing density around stations benefiting from CRL investment

32. The Government's preferred option will better enable development capacity and intensification around specified stations benefitting from CRL investment by ensuring that a minimum of 10-15 storeys is enabled within walking catchments of these stations.

33. These stations are the stations nearest to the CBD on the line that benefits the most from CRL-related journey time improvements (Western Line). Western Line stations will experience journey time savings of 315 hours annually once the CRL opens, compared to 165 annual hours of journey time savings for other stations.

34. s 9(2)(g)(i)

35. There are generally risks associated with legislating for specific planning outcome, such as minimum enabled building heights, as legislative requirements are relatively inflexible and may make adapting to unforeseen circumstances more difficult. This proposal, however, allows Auckland Council to enable higher building heights (10-15 storeys is the minimum, not the limit), while also providing a pathway (through the qualifying matters framework) for the Council to modify these requirements, and enable lower building heights where appropriate. Developers can also always build shorter buildings than what is enabled; the proposals are simply for Auckland Council to *enable* up to 10/15 storey buildings to be built in these locations.

36. There is also the risk that legislated minimums may be perceived or applied as maximums, in terms of both building height and location, and reduce ambition for greater densities. This has occurred previously in Auckland under PC78, with Auckland Council enabling building heights of six storeys within walkable catchments around train stations, aligning only with the minimum requirements set out in the NPS-UD.

37. There is also the risk that, given the extent of the walkable catchments around stations are not prescribed in the Bill, and Auckland Council will retain discretion to determine these, the Council will set smaller walkable catchments than central government considers appropriate. This could limit the scale of the intensification enabled around these stations. We consider this risk is mitigated by the fact that the appropriateness of the walkable catchments identified by the Council will be debated and tested through the hearings process, and that there is Ministry for the Environment guidance on this.

38. While there is the risk that legislative direction undermines the principle of local decision making, given the alignment between the Government and Auckland Council on enabling intensification around stations benefitting from CRL investment, and the ability to accommodate qualifying matters relevant to the local sites, we consider the risk is low in this case.

39. There is also the risk that further legislative requirements, which require Auckland Council to update its work on the replacement plan change for PC78 (ie, the AHPI) could make it difficult for the Council to notify the AHPI within the prescribed timeframe.

40. Other options, including working with Auckland Council to enable appropriate building hights and densities around these stations without requiring this in legislation may have been able to achieve the same objectives as sought through this policy. However, these options were not within the scope of the Minister's direction.

Enabling variations to the Auckland Housing Planning Instrument

41. The Government's preferred option will provide greater flexibility, should the Council seek or be directed to vary the AHPI.

What are the marginal costs and benefits of the option?

Increasing density around stations benefiting from CRL investment

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Central government	None identified.	Low	High
Auckland Council	One-off piece of work for Council to update density enabled around specified stations through the AHPI. Minimum heights are less flexible, which risks undermines local decision-making. However, the council can still use qualifying matters to lower densities where higher densities are not appropriate. May not align with Council infrastructure planning and impact infrastructure capacity in these areas. May lead to infrastructure shortages if existing infrastructure cannot support new development. May take additional time and resources for council to comply with additional requirements.	Low – s 9(2)(g)(i) [redacted] The Bill already includes some density requirements for some stations benefiting from CRL investment, and so there is a low additional marginal cost.	Low – officials have not had the opportunity to test the specific proposals with Auckland Council, however before they were announced. However, officials were able to briefly discuss an option to include a higher 'bottom line' for some stations, and Auckland Council staff raised concerns about the lack of flexibility.
Developers	None identified.	Low	Low – officials have not had the opportunity to test the additional requirements with developers,

Affected groups	Comment	Impact	Evidence Certainty
			however developer views on increasing density in other circumstances are well documented.
Others (eg, public)	Communities will likely have mixed views on increasing density from six to 10/15 storeys in particular catchments. Some people may consider increased density to negatively impact amenity values; however, others may consider it improves amenity values.	Low – high, depending on location.	Low – officials have not had the opportunity to test the specific additional requirements with the public, however public viewpoints on increasing density in other circumstances are well documented.
Total monetised costs		n/a	n/a
Non-monetised costs		Low	Low
Additional benefits of the preferred option compared to taking no action			
Central government	Enables greater revenue (via greater economic productivity) through more people being able to live in locations where jobs and education are more accessible.	Low – the benefits are marginal due to the requirement only applying to specific areas.	High – there is good economic evidence that greater density produces greater productivity.[7]
Auckland Council	Enables more efficient use of existing infrastructure by enabling housing	Medium – the benefits are marginal due to the requirement only applying to specific areas.	High – there is good economic evidence that greater density

[7] HUD2024-003621 Research on housing as an enabler of economic growth and productivity

Affected groups	Comment	Impact	Evidence Certainty
	near good existing infrastructure, as opposed to greenfield expansion.		requires lower infrastructure servicing costs.[8]
Developers	More development opportunities for housing and business. Higher enabled building heights likely to make development more feasible or provide more flexibility.	Medium – the benefits are marginal due to the requirement only applying to specific areas.	Medium – developers have indicated that higher building heights (eg, 8-10 storeys) are more feasible for development (eg, than 4-6 storeys).
Others (eg, public)	Ongoing benefit by enabling more people to live close to transport hubs, making work, businesses and services more accessible. There may be gains in productivity, profitability, wages, and tax revenue which accrue to businesses, households, and government. Enabling more intensification in some areas may result in a greater share of development capacity being provided in brownfields areas that are close to centres and good transport options, reducing car dependency. This may reduce emissions and may lead to reduced overall congestion.	Medium – the benefits are marginal due to the requirement only applying to specific areas.	High – there is good evidence of the benefits for people of living near work and other services.
Total monetised benefits		n/a	n/a

[8] Auckland's infrastructure: The cost to serve a city that's growing upwards | Research & insights | Te Waihanga

Affected groups	Comment	Impact	Evidence Certainty
Non-monetised benefits		Medium	Medium

Enabling variations to the Auckland Housing Planning Instrument

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Central government	None identified.	n/a	Medium
Auckland Council	None identified.	n/a	Medium
Others (eg, developers, the public)	None identified.	n/a	Medium
Total monetised costs		n/a	n/a
Non-monetised costs		None identified	Medium
Additional benefits of the preferred option compared to taking no action			
Central government	Provides an opportunity for the Minister to use intervention powers and direct a variation to the AHPI to address an issue, if required.	Low – impact depends on whether option is exercised.	High
Auckland Council	Provides an opportunity for the Council to decide to vary the plan	Low – impact depends on whether option is exercised.	High

Affected groups	Comment	Impact	Evidence Certainty
	change to address an issue, if required.		
Others (eg, developers, the public)	Provides an opportunity for issues that affect the public to be addressed through a variation to the plan change, in required.	Low – impact depends on whether option is exercised.	High
Total monetised benefits		n/a	n/a
Non-monetised benefits		Low	High

Section 3: Delivering an option

How will the new arrangements be implemented?

42. The proposals identified in this SAR will be given effect to through amendments to the Bill (via an amendment paper), which will in turn amend the RMA. Auckland Council will then implement these changes by progressing the AHPI.

43. The Bill, including the amendment paper, will amend the RMA to:

    a. require Auckland Council (if it withdraws PC78) to enable heights and densities around key stations, by:

        i. enabling heights and densities commensurate with the greater of demand and accessibility around Mt Albert and Baldwin Avenue stations (in addition to Maungawhau, Kingsland and Morningside stations, as already provided for through the Bill); and

        ii. increasing the additional, bottom-line requirement that applies to these stations from enabling no less than six storeys to enabling no less than 15 storeys for Maungawhau, Kingsland and Morningside, and no less than 10 storeys for Mt Albert and Baldwin Avenue stations;

    b. enable variations to the AHPI, to provide for flexibility.

44. Once the Bill has received Royal assent, Auckland Council will be able to withdraw PC78. Once the Council withdraws PC78, it will be required to notify the AHPI by 10 October 2025, which it will progress through the Streamlined Planning Process (SPP). Officials will work with the Council to meet this timeframe.

The Government intends to introduce an amendment paper requiring Auckland Council to seek direction on its replacement plan change by 10 October 2025, instead of notifying it as discussed in this SAR.

45. Auckland Council is already working to prepare its replacement plan change for PC78 in anticipation of the Bill passing.

46. When providing direction to Auckland Council on the AHPI, the Minister Responsible for RMA Reform will be able to use his statement of expectations to emphasise the requirements in the Bill. Under the SPP, both the Council and the SPP panel will need to have regard to this statement of expectations. Officials will support the Minister to provide direction to the Council.

47. Finally, the notified AHPI provisions will be tested through the hearings process for how well they meet the requirements of the Bill, and the SPP panel will need to consider both the requirements of the Bill and the Minister's statement of expectations when providing its recommendations to Auckland Council.

48. In the event of non-compliance (either with notification or the final decisions), the Minister for the Environment (or their delegate) will have the option of exercising intervention powers under sections 24, 25 and 25A of the RMA.

How will the new arrangements be monitored, evaluated, and reviewed?

49. Officials from both the Ministry for the Environment and the Ministry of Housing and Urban Development will work closely with Auckland Council to ensure that appropriate building heights and densities of urban form are enabled around specified stations through the AHPI, and that the AHPI is sufficiently enabling of development capacity beyond these areas.

50. There will also be several assessments by departmental officials at key points of the process, to ensure that the AHPI delivers on the requirements set out in the Bill. These will include:

    a. information requirements when Auckland Council notifies the Minister of its intent to progress the AHPI through the SPP process;

b. an assessment of the AHPI when it is notified, to determine whether it is sufficiently enabling of development capacity (including around specified stations);

c. an assessment of the Independent Hearings Panel's (IHP) recommendations on the AHPI; and

d. a further assessment of Auckland Council's subsequent decisions on the IHP's recommendations.

Appendix 1: Treaty impact analysis

51. The Ministry has obligations to engage with some post-settlement governance entities on matters of mutual interest under specific treaty settlement arrangements, and more broadly to engage with iwi Māori in good faith under the principles of Te Tiriti o Waitangi.
52. The *Supplementary Analysis Report: Resource Management Act Amendment Bill 2 – analysis to support introduction* notes that "through limited engagement with PSGEs there has been support for initiatives that will enable more affordable housing".[9]
53. Due to time constraints and ministerial direction, we have not been able to engage with Māori—including iwi authorities in Auckland—on the proposals in this SAR. As a result, we do not know how iwi authorities view these proposals. This is a key limitation of this SAR.
54. However, as the proposals in this SAR do not alter the *process* for the AHPI (other than enabling variations, which largely follow the same process), but rather legislate the content of specific parts of the plan change, they should have limited to no impact on Māori participation in the AHPI process.
55. Iwi authority engagement in plan making is well established as a key principle in the RMA and is fundamental to recognising Māori rights and interests in the environment. Iwi authorities and settlement entities have rights and interests in their areas of interest that must be recognised in any plan development process for Part 2 of the Act and Treaty settlement obligations to be met.

Increasing density around stations benefiting from CRL investment

56. While Auckland Council will be required to enable, at a minimum, building heights of 10-15 storeys around specified stations that benefit from CRL investment, this requirement is no more prescriptive in nature than the intensification provisions of the NPS-UD, which already requires the Council to enable building heights of at least six storeys around these stations.
57. Auckland Council will still be able to modify these building height requirements to the extent necessary to accommodate qualifying matters, including matters provided for under section 6 of the RMA (eg, viewshafts to maunga) and matters necessary to implement, or ensure consistency with, iwi participation legislation.
58. While there is some Treaty settlement land around the specified stations, the spatial extent of the walking catchments around the stations have yet to be determined and will not be legislated for. Instead, Auckland Council will be responsible for determining the extent of these catchments as part of the development of the AHPI, during which it will be required to consult with iwi authorities and expected to consult with statutory authorities, such as the Tūpuna Maunga Authority.
59. Additionally, officials understand that Houkura (formerly the Independent Māori Statutory Board) will sit as part of Auckland Council's committee of the whole when notifying the AHPI; noting that Houkura will not have voting rights.

Enabling variations to the Auckland Housing Planning Instrument

60. While Auckland Council will be able to progress variations to the AHPI, these variations will be subject to most of the same requirements as any other plan change variation under the RMA, including iwi engagement requirements. These requirements help ensure that commitments in Treaty settlements and other arrangements are upheld.

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[9] Supplementary Analysis Report: Resource Management Act Amendment Bill 2 – analysis to support introduction, Appendix 2, para 19.

