

Appendix 1 - Christchurch City Council detailed submission on Resource Management (Consenting and Other System Changes) Amendment Bill

Clause	Topic	Submission	Discussion and relief sought (if applicable)
General comment		Clarify	The explanatory note states that <i>'the Bill enables councils to opt out of MDRS if they demonstrate 30 years of housing growth capacity'</i> . If it is intended that the Act rather than the revised NPS-UD specifies the 30-year housing growth capacity threshold for opting out, then it needs to be added.
2	Commencement	Retain	Support the consenting provisions coming into force two months after Royal assent, acknowledging that this provides local authorities with an appropriate amount of time to update systems and processes.
4	Definitions of long-lived infrastructure; wood processing activity	Clarify	<p>Definition of long-lived infrastructure covers a wide range of infrastructure, including telecommunication facilities, roads, cycleways, walkways. The effect of this is that such consents will have a limited duration of 35 years under new section 123B, whereas currently there is no limit on such consents granted by our council.</p> <p>We note it includes facilities for loading or unloading of passengers transported on land by any means and question whether this would extend to bus shelters and the like?</p> <p>The definition of wood processing activity includes activity - "production of long-lived wood products". Our interpretation is that, in addition to the examples listed, it could extend to the production of timber products of a long lifespan e.g. furniture but greater clarity is sought.</p>
18	Section 77G amended (Duty of specified territorial authorities to incorporate MDRS and give effect to policy 3 or 5 in residential zones)	Amend	This section places a duty on Councils to incorporate MDRS and give effect to Policies 3 of the NPS-UD in residential zones. The existing Subsection 77G(8) requires the incorporation of the MDRS irrespective of any inconsistent objective or policy in a Regional Policy Statement. The Bill proposes to delete that subclause, which would mean that any proposed incorporation of the MDRS in the Plan would still be subject to the RMA obligation that a District Plan must give effect a Regional Policy Statement. That is considered to be inappropriate where the incorporation of any MDRS is giving effect to national direction, which should override any inconsistent regional direction. Subsection 77G(8) should not be repealed.

22	Provisions that may be included in an IPI	Clarify	<p>Support the proposed changes to s80E to introduce sub-clause (j), which addresses the High Court’s determination on <i>Waikanae</i>. The interpretation of this case has been, and continues to be, a significant issue in the application of our IPI, PC14. The proposed changes made through sub-clause (j) are anticipated to greatly reduce the ambiguity of the current s80E and address the application of <i>Waikanae</i> caselaw.</p> <p>The wording of sub-clause (j) could be improved by stating the preceding sub-clauses that it is intended to relate to. Additionally, wording could also be improved to be consistent with the parent section by replacing ‘matters relating’ with ‘related provisions’. An alternative approach to (j) could be to modified to be seen to be part of s80E(2), with all sub-clauses (a) to (i) applying to it. For example:</p> <ul style="list-style-type: none"> (2) In subsection (1)(b)(iii), related provisions also include provisions that relate to any of the following, without limitation: <ul style="list-style-type: none"> (a) district-wide matters: (b) earthworks: (c) fencing: (d) infrastructure: (e) qualifying matters identified in accordance with section 77I or 77O: (f) storm water management (including permeability and hydraulic neutrality): (g) subdivision of land: (h) natural hazards: (i) business or commercial zones: <p><u>and any such related provision may be associated with</u> increasing or reducing the ability to develop a site (which may or may not be due to a requirement to recognise and provide for matters of national importance).</p> <p>We also see that subclause (j) of “<i>Matters relating to increasing or reducing the ability to develop a site</i>” could be interpreted as encapsulating most rules in a District Plan and further clarity is sought.</p>
27	Classes of activities – exception to	Retain	Support the ability to refuse consent for a controlled land use activity where there is a significant natural hazard risk under new 106A.

	requirement to grant consent		
28	Information required with consent applications	Retain	Support the requirement for information to be proportionate to the nature and significance of the activity. This reflects current practice.
29	Timeframe for processing consents for specified energy or wood processing activities	Amend	The proposed 1-year maximum time period proposed in 88BA(1) differs from the prescribed statutory timeframes for notified and non-notified resource consent applications. It is recommended that corresponding amendments are made to section 115 (time limits for notification of decision).
30	Criteria for requesting further information	Amend	Support this amendment, which reflects current practice. It is also recommended that reference is made in (2B)(a) to sections of the Act pertaining to notification.
31, 32	Failure to respond to request for information	Retain	Support these amendments which enable a consent authority to return an application as incomplete where an applicant fails to provide the requested information, rather than being required to make a decision on it. The current requirement to consider the application under section 104 is administratively costly as applications will often need to be notified before a decision can be made under section 104.
34	Requirement to hold a hearing	Amend	Council do not support this provision, as it may remove the ability for both applicants and submitters to be heard. Applicants may wish to be heard in relation to a recommendation to decline consent, or on the specifics of conditions. Submitters may wish to be heard to elaborate on their submissions, or to respond to amendments made subsequent to submissions closing. Asking a submitter (on Form 13, submission form) whether they wish to be heard, and then removing that ability, could lead to confusion and frustration for submitters.
36	Section 104 consideration of applicant's compliance history	Retain	Support this provision.
37	Refusal of land use consent due to natural hazard risk	Amend	Support this provision, which may assist where relevant matters of control or discretion do not extend to natural hazards. However, seek the following amendments: Council request that the existing s106 relating to subdivision consents is amended to be consistent with the wording of the new s106A and include proposed subclauses (b) " <i>increase an</i>