61. For example, and depending on the scope of a variation, there may be obligations on Auckland Council to undertake early engagement and incorporate views from the Tūpuna Maunga Authority into plan content and align the plan with integrated management plans for the maunga. Any direction on a variation will need to be aware of and provide for this to occur.

Supplementary Analysis Report: Ministerial regulation making power to modify or remove plan provisions

Coversheet

Purpose of Document	
Decision sought/taken:	*Analysis produced to support the introduction of an amendment paper to the Resource Management (Consenting and Other System Changes) Amendment Bill.*
Advising agencies:	*Ministry for the Environment*
Proposing Ministers:	*Minister Responsible for Resource Management Reform*
Date finalised:	*22 July 2025*

Problem Definition

Councils have been delegated functions under the Resource Management Act 1991 (RMA) to prepare policy statements and plans that manage the natural and physical resources in their regions and districts in a way that promotes the RMA's purpose of sustainable management. In doing so, they have broad discretion to include local objectives, policies and rules in their plans. In some instances, these provisions may have a disproportionate negative impact on regional or national economic growth, development capacity or employment.

While longer term reform of the RMA should address the balance between local and national impacts, there is an issue in the short-medium term until the new system is implemented. Existing tools for amending plans, such as developing national direction or the plan change processes under Schedule 1 of the RMA, can be slow, resource-intensive, or not fit for addressing targeted issues at pace. There is a gap where regulatory intervention may be needed to respond to development pressures or economic needs but cannot be made in a timely or targeted way.

Executive Summary

Background

New Zealand's planning system under the RMA has long struggled with unnecessary complexity and delay and has contributed to the housing affordability issues experienced throughout the country. While recent reforms have made progress in addressing this, such as the National Policy Statement on Urban Development 2020 (NPS-UD), some local plans may be creating unnecessary constraints on economic growth, development capacity or employment. While the RMA provides for Ministerial powers of intervention in some plan making processes, it does not currently provide for targeted modification or removal of specific provisions in operative plans or regional policy statements outside of the full plan change process, or national direction.

The Resource Management (Consenting and Other System Changes) Amendment Bill (the Bill), currently before Parliament, is the final phase of the Government's targeted

amendments to the RMA ahead of its full repeal and replacement. The Bill is designed to deliver immediate impact, certainty and consistency during the transition to the new system.

Overview of proposal

The proposal is to establish a new regulation making power under the RMA that enables the Minister for the Environment to recommend regulations to modify or remove specific provisions in operative plans or policy statements prepared by local government under the RMA where those provisions are having negative impacts on economic growth, development capacity or employment.

This is an exceptional intervention power that has not previously existed under the RMA. It is a time-limited and targeted tool, with safeguards to ensure its use is only when appropriate. It will be available for use until the end of 2027, to align with the repeal and replacement of the RMA.

Government intervention is required because under the current system there is no timely or effective mechanism for central government to direct that local councils modify or remove plan provisions that give rise to negative impacts on economic growth, development capacity or employment. While existing plan-making processes in the RMA provide for amendments and changes to plans, these processes can take considerable time and may not be responsive enough to mitigate immediate or significant negative effects. The regulation making power is therefore intended to provide a targeted response for exceptional cases, removing delays to responding to these nationally significant issues.

Options

Options were considered for addressing this problem during policy development. These included:

- retaining the status quo (utilising the existing RMA processes of submissions, hearings and appeals on plan changes, Ministerial intervention in directing plan changes in certain circumstances, and setting national direction through use of National Policy Statements (NPSs) and National Environmental Standards (NESs)) and,
- the option of a new regulation making power.

Following consideration, the Government agreed to proceed with the new regulation making power as the most effective option to provide timely intervention in appropriate circumstances.

Impacts

The primary benefit of the proposal is that it will provide greater certainty for businesses, developers, infrastructure providers and communities by ensuring that planning provisions do not unnecessarily constrain economic growth, development capacity or employment.

Key risks include the potential for the power to be perceived as undermining local decision making, including community input into planning. s 9(2)(h) To mitigate these risks, the exercise of this power is subject to an investigation requirement, consultation and the usual Cabinet decision making processes for secondary legislation. Safeguards are proposed through decision making criteria to ensure its appropriate use.

Use of the power would not be mandatory. It would be an enabling power and provide an additional tool for addressing specific planning provisions in limited, exceptional cases. The

power is time-limited, with a sunset clause proposed to ensure it only operates as an interim measure during the transition to the new resource management system.

Stakeholder views

Stakeholder engagement has not occurred on this proposal. As a result, we do not have a comprehensive understanding of stakeholder views or potential divergences that should be brought to attention.

Te Tiriti o Waitangi considerations

The Ministry has obligations to engage with some post-settlement governance entities (PSGEs) on matters of mutual interest under specific treaty settlement arrangements, and more broadly to engage with Māori in good faith under the principles of Te Tiriti o Waitangi. Engagement has not occurred on this proposal. As a result, we cannot say how Māori groups view these proposals.

Māori engagement in plan making is well established as a key principle in the RMA and is fundamental to recognising Māori rights and interests in the environment. Māori groups and PSGEs have rights and interests that must be recognised in any plan development process in order for obligations arising out of Part 2 of the RMA and Treaty settlements to be met.

Limitations and Constraints on Analysis

The quality of analysis in this Supplementary Analysis Report (SAR) has been subject to a number of limitations and constraints, which should be taken into account when considering this proposal.

Scope of the SAR

The scope of this SAR has been constrained by Cabinet's decision in June 2025 to proceed with a new Ministerial regulation making power to modify or remove specific plan provisions, and by the direction to develop the proposal for inclusion in the Bill. This scope constraint has meant that alternative mechanisms for addressing the underlying issues have not been considered in detail in this SAR.

A SAR has been prepared in lieu of a standard Regulatory Impact Statement (RIS) as the policy options were developed at pace and a proposal was already presented to Cabinet for agreement, without an accompanying RIS. This SAR will accompany the final considerations of this policy proposal to Cabinet in July 2025.

Constraints on engagement

Engagement with stakeholders, including local government, PSGEs and Māori groups, developers and other interested parties has not been undertaken on this proposal, due to the time pressures required to meet the timeframes for inclusion as part of the Bill. As a result, this SAR does not contain stakeholder views on the proposed power and it has not been possible to test the likely level of support, or to identify potential areas of concern from affected parties.

No engagement with Māori also means that the Treaty implications of the proposal have not been able to be fully explored.

Data and evidence limitations

There is a general body of evidence that the RMA, while it does not prevent housing development, poses challenges to efficiently developing land. However, there is limited direct evidence on the challenges of influencing specific local planning processes. The analysis in this SAR therefore relies on qualitative and anecdotal evidence. As a result, the

evidence may not be an accurate representation of issues in the resource management system or provide an understanding of the impact the preferred options will have on system users and affected parties. This limits the certainty officials can provide on the scale of both the issues nationally and the likely benefits that could be achieved using this proposed power.

Other key evidence and data which would have informed impact analysis was not able to be accessed and analysed within the timeframes set for policy development. This is due to a range of factors including evidence and data not being held by the Ministry for the Environment (the Ministry), datasets being spread across multiple councils, or data not being collected.

As the proposal enables future regulations to modify or remove specific plan provisions (to be identified through future investigations), it has not been possible to accurately quantify or monetise the specific costs or benefits associated with the use of the proposed power.

Responsible Manager(s) (completed by relevant manager)
Rhedyn Law *Manager* *RM Policy Bill 2* *Ministry for the Environment* s 9(2)(a) *22 July 2025*

Quality Assurance (completed by QA panel)	
Reviewing Agency:	Ministry for the Environment and Ministry of Business, Innovation and Employment
Panel Assessment & Comment:	A Quality Assurance Panel from the Ministry for the Environment and the Ministry of Business, Innovation and Employment reviewed the Supplementary Analysis Report (SAR) prepared by the Ministry for the Environment titled *Ministerial regulation making power to modify or remove plan provisions* on 18 July 2025. The Panel consider that the information and impact analysis summarised in the SAR **partially meets** the Quality Assurance criteria. The SAR notes that no engagement was performed on the proposal.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Resource Management Act 1991

1. Under the Resource Management Act 1991 (RMA), councils are required to prepare and maintain regional policy statements and regional and district plans to manage how land,

air and water resources are used in their regions and districts. These plans and regional policy statements must promote the sustainable management purpose of the RMA, give effect to national policy statements (NPSs) and implement national environmental standards (NESs). Collectively, these provisions regulate activities and use of land and other resources, including activities such as housing development and provision of infrastructure across New Zealand.

2. National direction tools (NPSs and NESs) are important levers for aligning local planning with national priorities. These tools can be specific and require councils to include or remove certain provisions (eg, the NPS-UD requires the removal of car parking requirements from district plans). However, most provisions remain subject to local decision making, with councils having discretion on how they give effect to that national direction, within the purposes of the RMA.

Resource Management (Consenting and Other System Changes) Amendment Bill

3. Cabinet has agreed to a three-phase approach to reforming the RMA. Phase 2 of RMA reform comprises of legislative amendments to the RMA, along with a suite of changes to National Direction, ahead of the full repeal and replacement of the RMA.

4. The Resource Management (Consenting and Other System Changes) Amendment Bill (the Bill) is the last legislative component of Phase 2. The Bill is designed to deliver targeted amendments to the RMA which have immediate impact and provide greater certainty and consistency during the transition to the new system.

Expected development of the status quo

5. Without Government intervention, councils will continue to be responsible for identifying and amending problematic operative plan provisions through the Schedule 1 processes. Where the Government identifies issues, it may respond by issuing new national direction or using existing Ministerial intervention powers to require plan changes. However, these responses can take years to develop and implement.

6. This means that some operative provisions that constrain economic growth, development capacity, or employment are likely to remain in effect for several years. During this time, there is a risk of ongoing misalignment between local plans and national priorities, delaying the delivery of housing, infrastructure, and other development necessary for economic growth and increased employment opportunities for New Zealanders.

Cabinet decision and ministerial delegations for detailed decision-making

7. In June 2025 Cabinet agreed to include a new regulation making power in the Bill to address gaps in the current regulatory system [CAB-25-MIN-0187.01 refers]. The new power is intended to allow for the modification or removal of operative RMA plan and regional policy statement provisions if they are found to be negatively impacting economic growth, development capacity or employment.

8. This regulation making power is proposed as a time limited, targeted intervention to address barriers to these aspects in advance of broader resource management reforms. It is intended to be exercised cautiously, with safeguards in place to ensure that its use is necessary and does not affect Treaty settlement obligations or undermine Part 2 of

the RMA. The expiry of the regulation making power at the end of 2027 aligns with the transition to the new resource management system.

Interdependencies

9. This proposal is part of a broader programme of RMA reform, designed to improve the functioning of the system in advance of its full replacement. It complements other targeted amendments in the Bill and supports the overall objective the Bill of providing immediate improvements to planning processes during the transition period to the new resource management system.

What is the policy problem or opportunity?

Problem definition

10. Councils have been delegated functions under the RMA to prepare policy statements and plans that manage the natural and physical resources in their regions and districts in a way that promotes the RMA's purpose of sustainable management. In doing so, they have broad discretion to include local objectives, policies and rules in their plans. In some instances, these provisions may have a disproportionate negative impact on regional or national economic growth, development capacity or employment.

11. While longer term reform of the RMA should address the balance between local and national impacts, there is an issue in the short-medium term until the new system is implemented. Existing tools for amending plans, such as developing national direction or the plan change processes under Schedule 1 of the RMA, can be slow, resource-intensive or not fit for addressing targeted issues at pace. There is a gap where regulatory intervention may be needed to respond to development pressures or economic needs but cannot be made in a timely or targeted way.

Nature, scope and scale of the problem

12. Under the RMA, local authorities prepare and maintain plans and regional policy statements to manage the use of land, water, and other resources. While these documents must give effect to national direction, the processes for changing them are often lengthy, complex, and prone to delays and legal challenge.

13. In some cases, operative provisions in plans or regional policy statements have not kept pace with national priorities, creating regulatory barriers that may unnecessarily constrain development. As the RMA controls all land use and development, this is particularly relevant in the context of economic growth, development capacity and employment. Overly restrictive provisions can have negative economic or social impacts.

14. Without intervention, problematic provisions could remain in place for several years. Where these provisions are already at odds with the Governments' broader objectives to increase economic growth, development capacity and employment, the delays currently experienced due to these plan provisions are unlikely to be amended in advance of the wider resource management reform, continuing to act as barriers now to these objectives. Existing mechanisms for addressing this issue are not well suited to resolving targeted issues in operative plans in a timely way.

15. The scale of the problem is not able to be quantified due to the case-by-case nature of the provisions and the lack of data available to support this SAR in the timeframes required.

Economic impacts from planning provisions

16. There is a body of evidence showing that some planning provisions can have disproportionate economic impacts. Grimes and Mitchell (2015) surveyed property developers active in Auckland's housing market and found that balcony size requirements added $40,000 to $70,000 to the cost of an apartment. Minimum floor area requirements also reduced the number of low-cost dwellings being developed.[1]

17. A 2014 MRCagney report commissioned by Auckland Council found similar results. It concluded that minimum apartment and balcony size rules in the Proposed Auckland Unitary Plan would reduce the supply of small dwellings, negatively affect people seeking affordable homes, and increase demand and prices across the wider housing market.[2]

18. The same report found no evidence that such rules improved residential amenity or wellbeing. The Productivity Commission also recommended removing these requirements, concluding that their costs were unlikely to be outweighed by their benefits.[3]

19. While some of the provisions in these examples reflect national direction or local amenity goals, this evidence illustrates the value of having a more agile, targeted regulatory tool to address situations where planning rules may constrain development outcomes or affordability.

Stakeholders and interests

20. The key stakeholders in this issue and their role or interests are shown in Table 1 below.

[1] Grimes A, Mitchell I. 2015. Impacts of planning rules, regulations, uncertainty and delay on residential property development. Motu Working Paper 15-02. Wellington: Motu Economic and Public Policy Research.

[2] MRCagney. 2014. The economic impacts of minimum apartment and balcony rules. Prepared for Auckland Council. Auckland: MRCagney.

[3] Productivity Commission. 2015. Using Land for Housing. Wellington: New Zealand Productivity Commission.

Table 1: Stakeholders, roles and interests

Stakeholder	Role/interest
Local authorities/councils	Responsible for preparing and maintaining plans and with an interest in maintaining local decision-making powers.
Developers, landowners, infrastructure providers	May face delays or additional costs when plan provisions unnecessarily restrict activities on land.
Businesses / commercial entities	May face delays or additional costs when plan provisions unnecessarily restrict activities on land.
Communities	Affected by the availability of housing, infrastructure, and local employment opportunities. May have diverse views on the appropriate balance between growth and environmental protection, between local decision making and national intervention.
Iwi, hapū, Māori, PSGEs	Have established roles and interests in RMA processes, particularly in relation to Treaty settlements and recognition of Māori rights and interests in planning decisions.

21. As no engagement on this proposal has yet occurred, stakeholder views on the problem have not been fully tested. Anecdotally, councils are likely to have concerns about potential impacts on local autonomy and the functioning of their plans and policy statements if gaps are created through use of this power, while some developers and industry groups have previously raised concerns about delays in local planning processes.

Distributional impacts

22. No specific analysis has yet been undertaken on whether the problem disproportionately affects particular population groups. However, to the extent that a strong economy, the availability of affordable housing and access to employment opportunities are affected by delays in or constraints to development, the problem is likely to have broad social impacts, particularly on groups facing housing affordability challenges.

23. Further engagement with Māori will be required to understand whether the proposed intervention power raises concerns with Treaty settlements, or recognition of Māori rights and interests.

Te Tiriti o Waitangi considerations

24. There are Te Tiriti o Waitangi considerations relevant to the proposed regulation making power. Iwi authorities, groups representing hapū and PSGEs have established roles in the plan making process under the RMA.

25. The RMA directs in Part 2 that Māori values be recognised and provided for as a matter of national importance. Many council plans and policy statements include provisions that respond to, or result from, sections 6e, 7a and 8 (under Part 2 of the RMA). There is an inherent requirement for those acting under the RMA is to do so in accordance with its purpose and principles under Part 2. So when using the regulation making power, the Minister will need to act in accordance with Part 2 of the RMA.

26. In addition, Treaty settlement obligations and any obligation or right under the Marine and Coastal (Takutai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or a mana whakahono ā rohe or joint management agreements (RMA) will need to be upheld where these intersect with RMA policy documents and plans. Safeguards are to be built into the proposed power to prevent removal or modification where this would contradict these obligations. While plan provisions may reflect Māori values or interests more broadly in response to Part 2 responsibilities, the requirement to act in accordance with Part 2 provides a mechanism for considering those aspects when relevant. These requirements aim to prevent adverse impacts on Māori rights and interests.

Factors contributing to the problem

27. There is currently a gap in the regulatory framework for addressing negative impacts of specific operative plan or policy statement provisions on economic growth, development capacity or employment. While the RMA allows for national direction and some forms of Ministerial intervention, it does not provide a mechanism for timely, targeted modifications or removals of specific operative provisions. This can result in regulatory misalignment between national objectives and local planning. This is particularly relevant now during the transition period before the new resource management system is introduced. Several factors contribute to this issue.

Process limitations

28. Plan change processes available to councils under the RMA are generally slow, resource intensive and prone to drawn out legal challenges. Most standard plan changes take between two and six years to complete, depending on the scope of the plan change. While appropriate for comprehensive planning updates, they are not responsive to urgent or narrowly focused issues.

Institutional and behavioural factors

29. Local planning decisions may reflect local political dynamics or institutional preferences which can contribute to delays in aligning local plans with national priorities for increased economic growth, increased development capacity and employment opportunities.

Limitations in existing regulatory tools

30. National direction instruments (NPSs and NESs) are broad in scope, affecting all districts and regions across the country. The process to create them can be lengthy and resource intensive for central government and once enacted requires staffing resources from all districts and regional councils to ensure each plan is individually compliant. While valuable for setting consistent expectations across the country, they are not well designed to address discrete or localised issues in operative plans or regional policy statements.

31. Existing Ministerial powers to initiate plan changes (including requiring councils to use a SPP to address an issue), or councils' ability to use an SPP, are available and remain subject to usual RMA plan making procedures under Schedule 1, including consultation and appeal rights. These processes play an important role in ensuring transparency and public participation, however, they are designed for broader or more complex changes to plans. They are not always well suited to resolving specific or exceptional cases in a timely way where an operative provision is having a negative impact on economic growth, development capacity or employment.

Regulatory responsibilities and implementation lag

32. Responsibility to plan for development capacity already sits with councils under sections 30(1)(ba) and 31(1)(aa) of the RMA. These functions require local authorities to provide sufficient development capacity for housing and business land. A contributing factor to this policy issue may arise in part from delays in councils giving effect to their statutory responsibilities and national direction, at least in relation to development capacity.

33. For example, following the introduction of the NPS-UD's car parking policy in 2020, which required councils to remove minimum car parking rules from district plans, there was variation in how quickly and effectively councils responded. New Plymouth District Council, Napier City Council and Hastings District Council, all Tier 2 local authorities, were required to implement this change by 20 February 2022 but did not meet this deadline. While all Tier 3 councils eventually removed minimum carparking requirements from their district plans, Matamata-Piako and South Waikato District Councils incorrectly removed carparking minimum requirements from urban areas only, and Manawatū, Timaru, Matamata-Piako, South Taranaki, and South Waikato all missed the February 2022 deadline.

34. These implementation delays suggest that even when national direction is clear and mandatory, plan changes may not occur promptly, and the mechanisms for enforcement, such as existing Ministerial powers to direct councils to initiate plan changes, can be slow to both activate and progress.

35. Economic growth and employment are not functions, powers or duties of local authorities under the RMA. However, because district plans and regional plans regulate land use and resource use, these statutory documents can have real impacts on the ability to enable economic growth and support employment. The Minister's existing intervention powers under the RMA are limited and can only be used to investigate, recommend or direct a council to act on a failure to carry out its functions, powers and duties under the RMA.

Summary

36. The proposed regulatory making power is intended to address the gap by providing a targeted, time limited mechanism to resolve specific operative plan provisions that are shown to have negative impacts on economic growth, development capacity or employment in a swift manner, supporting progress on national priorities during the transition to the new resource management system.

What objectives are sought in relation to the policy problem?

37. The objective is to ensure that RMA regional and district plans and regional policy statements do not unnecessarily constrain economic growth, development capacity or employment during the transition to the new resource management system, while ensuring that any interventions are only made when necessary and are consistent with Treaty settlement obligations and the wider purpose of the RMA.

Section 2: Deciding upon an option to address the policy problem

What scope will options be considered within?

38. The scope of feasible options for addressing the policy problem was shaped by the stage of legislative development and prior Cabinet decisions.

39. An Amendment Paper is needed to progress any changes to the Bill. This requirement limits the scope to interventions that could be developed within the timeframe and structure of that legislative process.

40. The scope of options was also informed by previous Cabinet decisions, which directed the Minister for RMA Reform (and through the Minister, the officials at the Ministry), to develop further a new regulation making power to address the policy problem.

41. Non-regulatory options were not considered feasible for addressing the policy problem, as the issue relates to the absence of a suitable regulatory tool within the current legislative framework. The nature of the problem, specific provisions in operative RMA plans and policy statements, means that regulatory change is required. Voluntary action or guidance could not resolve the identified gap.

42. Relevant international experience was not considered necessary in framing the scope of the options, as the issue arises from the specific features of New Zealand's planning framework and the current period of transition between two resource management systems.

What options were considered by Cabinet?

43. The Minister Responsible for RMA Reform considered the following options for addressing the identified policy problem:

    a. **Option 1: Status quo**
    This option involved relying on existing mechanisms under the RMA to influence local planning decisions. These mechanisms include national direction instruments (NPSs and NESs), Ministerial intervention powers (direct a council to undertake a plan change), and the usual plan change processes under Schedule 1 (including the SPP). These tools provide avenues for changing plan content but do not enable the targeted modification or removal of specific operative provisions in a timely way.

    b. **Option 2: Introduce a new Ministerial regulation making power**
    This option involved introducing a new regulation making power to enable the Minister for the Environment to recommend regulations to the Governor-General to modify or remove specific provisions in operative plans or regional policy statements, where they negatively impact economic growth, development capacity or employment. The regulation making power would be time limited to provide an interim tool while the transition to the new resource management system takes place.

44. Cabinet was asked to consider and agreed to **Option 2** as the preferred approach.

What was the Government's preferred option, and what impacts will it have?

Government's preferred option

45. The Government's preferred option is to introduce a new regulation-making power under the RMA. This power enables the Minister for the Environment to recommend regulations to the Governor-General to modify or remove specific operative provisions in district or regional plans or regional policy statements where those provisions are found to have negative impacts on economic growth, development capacity, or employment.

46. The regulation-making power is intended to be used in exceptional cases, and only where the provisions are proven to have negative impacts on economic growth, development capacity or employment. It is supported by a set of procedural safeguards to ensure the power is exercised in a transparent way supported by robust evidence.

Key features of the preferred option

Investigation

47. Before recommending regulations, the Minister must first carry out an investigation to assess whether the identified provisions have a demonstrable negative effect on economic growth, development capacity or employment. This investigation must be distilled into a report that includes the investigative findings, an assessment against decision-making criteria (discussed below) and a recommendation on whether to use the power, and in what way.

48. The report is shared with the relevant council(s), who must be given the opportunity to respond. The report must also be published. The publishing requirement provides transparency and adds robustness to the investigation's findings. The Minister must consider the council's response to the report when determining whether to exercise this power. This will be important for testing the robustness of the recommendations in the report and identifying any related provisions or unintended consequences from exercising the power.

49. The investigation step ensures that the power will be used only when necessary and is supported by evidence.

50. The investigation will be distinct from any existing investigation powers in the RMA such as those under section 24A. This is because the purpose of the investigation relates specifically to the effects of the planning provisions on economic growth, development capacity or employment, whereas section 24A relates to council performance of its functions, powers or duties under RMA sections 30 and 31 none of which relate to economic growth or employment.

Consultation

51. Because the power allows central government to act directly in local planning frameworks, it is important the process for using the power includes consultation with affected councils and parties, and where relevant, the Minister of Conservation. The term 'affected parties' is to provide flexibility and breadth to this consultation obligation. This is necessary to ensure that the consultation requirements are proportionate to the

specific context of each use of this power, which may vary from highly localised provisions to broader zone-based or regional provisions.

52. The Minister must, before recommending regulations to the Governor-General, consult with parties likely to be affected by the proposed change, including but not limited to councils, PSGEs and Māori groups, affected landowners and businesses, and, where the provisions are within a regional coastal plan, the Minister of Conservation. This reflects the Minister of Conservation's statutory role under the RMA in relation to coastal matters, including a responsibility for approving regional coastal plans and regional policy statements (the latter in regard to the coastal environment) under Schedule 1 of the RMA.

Consultation framework

53. The Minister must provide the report to the local authority responsible for the plan or policy statement. The local authority has 20 working days to respond in writing. The Minister must consider the local authority's response before making any recommendation. The Minister must publish the investigation report publicly on the Ministry's website within 10 working days of providing it to the local authority.