			<i>existing risk from natural hazards to a significant risk; or (c) increase an existing significant risk from natural hazards.”</i>
38	Review of draft conditions	Amend	<p>Generally support this provision, which largely reflects current practice.</p> <p>Council questions the criteria in 107G(4) of consent authorities only taking comments into account relating to technical or minor matters. An applicant may raise valid concerns about a major matter, or an administrative matter.</p> <p>107G(5) enables draft conditions to be provided more than once, but (2)(a) only allows suspension of the processing timeframe once, which is inconsistent and disincentives further review for the benefit of Council and the applicant. It is also unclear when the suspension ends i.e. is it when the applicant first responds? Ideally there should be the ability to leave the application suspended while matters raised by the applicant are discussed and conditions further refined, as frequently occurs in practice. The alternative is use of s37 of the Act however this is not preferred as it involves more administration.</p> <p>107G(2)(c) appears to be covered by 107G(2)(b) and should be deleted.</p>
39	Conditions to mitigate risk of non-compliance	Retain	Support the ability to include conditions of this nature.
41, 42	Duration of consent	Clarify	<p>As per comment on clause 2. The definition of ‘long-lived infrastructure’ covers a wide range of infrastructure, including telecommunication facilities, roads, cycleways, walkways. The effect of this is that such consents will have a limited duration of 35 years under new section 123B, whereas currently there is no limit unless Council imposes one. The same applies for consents for renewable energy activities.</p> <p>It is recommended that this not apply to land use consents granted by a territorial authority.</p>
43	Lapse date for renewable energy activities	Retain	Support the longer lapse date for these activities.

49	Information to be included in notices of requirement	Retain	Support the additional information requirements.
52, 53	Designation expiry periods	Retain	Support the longer expiry timeframes.
63	Timeframe for applying for resource consent for emergency works	Retain	Support the longer application timeframe.
64	Emergency response regulations	Amend and clarify	<p>Generally support the inclusion of this but seek the following amendments to clause 331AA(2):</p> <ul style="list-style-type: none"> • Include an additional subclause to explicitly require consideration of climate change impacts. This ensures that recovery and redevelopment in affected areas are future proofed against anticipated climate risks, including sea-level rise, extreme weather events, and increased hazard frequency. Incorporating this consideration aligns recovery efforts with the principles of sustainability and long-term resilience, reducing the likelihood of practices that exacerbate vulnerabilities. Council recommends the following wording <i>Consider whether climate change impacts warrant restricting that development.</i> • Include an additional subclause that ensures emergency response regulations are informed by a multi-hazard risk assessment to avoid compounding risks (e.g., developing in areas prone to both tsunami and say, liquefaction). This would enhance the robustness of decision-making, reducing the likelihood of unintended consequences from single-hazard-focused recovery planning. • Introduce a requirement for monitoring and evaluation of recovery efforts to assess their effectiveness in reducing vulnerability and increasing resilience. Feedback loops from such evaluations can inform future emergency regulations and improve long-term outcomes. <p>New section 331AA (6) (a) – this section empowers the making of emergency response regulations. This includes, in sub-clause (6)(a), permitting specific activities that would not be permitted by a District Plan, but not enable those activities to remain long term, unless otherwise permitted through other normal RMA processes, e.g. a resource consent. The provision for such emergency response activities, and ensuring they are temporary, is supported. However, the way the subclause seeks to ensure that such activities are temporary, particularly the reference to</p>

			“existing use rights” which is not a term used in the RMA, lacks clarity and may lead to such activities remaining long term. Amend subclause(6)(a) to permit, authorise, or prohibit specific activities, while noting that this will not give long term existing use rights <i>ensuring that Sections 10 and 10A relating to existing uses and activities do not apply</i> to those activities.
67	Service of documents	Retain	Support the inclusion of email as method of service.
71	Schedule 4 resource consent information requirements	Retain	Support the inclusion of the ‘proportionality’ consideration, which reflects current practice.
72, Schedule	Transitional arrangements	Retain	Support the proposed transitional arrangements for consenting and designations.