54. The Minister must consult with any parties likely to be affected by the proposed change. This includes but is not limited to PSGEs and Māori groups, affected landowners and businesses, and, where the provisions are within a regional coastal plan, the Minister of Conservation. There is no requirement for broader public consultation.

55. There are no prescribed procedures or timeframes for how this consultation is undertaken. The Minister must consider the feedback received from the affected parties, the Minister of Conservation or the relevant local authority, before recommending any regulations be made.

56. This consultation is intended to ensure the process is informed by local knowledge and perspectives, and that any potential consequences are well understood.

Decision making criteria

57. Because the regulation making power proposed bypasses the usual planning processes under Schedule 1 of the RMA, it is important that its use is subject to robust safeguards to ensure it is only exercised when necessary.

58. The criteria below are designed to ensure that use of the new power is supported by robust evidence and upholds Treaty settlements and nationally directed environmental outcomes. This is intended to both provide safeguards for the use of the power, and to reduce risks in exercising the power. These criteria must be met before regulations can be recommended. The criteria are:

    a. there is a demonstrated negative impact on economic growth, development capacity or employment. This criterion establishes there is a negative impact, and provides the evidence base to justify bypassing local planning processes;

    b. the proposed change does not affect provisions included in recognition of an obligation or right under a Treaty of Waitangi settlement, the Marine and Coastal (Takutai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngāti

Porou Act 2019, or a mana whakahono ā rohe or joint management agreement under the RMA, to ensure this power does not undermine Treaty commitments;

c. the modification or removal of the planning document provisions does not prevent the planning document giving effect to national policy statements. This maintains coherence between local plans and national policy; and

d. the modification or removal of the plan provisions does not make the plan inconsistent with a national environmental standard. This avoids conflict between national and local planning instruments.

59. There is not a specified scale of the negative impact (eg, national or regional) under the criteria. This is to provide the Minister with greater flexibility to respond to a range of planning situations that may justify the use of the power. While the intent is primarily for the power to be used where plan provisions are causing or could cause negative effects at a large scale, there may be situations where a provision affecting localised development capacity, employment or the local economy could have flow on effects that warrant the Minister's intervention. The absence of a specified scale ensures that the Minister can consider the specific circumstances and context of each case, supported by the investigation report and other evidence.

60. This flexibility will be balanced by the other safeguards, such as the requirement for robust evidence through the investigation, the requirement for consultation with affected parties and council, and the criteria protecting Treaty obligations, points (c) and (d) above requiring ensuring the integrity of national direction under the RMA is maintained, and the inherent requirement for those acting under the RMA to do so in accordance with its purpose and principles under Part 2. This approach provides the Minister with sufficient discretion to make an informed judgement on whether the scale and significance of the impact on economic growth, development capacity or employment warrants a national-level intervention, without constraining their ability to act in circumstances where specifying a particular scale would have prevented action.

Sunset clause

61. The power is time-limited, expiring at the end of 2027, aligning with the transition to the new resource management system.

Procedural requirements

62. The new regulation making power would enable the Minister to recommend regulations to the Governor-General to modify or remove operative provisions of regional or district plans or regional policy statements. The standard procedural requirements for making regulations will apply. This means that any proposed regulations would have to go through a Cabinet decision-making process and be accompanied by a Regulatory Impact Statement (RIS). These existing procedural requirements ensure that any regulations proposed under this new Ministerial power are subject to scrutiny and meet regulatory stewardship expectations.

Departmental advice

63. The Ministry recommended retaining the status quo (utilising existing tools such as national direction, the streamlined planning process, or existing Ministerial interventions) over introducing new Ministerial intervention powers. These existing status quo tools,

while slower and more resource-intensive, provide greater transparency, allow for broader public and Māori engagement, and are less likely to generate legal risk. In the Ministry's view, these features support better long-term planning outcomes, help maintain the integrity of local decision-making processes and reduce the potential for unintended consequences.

Stakeholder views and impacts

64. Due to limited timeframes, stakeholder views on the proposed regulation-making power were not sought. Distributional impacts have not been formally assessed, but given the potential scope of the power, it is likely there will be variation in local impacts depending on the plans and provisions affected.

Te Tiriti o Waitangi considerations

65. The regulation-making power includes safeguards designed to uphold the Crown's Te Tiriti o Waitangi obligations. As agreed by Cabinet, provisions in operative plans or regional policy statements that have been included in recognition of an obligation or right arising from a Treaty settlement, the Marine and Coastal (Takutai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or a mana whakahono ā rohe or joint management agreement under the RMA, cannot be modified or removed using this power. This enables Treaty settlements and other arrangements that intersect with RMA plans to be upheld as intended.

66. However, the scope of its potential impact is wide given the power can modify or remove any plan provisions (including objectives, policies, and methods). Many plans include policy frameworks designed to give effect to Part 2 of the RMA (including recognition of Māori values and relationships with ancestral lands and taonga) that may not take the form of rules. These could be captured by the regulation-making power, if the relevant decision-making criteria were met. This potentially impacts on the ability of Māori to have their rights and interests recognised under the RMA.

67. Further, as broader Māori and wider public consultation will not take place on the legislation that establishes the regulation-making power itself or in the use of the regulation making power, this may be viewed as inconsistent with the Crown's duty to engage meaningfully where decisions may significantly affect Māori rights and interests. This creates a risk of harm to the Māori-Crown relationship and may reduce confidence in the use of the power.

68. The Minister for the Environment and the Ministry also have specific engagement obligations under relevant Treaty settlements to act in partnership with PSGEs, including early engagement on matters of mutual interest. This may include engagement on any potential use of the regulation-making power in areas covered by such settlements. Ongoing partnership obligations will remain relevant in the implementation and exercise of the power.

Trade-offs considered

69. The preferred option was assessed against the status quo, weighing:
    a. timeliness and efficiency versus transparency and maintaining broader public and Māori involvement; and
    b. reducing barriers to growth in the interim versus avoiding potential unintended consequences and legal risk.

70. The Government placed greater weight on the importance of timeliness and efficiency in addressing plan provisions that may be currently acting as barriers to economic growth, development capacity or employment. In particular, the efficiency of the new regulation making power was preferred now, during the interim period before the new resource management system is in place, to make progress towards government priorities before the new resource management system is introduced.

71. However, in bypassing the standard Schedule 1 plan change process, the new power limits opportunities for public input and submissions. This departure from usual procedures could raise natural justice concerns and affect public trust in the planning system. These risks are partially mitigated by:
    a. the required investigation,
    b. the opportunity for councils to respond to the investigation report.
    c. the decision-making criteria that must be met; and
    d. the consultation with affected parties.

72. Each of these steps must occur before regulations can be recommended.

How do the options compare?

73. The following tables compare the status quo (Option 1) with the preferred option (Option 2), first in a multi-criteria analysis (MCA) and then in a cost-benefit analysis (CBA).

74. The criteria each option is assessed against in the MCA are:
    a. effectiveness, which assesses whether the option enables a timely and targeted response to address planning provisions that constrain economic growth, development capacity or employment,
    b. efficiency, which assesses whether the option achieves the objective with the least cost and delay,
    c. transparency and participation, which assesses the extent to which the option provides for open, inclusive decision-making processes, including visibility of decisions and meaningful public involvement,
    d. certainty, which assesses how clearly and predictably the option sets out the process and likely outcome for system users; and
    e. alignment with Treaty obligations, which assesses whether the option upholds existing Treaty settlements and other arrangements under the RMA and supports meaningful engagement with Māori.

75. Effectiveness and efficiency are weighted higher, alongside alignment with Treaty obligations, as primary criteria. This is because the policy objective is to enable faster progress on the government priorities of increased economic growth, development capacity or employment in the short to medium term during the transition period to the new resource management system, while ensuring that any option upholds the Crown's responsibilities under Te Tiriti in resource management decision making.

76. While transparency and participation and certainty remain important criteria, the emphasis in this interim period is on the practical ability to remove or amend problematic plan provisions in a timely and impactful way. These criteria are secondary criteria and are weighted lower.

77. Implementation considerations are reflected in the effectiveness, efficiency and certainty criteria rather than treated as a separate measure.

Multi-criteria analysis key:

++	much better than doing nothing/the status quo
+	better than doing nothing/the status quo
0	the same as doing nothing/the status quo
-	worse than doing nothing/the status quo
--	much worse than doing nothing/the status quo

Table 2: Multicriteria Analysis

Criteria	Option One – Status quo	Option Two – Introduce a new Ministerial regulation making power
Effectiveness	**0** Limited ability to quickly address planning provisions that create barriers to economic growth, development capacity or employment.	**++** Enables timely intervention by central government to remove or modify targeted planning provisions where negative effects are demonstrated, providing a faster and more direct response.
Efficiency	**0** Existing tools are often slow and resource-intensive for councils and stakeholders. Plan change processes are rigid and slow and makes it challenging to adapt plans to changing economic conditions.	**++** The proposed power would bypass the Schedule 1 planning processes, improving the speed and resource efficiency of addressing barriers to economic growth, development capacity or employment. Saves time and resources for councils.
Transparency and participation	**0** Schedule 1 processes have rights to public submissions and appeals. High levels of transparency and accountability.	**-** Bypasses Schedule 1 processes. Limited public involvement, consultation is targeted to affected parties. Some transparency maintained through publishing reports and targeted consultation.
Certainty	**0** Plan changes may be challenged legally through appeals, leading to uncertainty.	**+** The regulations will require the councils to update their plans without using Schedule 1, without appeal rights, providing clear pathway for change. The regulations can be challenged by judicial review and so some risk of uncertainty.
Alignment with Treaty obligations	**0** Existing processes allow for iwi/Māori engagement and plan provisions recognise Treaty settlements and arrangements.	**-** Safeguards exclude the use of the power where provisions affected are put in place to meet Treaty obligations. Where iwi are affected parties they will be consulted. Could still have unintended impacts on Māori rights and interests.
Overall assessment	**0** This is not the preferred option.	**+** This is the **preferred option**.

Summary of multi criteria analysis

78. Table 2 sets out the two options (Option 1: Status quo, Option 2: Introduce a new Ministerial regulation making power) and compares them against the five criteria: effectiveness, efficiency, transparency and participation, certainty, and alignment with Treaty obligations. The criteria are aligned with the policy objective.

79. Effectiveness and efficiency are weighted more heavily, reflecting the objective to enable timely and targeted action to remove barriers to economic growth, development capacity or employment in the short to medium term. Option 2 performed strongly on both criteria. It provides a mechanism for central government to intervene where local planning provisions are demonstrated to be causing negative impacts, offering a more direct and faster pathway than current tools. In contrast, Option 1, which maintains the status quo, has limited ability to respond to urgent or targeted issues, and its tools (development of national direction, ministerial intervention to direct plan changes, standard plan changes, SPP plan changes) are slow and resource intensive.

80. Transparency and participation are valued principles in the planning system and are well provided for under the status quo through Schedule 1 processes, including public submissions, hearings and appeals. However, these processes contribute to the delays this policy issue seeks to address. Option 2 necessarily trades off some of this transparency and participation by reducing the scope for broad public participation. The proposal includes mitigations to partially offset these concerns, such as investigation requirements, public reporting, and targeted consultation with affected parties. Nevertheless, Option 2 is assessed as having a lower performance on this criterion.

81. Certainty is important for both plan users and councils. The status quo offers predictability in process but not necessarily in timing or outcome, due to frequent legal challenges and drawn-out plan change processes. Option 2 improves procedural certainty by allowing direct regulatory changes that bypass Schedule 1, removing public submissions and hearings steps and appeal rights, enabling more rapid updates to planning documents. While judicial review remains available under Option 2, the process is more streamlined and predictable overall.

82. Alignment with Treaty obligations was considered alongside effectiveness and efficiency to be weighted higher in this analysis, due to the Crown's responsibilities under Te Tiriti o Waitangi. The proposed regulation-making power in Option 2 includes safeguards to prevent its use where plan provisions give effect to Treaty settlement obligations or similar arrangements under the RMA.[4] However, as not all Māori rights and interests are covered by plans or policy statements, the potential for unintended impacts remains. The lack of engagement with iwi in the development of the proposal further reduces confidence in this area. Option 1 supports a stronger approach to alignment with Treaty obligations. Option 2 is assessed as performing lower than the status quo on this criterion.

[4] Other related provisions include an obligation or right arising from the Marine and Coastal (Takutai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or a mana whakahono ā rohe or joint management agreement under the RMA.

83. On balance, Option 2 is assessed as the preferred option. While it involves trade-offs in terms of transparency, participation and alignment with Treaty obligations, it delivers improved effectiveness and efficiency in achieving the policy objective. These trade-offs are mitigated, though not eliminated, by the safeguards proposed. Option 1 retains procedural integrity but is not sufficient to deliver timely and targeted change and therefore does not meet the policy need during the transition to the new resource management system.

What are the marginal costs and benefits of the option?

84. While there is limited empirical evidence available on the likely costs, the analysis below draws on known system behaviours under the RMA, experience with other interventions (eg, fast-track legislation), and reasonable assumptions about the likely use and scale of the exercise of this power. This allows for a qualitative assessment of potential costs and impacts, though with lower certainty, as set out in Table 3 below. Confidence in the estimates is constrained by the lack of consultation and data, and the novel nature of the power means that impacts will be context dependent and variable in both scale and impacts.

Table 3: Cost benefit analysis

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to the status quo			
Local government	Councils may incur one-off costs responding to investigation reports and participating in consultation processes. Where regulations are recommended to the Governor-General to modify or remove provisions, councils will be required to amend plan documents. This will redirect planning resources from other priorities.	Low to Medium	Low – assumes a limited number of cases and narrow scope of interventions.
Central government	Will bear administrative costs associated with preparing investigation reports, undertaking consultation and drafting regulations. These are expected to be absorbed within baseline but may affect resourcing in other work areas. s 9(2)(h) Risk of perceived lobbying influencing decisions. Could undermine trust in the impartiality of central government interventions	Low s 9(2)(h) Medium	Low – based on assumed low volume. s 9(2)(h) Low – based on past perception issues in fast-track process.
Iwi, hapū, Māori, PSGEs	May experience consultation fatigue, particularly where impacts are localised, but engagement is still required. Potential risks to impacts on areas of interests mitigated by safeguards but not eliminated as not all interests are protected by those instruments listed.	Low to medium	Low – due to the lack of consultation, the evidence certainty is low, and this impact is assumed low to medium dependent on case-by-case use and extent of interests impacted.
Businesses and developers	No direct costs identified.	Low	Medium – consistent with the intent of and likely outcomes of the use of the power.
General public	Public engagement opportunities reduced compared to standard RMA Schedule 1 processes. This may reduce public confidence in the planning or be viewed as inconsistent with principles of natural justice.	Medium	Medium – based on assumption that safeguards and publishing of reports mitigates some risk. There was no stakeholder consultation on this proposal due to urgency, but the public has an established expectation of engagement under the RMA.

Affected groups	Comment	Impact	Evidence Certainty
	Some groups may feel disproportionately excluded or disadvantaged by decisions made without full participatory processes.		
Total monetised costs	Not monetised – costs expected to be absorbed or minimal	n/a	n/a
Non-monetised costs		Medium	Low
Additional benefits of the preferred option compared to the status quo			
Local government	In some cases, regulations may help councils align planning frameworks with national objectives where local factors have made formal plan changes difficult or slow. Frees up resources by avoiding full plan change processes.	Low	Low – likely to be variable across councils and dependant on how often power is used.
Central government	Enables more responsive interventions to remove regulatory barriers to economic growth, development capacity, and employment. May support progress on priorities in a more timely way than waiting for a plan change process.	Medium	Low - benefits dependent on the specific provisions modified or removed.
Iwi, hapū, Māori, PSGE	Where barriers to development on Māori land or to iwi-led projects exist, removal of certain provisions could have a positive impact. Safeguards should ensure that Treaty settlement and other related provisions[5] remain protected. Benefits under general public below are also anticipated to benefit iwi, hapū, Māori.	Low	Low – due to the lack of consultation, the evidence certainty is low, and this impact is assumed low and will be context specific and dependent on use of power.
Businesses and developers	Where provisions are identified as creating development barriers, their modification or removal may enable new projects to proceed or improve feasibility. May provide greater investment certainty in some cases.	Medium	Low – benefits dependent on the specific provisions modified or removed.

[5] Other related provisions include an obligation or right arising from the Marine and Coastal (Takutai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or a mana whakahono ā rohe or joint management agreement under the RMA.

Affected groups	Comment	Impact	Evidence Certainty
General public	Indirect and longer-term benefits may arise from increased employment opportunities and housing supply enabled through these changes. These benefits may also support broader social and economic outcomes.	Medium	Low – evidence anecdotal, benefits dependent on the specific provisions modified or removed.
Total monetised benefits	Not monetised due to difficulty isolating impact of individual plan changes, due to the scope of the power these could vary dramatically.	n/a	n/a
Non-monetised benefits		Medium	Low

Summary of costs and benefits

85. The costs of the proposed regulation-making power are expected to be medium overall. Central government will incur resource and administrative costs in undertaking investigations, developing regulation proposals, and supporting consultation and decision-making. While these costs are expected to be manageable within existing baselines, the complexity of the process may vary depending on the extent of the planning provisions involved and the frequency of use of this power.

86. s 9(2)(h) Related risks include reputational risk to central government and potential perceptions of politicisation or lack of neutrality in the application of this power. These risks are mitigated to some extent by the safeguards built into the process, including a robust investigation, public reporting, targeted consultation and express statutory criteria.

87. Local government may face short-term implementation and resource pressures where a recommended regulation directs a change that has wider flow-on effects in the planning framework. However, if changes are required to plans, this can be done without using a Schedule 1 process and should therefore minimise the time, cost and resourcing involved in actioning the change compared to the status quo tools for achieving the same.

88. Businesses and developers may benefit where specific planning rules or policies are removed or amended due to unnecessarily constraining development capacity, delaying consenting or imposing disproportionate costs. For example, this may include zone-based restrictions that limit housing supply in high-demand areas. These benefits are likely to be context-specific and could be significant where the provisions are creating substantial delays or costs.

89. Iwi, hapū, Māori, and PSGEs may benefit from the removal of planning provisions that currently create barriers to development on Māori land or for iwi-led projects, there is a risk of consultation fatigue, particularly where engagement is required by impacts are localised. Although the safeguards are intended to protect Treaty settlement obligations and other related provisions,[6] not all Māori interests are included in plans or policy statements. As a result, the potential adverse effects cannot be entirely ruled out.

90. The wider public may benefit indirectly through increased economic growth, housing supply and employment opportunities, and more efficient use of land and infrastructure, and these indirect benefits to the wider public are also expected to indirectly benefit iwi, hapū, Māori, and PSGEs. However, reduced public engagement opportunities compared to the status quo may lower public confidence in planning decisions or be viewed as inconsistent with the principles of natural justice, particularly if the power is used frequently or in contentious cases.

[6] Other related provisions include an obligation or right arising from the Marine and Coastal (Takutai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or a mana whakahono ā rohe or joint management agreement under the RMA.

Key assumptions and uncertainties

91. The estimates and impact assessments presented in the cost-benefit analysis table above are subject to several assumptions and limitations. The cost-benefit analysis assumes that the regulation-making power will be used infrequently and only in situations where negative impacts are demonstrated on economic growth, development capacity or employment. This reflects both the legislative safeguards and the intent that the power is an exceptional intervention.

92. Importantly, the creation of the regulation-making power does not, on its own, result in any immediate changes to RMA plans or policy statements. It only establishes a mechanism that may be used where necessary and subject to specified safeguards. As such, it is difficult to determine whether the power will be exercised, how often, or how far-ranging the effects of any future use might be. This limits the ability to quantify impacts with certainty.

93. These assumptions reflect the limitations and constraints discussed earlier in this SAR, including the limited availability of quantitative data and the reliance on qualitative evidence and the lack of consultation undertaken. This introduces uncertainty into the analysis, particularly regarding the scale of potential benefits and the likelihood of unintended consequences.

Potential unintended impacts

94. There is some risk of unintended consequences, such as plan provisions being removed or modified in ways that create gaps or internal inconsistencies within plans. This could cause interpretive issues or uncertainty for plan users and councils. This could impose future costs on councils, who may need to amend plans through a Schedule 1 process to address these issues. This risk is expected to be mitigated by the power being able to modify or remove provisions, which encompasses objectives, policies, and rules, alongside the requirement for councils to be consulted on investigation reports and to respond prior to the Minister making a recommendation. However, despite these safeguards, councils may still need to make follow-up plan changes to fully resolve unintended flow-on effects.

95. Another risk is that repeated or high-profile use of the power may shift perceptions of roles and responsibilities in the planning system, with potential implications for trust in local planning autonomy.

96. Overall, the benefits of the preferred option are expected to outweigh the costs, particularly in situations where development or employment opportunities are being delayed by outdated or inconsistent plan provisions.

Climate implications

97. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this policy proposal, as the threshold for significance is not met.

Why the preferred option was selected

98. The Government placed greater weight on the need for a more timely and efficient mechanism to address barriers to economic growth, development capacity, and employment during the current transitional period before the new resource management system is in place, and to provide a more direct and targeted way to align operative planning documents with national goals. Although the status quo offers strong transparency and engagement features, it was considered insufficiently responsive for exceptional cases requiring urgent intervention. The safeguards built into the regulation-making power (the requirement for a Ministerial investigation, consultation with affected parties and councils, and the application of decision-making criteria) are intended to ensure the extra-ordinary power is used only when necessary, in a transparent manner and supported by robust evidence.

Section 3: Delivering an option

How will the new arrangements be implemented?

Legislative implications

99. The preferred option will be given effect to through amendments to the RMA via the Bill. Once enacted, the Bill will establish a new Ministerial regulation making power enabling the Minister for the Environment to recommend regulations that modify or remove provisions in operative RMA plans or regional policy statements, subject to an investigation and meeting decision making criteria.

100. Use of this power will require the making of secondary legislation. This means any proposed regulations must go through the standard regulation making process, including Cabinet approval and the preparation of a RIS. This ensures that each use of the power is subject to scrutiny and meets regulatory stewardship expectations.

Roles and responsibilities

101. The ability to exercise the power will remain with central government. The Ministry will support the Minister in implementing the power, including by conducting the investigation, or supporting an independent investigator, into the specific plan or policy statement provisions, and in coordinating and reporting back to the Minister on consultation.

102. Local government will have a role in responding to the reports generated as part of the investigations and engaging in the consultation process that must occur prior to any regulations being recommended to the Governor-General. Councils will need to implement the changes required by the regulations if the power is exercised in relation to their plans, as detailed below.

103. There will be a role for affected parties, when identified, to present views through the opportunity to consult. This could include developers, landowners, infrastructure providers and communities, as well as Māori, iwi authorities and PSGEs, depending on the location and scope of the provisions affected.

Timing and commencement

104. The new powers will come into force upon Royal assent of the Bill. As this power is discretionary and enabling in nature, there is no immediate regulatory impact on councils or affected parties at commencement. Any effects will depend on whether and when the Minister chooses to exercise the power. This means councils and other stakeholders will only be directly impacted when investigation reports have been sent to them as relevant councils to begin the consultation process.

105. The regulation making power is designed as a transitional tool to address current barriers in operative plans and policy statements that negatively impact economic growth, development capacity or employment. It is expected to be most relevant during the period before the new resource management system is fully enacted. This means that the power is likely to be exercised in the near term, where urgent interventions are needed to unlock potential and gain progress towards government priorities ahead of the new system rollout.

Communication and engagement

106. The regulation making power includes process requirements to support transparency and involvement with likely affected parties. Before regulations can be recommended, these processes require the Minister to investigate the provisions, provide affected councils with a report on the investigation, and to publish this report publicly, as well as the requirement to consult with affected parties. This will ensure that those affected parties are informed and have an opportunity to respond before any changes occur.

107. The use of the power to direct modifications or removal of provisions may result in changes to operative plans or regional policy statements. These changes will be formalised through regulations, which are publicly notified as part of the secondary legislation process.

Engagement with Māori

108. As noted in the Te Tiriti considerations section of this SAR, the regulation making power may intersect with provisions in plans that relate to Māori rights and interests. While the power cannot be used to modify or remove provisions that have been included in recognition of obligations under Treaty settlements or related statutory arrangements, engagement with Māori will remain critical in cases where the use of the power is being considered.

109. Some Treaty settlements establish expectations of early engagement with PSGEs on matters of mutual interest. These obligations will need to be considered by the Minister and the Ministry if any use of the power is proposed in areas affected by such settlements.

Implementation of regulations

110. Regulations made under this power would modify or remove specific provisions in operative regional or district plans or regional policy statements. These regulations would be made by Order in Council by the Governor-General on the recommendation

of the Minister. The regulations may apply generally or may be limited by area or specific aspects of a plan or policy statement.

111. The regulations may, for example, remove or amend a rule that imposes constraints on economic growth, development capacity or employment, where there is evidence of a negative impact. If the rule gives effect to a policy or objective, it may also be necessary to modify or remove those provisions. In cases where the direction originates from a regional policy statement, corresponding objectives, policies or methods that require implementation through district plans may also need to be amended. The scope and scale of changes will vary depending on the specific circumstances in each proposed use of this regulation making power.

112. Councils will be required to implement any regulations made to modify or remove provisions in their plans or policy statements. They would need to publicly notify that the regulations have been made, including the date they come into force and a description of their nature and effect. Councils will also need to action the modification of their plans or policy statement to give effect to the regulations. These changes to the plans or policy statements are to be made without using a Schedule 1 process (ie, no further plan change, or public process is required).

113. The regulations may specify the date by which the council must update its planning documents, or otherwise this is to occur as soon as practicable after the regulations come into force.

114. Councils remain responsible for applying the modify plan provisions in consenting and compliance functions from the date the regulations take effect.

Implementation risks and mitigations

115. Key implementation risks are as follows.

Perception of bypassing public input or local decision making:

116. The extraordinary nature of this power, allowing central government to modify or remove local plan provisions, could be perceived as bypassing local planning processes and local decision making.

117. This is mitigated by requiring a formal investigation, the report from this being published, consultation with councils and affected parties, and robust decision-making criteria. It is also mitigated by the standard regulation making process to which this power is subject. This includes a Cabinet-level scrutiny and preparation of a RIS for each proposed regulation.

Potential gaps in planning frameworks:

118. If provisions are modified or removed without accounting for interdependencies, it may result in operational uncertainty for councils. This is mitigated through consultation with councils and the opportunity for them to respond to the investigation findings.

Judicial review risk

119. The use of this power may be subject to legal challenge. This risk is mitigated to some extent through a transparent and evidence-based processes and having express statutory criteria.

Implementation support

120. Because the scope, scale and frequency of the use of the power are unknown, no additional implementation support is proposed at this stage. It is assumed that the power will be used infrequently and that the implementation support required can be absorbed by Ministry baseline resourcing.

Sunset clause and review point

121. The new Ministerial power is time bound and the ability to use it will expire at the end of 2027. This provides a natural review point to assess how the power has been used, whether it has been effective, and whether any further intervention is needed after the new resource management system comes into force.

How will the new arrangements be monitored, evaluated, and reviewed?

Regulatory stewardship responsibilities

122. The Ministry is responsible for the stewardship of the resource management system, including that regulation making powers within the system are used appropriately and effectively. As part of its stewardship responsibilities, the Ministry will maintain oversight of how and when this new power is used, including any risks or unintended consequences that emerge. This will include tracking system-level impacts, monitoring feedback, and advising Ministers accordingly.

123. Given the power is time limited, the Ministry's stewardship role will also include considering whether a formal review is warranted ahead of the 31 December 2027 sunset date, and what lessons might inform future regulatory interventions or system design.

Monitoring and feedback mechanisms

124. The exercise of this power is likely to be highly visible given the public nature of the regulatory changes to RMA plans and policy statements. Feedback, including from councils, relevant iwi, hapū, Māori and PSGEs, industry groups and the wider public, will be important for identifying any system issues or unintended effects.

125. Key mechanisms for monitoring and feedback will include:
    a. engagement with councils following the sending of investigation reports and the consultation processes,
    b. engagement with relevant iwi, hapū, Māori and PSGEs in relation to the potential use of the power, as the scope of the particular use affects these groups.
    c. engagement with affected parties, when the scope of proposed use of the power includes them; and

d. regular conversations with local government, relevant iwi, hapū, Māori and PSGEs through existing policy engagement channels.

126. Where appropriate, information from these sources will inform any advice on the ongoing use of the power or the need for legislative refinement.

Te Tiriti monitoring considerations

127. As discussed in the Te Tiriti considerations section of this SAR, the regulation making power involves Crown decision making powers that could impact Māori rights and interests under the RMA. While legislative safeguards prevent the modification or removal of provisions relating to Treaty settlements and similar arrangements, monitoring will need to include ongoing attention to the broader implications of any use of the power for Māori.

128. In particular, any concerns raised by iwi, hapū, Māori or PSGEs in relation to the potential use or impacts of the power should be recorded through existing stewardship mechanisms. This could help inform any future review of the power and help ensure consistency with the Crowns Te Tiriti obligations.

Data and evaluation

129. As the power does not itself mandate any specific regulatory changes, but enables them through future regulations, the direct impacts are difficult to quantify at this stage. Future evaluation of its effectiveness will therefore focus on:
    a. whether and how often the power is used,
    b. the nature of the plan provisions modified or removed,
    c. the quality and transparency of investigations and consultation processes; and
    d. whether the use of the power results in improved outcomes for economic growth, development capacity, or employment.

Planned review and sunset clause

130. The regulation making power has a sunset clause; it will expire on 31 December 2027. This reflects the transitional nature of the power, which is intended to operate only during the period before the new resource management system is in place.

131. While no formal review is currently scheduled, the expiry of the power provides a natural point for review on its operation. At that time, the Ministry may assess:
    a. whether and how the power was use,
    b. the types of issues it addressed and any outcomes achieved,
    c. feedback from councils, Māori, and other affected parties; and
    d. whether a similar tool might be needed or appropriate in the future resource management framework.

132. This approach recognises that the power is not intended to be a permanent feature of the system and allows any lessons from its use to inform future policy development.

Supplementary Analysis Report: Removing heritage protections from Gordon Wilson Flats in Wellington

Coversheet

Purpose of Document	
Decision sought/taken:	*Analysis produced to support Cabinet decision-making on an Amendment Paper directing the removal of Gordon Wilson Flats from the heritage schedule of the operative and any proposed Wellington City Council District Plan.*
Advising agencies:	*Ministry for the Environment*
Proposing Ministers:	*Minister Responsible for RMA Reform*
Date finalised:	*22 July 2025*

Problem Definition

Gordon Wilson Flats (GWF) is a heritage listed building in Wellington City Council's (WCC) operative and proposed district plans. This provides it with regulatory protection from activities such as demolition, unless a resource consent is granted. The building is earthquake prone and is in such a poor state of repair that it is uneconomic to refurbish or redevelop. It has been vacant since 2012 and has since fallen into further disrepair.

The status quo means that VUW is restricted in its ability to address these building issues without demolishing the building or undertaking significant changes to the building that could negatively impact the heritage values of GWF.

Two RMA plan change processes have been unsuccessful in trying to remove GWF from the heritage schedule of WCC's operative and proposed district plan.

This has prevented Victoria University of Wellington (VUW) from investing in the building or demolish it and redevelop the site for other uses (which is their preferred approach).

Executive Summary

Context

The Resource Management Act 1991 (RMA) provides a framework for the management of heritage buildings and structures, including consideration of historic heritage as a matter of national importance under section 6. This includes mechanisms to schedule and deschedule heritage in district plans through a Schedule 1 plan change process.

The Resource Management (Consenting and Other System Changes) Amendment Bill (the Bill) amends the RMA to provide an additional process to deschedule heritage through the Streamlined Planning Process.

Gordon Wilson Flats

Gordon Wilson Flats is a heritage listed building in the Wellington City operative and proposed District Plans. The building is not fit for use due to issues with its structural

integrity, and non-compliance with modern building standards. Its heritage status has limited options for management of the building without compromising its heritage values, due to high costs and practicality of options considered (eg, refurbishing the building). Due to its protected heritage status, the building would require a resource consent to demolish or modify the building.

The proposal

The proposal is to amend the Bill to direct Wellington City Council (WCC) to remove heritage protections from Gordon Wilson Flats including removing the building from the heritage schedule of the Wellington City operative and proposed District Plans, therefore removing the regulatory protection provided to the building as a scheduled heritage building.

Costs and benefits

There are trade-offs between the costs and benefits of the proposal, as enabling its building owner to utilise the land for higher value purposes is weighed against protected historic heritage.

The benefits of the proposal are largely weighted toward VUW, who, as the building owner, would be given certainty that they can utilise the site more efficiently once heritage protection is removed. VUW are also expected to save on future costs associated with maintenance of the site and legal fees should the heritage protection for the building be removed.

At some stage in the future, the building could become so derelict that it may collapse in an earthquake or need to be demolished due to public safety risks. Demolition of the building before it gets to this state has public safety benefits and cost savings for the council (and public) from having to undertake an emergency demolition.

However, GWF has significant heritage value as a rare example of 1950s high-rise state housing remaining in the country. The building has category 1 historic heritage building status, in recognition of being nationally significant heritage. While descheduling the building will open more options around how the building is managed and used in the future, there is a risk that this may lead to its heritage values being compromised or lost entirely.

Limitations and Constraints on Analysis

The quality of analysis produced in this SAR has been constrained for a variety of reasons.

Government policy direction

This SAR analyses the impacts of the policy direction set by Cabinet and the Minister Responsible for RMA Reform in relation to GWF. Therefore, the scope to consider regulatory and non-regulatory options to respond to the issue has been significantly constrained.

Limitations to the availability of data and evidence to inform policy making

Data and evidence have been used to support policy development where possible. However, due to timeframes and how recently the proposal has been included in the Bill's policy package, the Ministry for the Environment has been unable to source more recent data and evidence on matters such as monetised costs associated with the proposal.

There has been a heavy reliance on information which is publicly available from Wellington City Council and Victoria University of Wellington to support policy analysis. The analysis produced may not be an accurate representation of the scale of the issue and its potential impacts on affected stakeholders.

Consultation requirements have not been met

Due to limited timeframes and the recency of the proposal, we have not been able to engage with stakeholders on the proposal. Therefore, the policy has not been tested with affected stakeholders and iwi. The views of stakeholders and the impacts of the proposal may not be accurately represented, nor can we assume how the proposal will be received.

Responsible Manager(s) (completed by relevant manager)
Rhedyn Law *Manager* *RM Policy – Bill 2* *Ministry for the Environment* s 9(2)(a) *22 July 2025*

Quality Assurance (completed by QA panel)	
Reviewing Agency:	Ministry for the Environment and Ministry for Culture and Heritage
Panel Assessment & Comment:	A Quality Assurance Panel from the Ministry for the Environment and the Ministry for Culture and Heritage reviewed the Supplementary Analysis Report (SAR) prepared by the Ministry for the Environment titled *Removing heritage protections from Gordon Wilson Flats in Wellington* on 21 July 2025. The Panel consider that the information and impact analysis summarised in the SAR does not meet the Quality Assurance criteria. The SAR notes that no engagement on the proposal was performed. The options analysis is impacted by inconsistent use of criteria and a lack of inclusion of relevant and up-to-date data or other forms of evidence. The SAR acknowledges that the analysis may not be an accurate representation of the potential impacts of costs and benefits of the proposal on affected stakeholders.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Introduction

1. This section provides:
    a. a summary of the key legislative provisions relating to heritage management under the Resource Management Act 1991 (RMA).
    b. relevant changes proposed in the Resource Management (Consenting and Other System Changes) Amendment Bill to enable delisting of heritage building in appropriate circumstances.
    c. a description of the policy problem relating to Wellington City Councils (WCC) attempts to delist Gordon Wilson Flats using current RMA plan change processes.
    d. the objectives sought.

Heritage management under the RMA

Existing RMA legislative settings

2. Part 2 of the RMA requires decision-makers to recognise and provide for the protection of historic heritage from inappropriate subdivision, use, and development as a matter of national importance.[1]
3. Management of historic heritage buildings and structures has largely been devolved to local authorities.
4. Places with significant heritage values are usually identified in district or regional plans in a heritage schedule. These include buildings and structures and are subject to rules which manage any physical changes, use, or subdivision of the land. Local authorities can progress plan change processes under Schedule 1 of the RMA to add or remove (descheduling) heritage buildings and structures from schedules.

Resource Management (Consenting and Other System Changes) Amendment Bill

5. Cabinet has agreed to a three-phase approach to reforming the RMA. Phase 2 of RMA reform comprises legislative amendments to the RMA, along with a suite of changes to National Direction.[2]
6. The Resource Management (Consenting and Other System Changes) Amendment Bill (the Bill) is the last legislative component of Phase 2. The Bill delivers targeted amendments to the RMA which are low complexity, have immediate impact and provide some certainty and consistency ahead of the repeal and replacement of the RMA.

Amendments to the Streamlined Planning Process through the Bill

7. Cabinet has agreed to progress amendments to better enable councils to manage heritage. The Bill as introduced reflects this decision by enabling the use of the SPP to deschedule heritage buildings and structures.

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[1] Resource Management Act 1991, section 6

[2] ECO-24-MIN-0113 refers

8. A regulatory impact statement (RIS) addressing options for better management of outcomes for historic heritage buildings and structures under the RMA was prepared by the Ministry for the Environment (MfE), Ministry for Culture and Heritage (MCH), and the Ministry of Housing and Urban Development (HUD).[3] The RIS provides analysis of options for descheduling of heritage buildings and structures.

Further changes to the Bill

9. The Environment Select Committee has made further amendments to the Bill that will require SPP Panels to have particular regard to the following matters when recommending and approving the removal of a building or structure from a heritage schedule in a plan when using the SPP:
    a. its heritage significance,
    b. its physical condition, including degree of seismic risk,
    c. its current or proposed use and the economic viability of any proposed use, and
    d. whether the owner agrees to removing heritage protection.
10. Decision makers will still be required to consider heritage as a matter of national importance under section 6(f) of the RMA, along with national direction, and other relevant matters contained in plans.

Gordon Wilson Flats

11. Gordon Wilson Flats (GWF) is a Category 1 historic place in the New Zealand Heritage List Rārangi Kōrero by Heritage NZ Pouhere Taonga (HNZPT), recognising GWF as a place of special or outstanding or cultural significance. The building was added to the heritage schedule of the Wellington District Plan in 1995.
12. The building was constructed in the 1950s for the purpose of state housing. The 11-storey high building contains 80 flats. GWF's historic value comes from its architectural, technological, and social significance, and serves as a one of the remaining examples of 1950s high-rise state housing in New Zealand.[4]
13. In 2014, Victoria University of Wellington (VUW) purchased the building from Housing New Zealand, who closed the site in 2012.
14. Regulatory protection from demolition is provided through it being listed in the heritage schedule of the Wellington City operative and proposed District Plans. However, a resource consent to enable the demolition of the building can be applied for. Any decision on a resource consent to modify or demolish GWF would need to be consistent with Part 2 of the RMA, which protects historic heritage. This makes the outcome of a resource consent to demolish or modify GWF uncertain.

What is the policy problem or opportunity?

15. The heritage status of GWF and associated district plan provisions protects the heritage values of the building. There is a strong presumption against building demolition and other external changes that would adversely impact its heritage significance.
16. The building is earthquake prone and is in a poor state of repair, making it uneconomic to refurbish or redevelop.

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[3] Regulatory Impact Statement: Resource Management Amendment Bill No.2- Better managing outcomes for historic heritage RIS-Better-managing-outcomes-for-historic-heritage.pdf

[4] McLean Flats and Gordon Wilson Flats, Heritage New Zealand Pouhere Taonga, Welcome to Heritage New Zealand

17. Two RMA plan change processes have unsuccessfully sought to have this heritage status removed from WCC's operative and proposed district plan.
18. Maintaining the status quo would continue to restrict VUW's ability to address these building issues.
19. This uncertainty means that VUW has not been able to invest in the building or demolish it and redevelop the site for other uses.
20. In light of these concerns, proposed amendments to the RMA (through the Bill) will enable councils to deschedule heritage buildings and structures using a streamlined planning process (SPP). Descheduling assessment 'criteria' will provide guidance on how to assess these plan changes. This new RMA process is not yet available to WCC as the amendments will be in force later in 2025.
21. However, Cabinet has decided on an alternative process involving a specific legislative requirement which would remove GWFs from the heritage schedule in the Wellington City operative and proposed district plans. The removal of the need to obtain a resource consent for its subsequent demolition will also be removed from these RMA plans.
22. These matters are discussed in more detail below.

Private Plan change request

23. In 2015 VUW sought to have GWF removed from the heritage schedule of the Wellington City District Plan. Plan Change 81 proposed rezoning the GWF site (320 The Terrace) from an inner residential area to an institutional precinct and also sought the descheduling GWF. This plan change may have enabled the demolition of GWF and allowed its use for university purposes as its owner intended at the time.
24. Evidence provided to the District Plan Hearing Panel revealed that:
    a. the building is earthquake prone primarily due to the façade of the building achieving less than 34% of the 'new building standard' (NBS), the spine wall of the building was assessed as being less than 50% of NBS and the transverse bracing walls assessed as 80% NBS when compared to seismic standards applicable to new buildings on the site,
    b. the building did not comply with modern design requirements that would make it fit for occupation,
    c. costs to refurbish the building were estimated to be between $32.50m and $40.50m in 2016, significantly higher when compared to replacing the building, and
    d. works to fix the façade would undermine the heritage value of the building[5].
25. MfE does not have recent figures on how much it would cost to refurbish GWF in 2025. However, we can assume that costs have risen since 2016.
26. In 2016, following consideration of submissions and evidence, the District Plan Hearing Panel recommended approving the plan change, which included the descheduling of GWF. However, WCC's decision was appealed by the Architectural Centre to the Environment Court (EC). The EC approved the appeal on the basis that GWF has significant heritage value and should not be descheduled.[6]
27. The EC majority decision concluded that the plan change request had provided information which raised the architectural, social, and technical significance of GWF,

[5] Hearing Panel Recommendation Plan Change 81 Rezoning of 320 the Terrace and de-listing of the Gordon Wilson Flats, Report and Recommendation of the Hearing Panel appointed by the Wellington City Council pursuant to Section 34 of the Resource Management Act 1991, 19 April 2016

[6] The Architectural Centre v Wellington City Council [2017] NZEnvC 116

rather than diminishing its heritage value, strengthening the case for it remaining on the schedule. They also noted that the evidence on the cost of strengthening and refurbishing the building was conflicting.

2023 attempt to deschedule GWF

28. In 2023 WCC agreed to deschedule GWF as part of the Intensification Planning Instrument Process in a decision which was contrary to the Independent Hearing Panel's (IHP) recommendation.
29. Following consideration of submissions, the IHP concluded that if necessary, demolition would be most appropriately done through a resource consent process.[7] MfE notes that the IHP recommended retaining all 10 heritage buildings and structures in the heritage schedule of the Wellington City operative and proposed district plans which WCC had proposed removing.
30. However, the heritage status of GWF has remained unchanged, as the Minister Responsible for RMA Reform considered that he was unable to approve it. This was due to WCC not providing evidence to the Hearing Panel to support its decision to reject the IHP's recommendation.

Wellington City Council Submission on the Resource Management (Consenting and Other System Changes) Amendment Bill

31. In their written submission on the Bill, WCC emphasised the challenges of managing heritage scheduled buildings which have fallen into a state of disrepair and are earthquake prone, highlighting GWF as an example.
32. Specific concerns were raised around limited options available for strengthening and repairing buildings due to heritage protection, and demolition not being a feasible option. WCC stated that there is a *"current lack of a clear and practical process for adding or removing heritage listings creating tension within the building regulatory system"* and noted "*there is a high bar in place for their removal from a heritage list given the status of heritage as a matter of national importance within the RMA"*.[8]

Obtaining a resource consent to demolish Gordon Wilson Flats is not a practical option

33. An application for a resource consent to modify or demolish the building is an option under the status quo, however this process may not provide VUW with the certainty that the site will be able to be used for university purposes.
34. Specifically, the likelihood of a resource consent application to modify or demolish GWF being declined is high due to the regulatory framework provided under the RMA and the operative Welling City District Plan:
    a. Any resource consent application to demolish GWF would be weighed against the significant heritage value of GWF being a scheduled heritage building under the Wellington City operative and proposed District Plans
    b. Section 6(f) of the RMA requires all persons exercising functions and powers under it in relation to managing the use, development, and protection of natural and physical importance to recognise and provide for the protection of historic heritage from inappropriate subdivision, use, and development as a matter of national importance.

[7] Report and Recommendations of Independent Commissioners, Hearing Stream 3, Report 3A

[8] Wellington City Council Submission on the Resource Management (Consenting and Other System Changes) Amendment Bill, February 2025

c. The EC decision to reject the delisting in 2016 means that this issue has already been addressed by the Courts, and a similar appeal on the resource consent could again be unsuccessful.

35. The Ministry understands that VUW engaged with WCC prior to requesting a private plan change. Advice given to VUW weighed the merits of a resource consent process against a private plan change and concluded that the Wellington City District Plan does not provide the policy settings to enable a simplified pathway for obtaining a resource consent to demolish a heritage scheduled building, for the reasons above.
36. The District Plan Hearing Panel during the Plan Change 81 process also concluded that there was no compelling evidence to conclude that the plan change should be abandoned in favour of a consent process.[9]
37. There would also be additional time, cost, delays, and risks associated with relying on a resource consent while GWF remains on the heritage schedule. The cost of a resource consent application in this scenario may cost $14k for a limited notified consent or $27k if publicly notified.
38. Additional time and costs will be incurred through obtaining technical expertise from heritage experts, urban planners, and structural engineers. There would also be a requirement to hold a submissions and hearings process if the consent application is publicly notified.
39. There is also a likelihood of a further delay if the council's decision is appealed. This will apply whether the consent application is approved or declined. This process would create uncertainty for VUW, as it does not guarantee that the site will be able to be used for university purposes as the District Plan intends.

The Streamlined Planning Process could deliver the outcome sought

40. The Bill will provide an alternative pathway to deschedule heritage buildings and structures. Whilst the SPP may result in the removal of GWF's protected heritage status, there is a risk that the SPP panel recommends retaining GWF's heritage status. Furthermore, council decisions that are contrary to recommendations by an SPP panel can be appealed to the Environment Court.
41. The Ministry for the Environment notes that in its advice provided to the Minister Responsible for RMA Reform the preferred option for managing GWF was to rely on this option.

How is the status quo expected to develop?

42. It is expected that GWF would remain on the heritage schedules of the Wellington City Operative and Proposed District Plans, unless the SPP were to be used.
43. Options for refurbishing the building are limited by its status as a protected heritage building or are not feasible as they would compromise the heritage values of GWF. Given the state of disrepair GWF is in, it is expected that the building will continue to fall into further disrepair. This may result in demolition under the Building Act if the building poses a significant risk to public safety.
44. As a result, there will be continued uncertainty around the future use of the site, if GWF remains on the heritage schedule of the Wellington City operative and proposed district plans.

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[9] Hearing Panel Recommendation Plan Change 81 Rezoning of 320 the Terrace and de-listing of the Gordon Wilson Flats, Report and Recommendation of the Hearing Panel appointed by the Wellington City Council pursuant to Section 34 of the Resource Management Act 1991, 19 April 2016

Cabinet has decided that a further change to the Bill is needed to enable Gordon Wilson Flats to be de-scheduled

45. Cabinet has decided that the Bill provides an opportunity to address the RMA policy settings which have prevented the removal of GWF from the heritage schedule of the Wellington City operative and proposed District Plan.
46. Further changes are needed to the Bill to direct the removal of GWF from the heritage schedule of the Wellington City District Plan.

What objectives are sought in relation to the policy problem?

47. The objective of the proposal is to remove the regulatory protection provided to GWF as a heritage scheduled building in the Wellington City Operative and Proposed District Plans. This will provide an opportunity to address the limited options for managing the site and enable higher value use of the currently unutilised site.

Section 2: Deciding upon an option to address the policy problem

What scope will options be considered within?

48. The scope of policy options considered has been constrained due to the policy direction set by Cabinet and by the Minister Responsible for RMA Reform. A single option to address the removal GWF's regulatory protection under the Wellington City Operative and Proposed District Plan was considered by Cabinet. Given the advanced stage of the Bill, the only available avenue to make amendments to the Bill is through the introduction of an Amendment Paper (AP).
49. The scope of options considered have been further constrained due to no consultation taking place with WCC, VUW, iwi, and the public. Consulting on the matter was not feasible due to the late stage the proposal was introduced.

What options were considered by Cabinet?

50. Cabinet has considered a single option to address the heritage protection for GWF. This involves amending the Bill to direct WCC to remove GWF from the heritage schedule of the Wellington City operative and proposed District Plans through an AP.

What was the Government's preferred option, and what impacts will it have?

51. Due to the constraints impacting the development of the analysis of this SAR, there are some gaps in our understanding of the impacts of this proposal. For example, we cannot assume how Cabinet's preferred option to remove heritage protections from GWF will be received by affected stakeholders, and the wider public in general.

Criteria for assessing directing removable of GWFs from the WCC district plan heritage schedule

52. The following seven criteria have been applied to the assessment of this option:

Providing certainty around future use of the site

53. Removing heritage protections for GWF will provide its landowner, VUW, with greater certainty around future use of the site. Removal of its status as a protected heritage building will enable the site to be used for tertiary education and associated student accommodation, which is consistent with the Wellington City District Plan.

54. This will enable proposed changes or redevelopment of the site to proceed without the usual risks and uncertainty associated with standard RMA plan change processes, including potential decisions being appealed through the EC subject to VUW's ability to secure any resource and building consents.
55. VUW has indicated its preference to use the site for student accommodation. In its oral submission to the Environment Select Committee on 3 May 2025, VUW estimated that the site could deliver 500 beds if it was able to be redeveloped. In the 10 years they have owned the building, they would have been able to accommodate 5000 on the site had it been redeveloped into student accommodation.

Reducing future costs associated with Gordon Wilson Flat's protected heritage status

56. We anticipate that removing GWF's heritage protection will reduce costs for both the property owner VUW and WCC.
57. As of March 2025, VUW has spent over $1.5m on legal fees, maintenance, and security against squatters and trespassers on GWF. This includes $100,000 per year in maintenance costs, and $500,000 in legal fees.[10] Removing heritage protections for GWF, and therefore enabling the subsequent demolition, will reduce future costs associated with maintenance and legal fees.
58. Data collected from the National Monitoring System between 2022 and 2023 shows that a council plan change process can cost a council between $50k to $200k from notification to decisions, depending on the complexity of the plan change. This excludes costs associated with appeals to the EC. Allowing for the removal of heritage protections for GWF through primary legislation will save WCC time and costs associated with future attempts to deschedule by providing certainty of an outcome.

Reducing risk to the public

59. Under the status quo, options for bringing GWF into compliance with modern building standards would be restricted due to heritage protection, as any options considered should not compromise its heritage values. For example, installing a curtain wall façade to assist with the falling façade may compromise its heritage values. These options would also be costly, due to the size of the building and scale of repairs needed.
60. There is an ongoing risk of life and injury to the public from the building being earthquake prone and parts of its concrete façade degrading. VUW has stated that squatting and trespassing have contributed to ongoing security costs.
61. Descheduling GWF will significantly reduce this risk through enabling the building to be demolished in a controlled and organised manner, rather than through demolition by neglect.

Negative impact on GWF's heritage values

62. There is a trade-off between the loss of a significant heritage building and enabling higher value use of the site which is currently unutilised.
63. GWF has been recognised as both a Category 1 historic place by HNZPT and has been included in the heritage schedule of both the Wellington City operative and district plans since 1995. Removal of the building from the heritage schedule of the Wellington City operative and district plans could result in the loss of a building which has significant heritage value. While the building has been vacant since 2012, and has not been maintained, its heritage value comes from it being one of the last examples of the

[10] https://www.thepost.co.nz/nz-news/360563018/university-unhappy-about-15m-spend-eyesore-gordon-wilson-flats

style of 1950s high-rise state housing development in the country. Risk of setting a precedent

64. The proposal uses primary legislation (the RMA) to amend secondary legislation (the Wellington City Operative and Proposed District Plan). National direction is generally used to direct councils to make changes to their operative and proposed plans, rather than through primary legislation.
65. This proposal may set a precedent which promotes the use of primary legislation to make bespoke changes to a council's district plan and may encourage other petitions to remove heritage buildings or other protections/restrictions from District Plans without public process.
66. The likelihood of this issue arising could be mitigated through Phase 3 of RMA reform. Phase 3 provides an opportunity to review heritage planning laws to provide councils with the tools needed to more effectively integrate the management of historic heritage buildings and structures, with building safety and development issues.

Impact on public perception

67. Enabling primary legislation to be used to override how historic heritage is accounted for and protected under a district plan may have a negative impact on public confidence around the management of heritage. This is an isolated case of central government using its powers to direct how a single heritage scheduled building (that is publicly owned) should be managed.

Removal of public participation from the plan change process

68. Directing GWF to be delisted through primary legislation will override requirements under the RMA status quo for plan change processes under Schedule 1 of the RMA. This includes requirements for consultation, submissions, hearings, and appeals.
69. While the Bill would enable a pathway to enable descheduling through use of the SPP, the requirement for consultation with affected parties and a submissions process on the matter will be retained, despite the SPP having limited appeal rights. The SPP would also require the IHP to consider the heritage descheduling assessment matters (outlined in paragraph 9), that are proposed to be included in the Bill.
70. The proposal has natural justice implications, as the checks and balances which would apply to plan changes following processes in Schedule 1 and the SPP will not apply to the proposal. This particularly applies to the removal public participation in the plan change process and any opportunity for public scrutiny of the proposal. The directive to remove GWF would have no pathway for an appeal through the EC due to a directive in primary legislation.

What are the marginal costs and benefits of the option?

71. This section analyses the costs and benefits of amending the Bill to direct the removal of heritage protections for GWF.
72. The legislative change targets a single heritage listed building in the Wellington City Operative and Proposed District Plan. As the building has been unoccupied since 2012, the range of stakeholders materially impacted by this is limited to those who live in the community surrounding the building. There are more diffuse impacts for stakeholders across the across the country due to the loss of historic heritage.
73. Most of the proposal's benefits would be realised by VUW, as the property owner of GWF. MfE acknowledges that the analysis of benefits in this SAR is heavily reliant on figures from VUW, who has a commercial interest in redeveloping the site.
74. The costs and benefits of the proposal to the general public will differ due to the views expressed by groups and members of the community on the matter. This has been

highlighted through media coverage of GWF which often highlights the polarising nature of the building.

Constraints on the availability of evidence and data on monetised costs has meant that the analysis of costs and benefits is largely qualitative

75. Information on indicative costs associated with the proposal have been provided where possible. This has been drawn from the evidence and data available to MfE at the time of drafting this SAR. Our ability to source more recent estimates of costs has been impacted by limited timeframes to undertake analysis, meaning that monetised costs have not been provided for some affected groups.
76. In addition, the policy has been a recent addition to the heritage policy contained in the Bill. Due to this, we have been unable to test the proposed policy with affected stakeholders and iwi.

How do the options compare to the status quo/counterfactual?

Example key for qualitative judgements:

++	much better than doing nothing/the status quo/counterfactual
+	better than doing nothing/the status quo/counterfactual
0	about the same as doing nothing/the status quo/counterfactual
-	worse than doing nothing/the status quo/counterfactual
- -	much worse than doing nothing/the status quo/counterfactual

	Option One – *Status Quo*	**Option Two – Legislative change to direct removal of GWFs from district plan**
Effectiveness	0 RMA plan change processes have not been able to adequately address GWF heritage protection and building safety issues	++ Very effective as provides a direct path to delisting and subsequent demolition and redevelopment of site
Efficiency	0 Expensive, contentious and time-consuming plan change and Environment Court processes	++ Very efficient as it involves a relatively minor change to the Bill. Once enacted, GWF will no longer be listed as a heritage building in the WCC district plan and demolition of the building would be a permitted activity
Certainty	0 Little certainty over outcome as evidenced by two previous plan change	++ This gives VUW certainty that they can proceed to demolish (or redevelop) GWF

	processes that have not resulted in the removal of GWFs heritage status, and the resolution of building safety issues. This means that there is no clear pathway for future development of the site	without the uncertainty that comes with needing a plan change/resource consent.
Durability & Flexibility	0 Current district plan provisions and heritage status have been in place for some time and could remain so without intervention. There is a lack of flexibility in the RM system though to allow the GWF building and site issues to be effectively addressed under the current RM system.	+ This is a one-off, bespoke response to issues associated with the GWF. This is durable, as once this Bill is enacted the GWF cannot be heritage listed and demolition is a permitted activity.
Implementation Risk	0 The building and heritage issues could continue to be unresolved until it has to be demolished on public safety grounds (eg due to it being damaged in an earthquake or fire).	+ There is little risk of the GWF not being delisted and able to be demolished as a permitted activity given the clear legislative intent. WCC will implement this, and they have recently indicated strong support for this approach. There are precedent risks that councils/public see this as an opportunity to seek similar legislative changes to override other district plan provisions that they do not support. Removes the usual public participation opportunities presented by plan change and notified resource consent processes Could impact public confidence in established RMA processes
Overall assessment	This is **not the preferred option** as existing heritage and building	This is the **preferred option** over the status quo as it provides certainty that GWF will have its heritage status removed

	safety and compliance issues on the site have not been able to be addressed for many years, and for appropriate development to occur on the site	and subsequent demolition of the building will be a permitted activity. If VUW wanted to retain some or parts of the GWF, this would still be possible (even though they have always stated that they want to demolish the building).

Cost/Benefit Analysis

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Regulated groups (VUW)	None	There are no direct costs to VUW with the process to remove heritage protections from GWF.	High – the directive in primary legislation will not require VUW to apply for a plan change or resource consent
Regulators (WCC)	One off – possible cost associated with removing GWF from the heritage schedule of the Wellington City operative and proposed District Plan.	Low – costs will be met by WCC as part of business-as-usual functions under the RMA. We anticipate this will require minimal costs and WCC resource as opposed to a schedule 1 plan change process which require notification and hearings to be held. We expect this cost to be less than the $50k plan changes start from.	High – difficult to determine total cost of making a discreet change to the Wellington District Plan. Requirements under Schedule 1 of the RMA will not apply to this change.
Others (Wider public)	Some members of the public, particularly heritage groups, will see this as facilitating the loss of a significant heritage building – this is one of a few remaining examples of 1950s high rise state housing in NZ. Ongoing – while the proposal is a discreet amendment which impacts a single	Medium - Loss of heritage values associated with removing GWF from the heritage schedule of the Wellington City operative and proposed District Plans. GWF is a rare example of 1950s high rise state housing in New Zealand. Public confidence in the management of	Low – social impacts of the loss of a rare heritage building have not been assessed due to time constraints. There will be widespread interest in this legislative change due to GWF being a Category 1 heritage building

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
	heritage listed building in the Wellington City District Plan, it could set a precedent around the management of similar heritage scheduled buildings and structures. Unlike usual RMA plan change processes there will be no opportunity for the public to participate in decision making processes, reducing public scrutiny of WCC's decision. This may have some impact on natural justice.	heritage may be impacted due to Central Government using legislative intervention to direct the removal of a heritage scheduled building. Removes the ability of the public to participate in the process to de-schedule GWF.	– for some, this will be a loss of historic heritage. The polarising nature of views on heritage protections for GWF make the costs hard to estimate.
Total monetised costs		N/A	N/A
Non-monetised costs		Low	High
Additional benefits of the preferred option compared to taking no action			
Regulated groups (VUW)	Ongoing – it is anticipated that there will be longer term savings for VUW through avoided maintenance and legal costs.	Medium - VUW has indicated that maintaining GWF has cost $100k a year, with legal costs reaching $500k. The removal of heritage protections from GWF offers VUW the opportunity to save on future costs associated with maintaining the site as they can more easily modify or demolish the building. Unlocking land use potential – will enable VUW to utilise the site for higher value uses	High – these are recent figures provided by VUW. These impacts target a single property owner in Wellington City, therefore are easier to isolate.

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
		than the status quo (currently unoccupied and unused by the university).	
Regulators (WCC)	One off – using primary legislation to delist GWF will save WCC on time and costs associated with a Schedule 1 plan change process. WCC have signalled their intention to remove heritage protections for GWF through the Environment Select Committee process, and two previous attempts to deschedule the building.	Medium - Provides WCC with certainty over the outcome of a plan change to enable the descheduling of GWF, which they have attempted to do twice. NMS data from 2022-23 indicated that a plan change process will cost between $50k - $200k (excluding appeals). We anticipate WCC will save costs when compared to going through existing RMA plan change processes.	High – the proposal makes changes to how a single heritage listed building is removed from the Wellington City District Plan.
Others (Wider public)	No direct benefits to the public from removing the building's heritage status. Benefits could accrue if VUW take decisions to demolish or modify the building to improve its safety or use the site for higher value uses than under the status quo.	Low - the building is currently vacant and closed to the public, limiting the impact that the building can have on public safety. Removing heritage protection will open options for alternative use of the site, including ways to manage the physical condition of the building. This may have benefits for the wider public but largely depends on what VUW plans to do with the site once the	High

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
		heritage protections have been removed – which we cannot anticipate. Their submission to the Environment Select Committee indicates they intend to use the site for student accommodation.	
Total monetised benefits		Low	High
Non-monetised benefits		Medium	High

Section 3: Delivering an option

How will the new arrangements be implemented?

77. The amendment to the RMA will direct WCC to remove GWF from the heritage schedule of the Wellington City District Plan. This will be an administrative task for WCC, and will not require an extensive plan change process, as no decision is required. This change will be notified on the WCC website.

How will the new arrangements be monitored, evaluated, and reviewed?

78. No further monitoring, evaluation and review of the arrangements is required once GWF has been removed from the heritage schedule of the Wellington City District Plan.