

DRAFT FOR CONSULTATION

Resource Management (Clean Groundwater) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill amends section 6 of the Resource Management Act 1991 to make the protection of water quality and quantity in aquifers and groundwater systems a matter of 'national importance' and makes other amendments to protect aquifers and groundwater systems.

Protecting groundwater quality and quantity is important in ensuring that ecosystems are healthy, implementing Te Tiriti o Waitangi and maintaining public health.

The Resource Management Act's purpose is to promote the sustainable management of natural and physical resources. Part 2 requires all persons exercising functions and powers under the Act to recognise and provide for matters of national importance. These include the protection of the natural character of the coast and the margins of lakes, rivers and wetland; significant indigenous vegetation and the habitats of indigenous fauna; and public access to the coast and waterways.

While lakes, rivers and wetlands are specifically mentioned, the Act omits any specific reference to aquifers or groundwater. Protecting water quality and quantity in our aquifers is important not just for their intrinsic value but also for public health. Around 40 percent of New Zealanders rely on groundwater for their drinking water. New Zealand's second largest city Christchurch depends on groundwater for the city's water supply.

This Bill's inclusion of the protection of water quality and quantity in aquifers and groundwater systems as a matter of national importance will mean that all persons exercising functions and powers under the Act must recognise and provide for the protection of water quality and quantity of aquifers and groundwater systems. This includes the Minister for the Environment in respect of the National Policy Statement

for Freshwater Management, and local authorities in respect of policy statements and plans.

The protection and sustainability of aquifers is a Te Tiriti o Waitangi issue. Aquifers need to be protected in the context of Māori water rights that are guaranteed in Te Tiriti.

Groundwater can feed wetlands, lowland rivers and lakes and contribute to their flows and levels. The over-allocation and abstraction of groundwater from aquifers for private commercial uses such as irrigation and water bottling has become an issue of increasing public concern. In Canterbury over-allocation of groundwater has significantly reduced flows in lowland spring fed streams, destroying local swimming holes and contributing to algal problems and a general decline in stream health.

Land use affects groundwater quality. When nutrients applied to land in the form of fertiliser, animal urine or septic tank discharges exceed the ability of plant cover to take them up for growth, nutrients, especially nitrogen can leach into groundwater. In Canterbury, dairying and intensive agriculture have contributed to elevated nitrate levels in groundwater and health warnings about the risk of ‘Blue Baby’ syndrome for pregnant women and bottle fed newborn babies. At present, land uses and other activities that affect aquifers can be regulated by individual local authorities in their regional and district plans. By making the protection of groundwater quality and quantity a matter of national importance, the Bill seeks to ensure that decision makers including the Minister and local authorities give greater weight to this in their national policy statements, national environmental standards, regional and district plans and decisions on resource consent applications.

Clause by clause analysis

Clause 1 is the title clause.

Clause 2 is the commencement clause. This bill will come into force into force 6 months after the date on which it receives the Royal assent.

Clause 3 identifies the Resource Management Act 1991 as the Act being amended (the **principal Act**).

Clause 4 amends section 2 of the principal Act, which concerns interpretation. The amendment inserts definitions of **aquifer** and **groundwater**.

Clause 5 amends section 6 of the principal Act to add the protection of water quality and quantity in aquifers and groundwater systems to the list of matters of national importance recognised by that section.

Clause 6 amends section 87B of the principal Act, which provides for certain activities to be treated as discretionary activities or prohibited activities, to specify that activities that have the effect of increasing nitrate levels in an aquifer or groundwater must be treated as non-complying activities (unless a relevant plan specifies that the activity is a prohibited activity) and that activities that involve discharges into aquifers or groundwater must be treated as prohibited activities for the purposes of the Act.

Catherine Delahunty

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Resource Management (Clean Groundwater) Amendment Act **2017**.

2 Commencement

This Act comes into force 6 months after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Resource Management Act 1991 (the **principal Act**).

4 Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

aquifer means a geological structure or formation that is permeated with water or is capable of being permeated with water

groundwater means any water contained in, or occurring in, pores or fractured spaces of sediments and rock

5 Section 6 amended (Matters of national importance)

After section 6(g), insert:

- (h) The protection of water quality and quantity in aquifers and groundwater systems.

6 Section 87B amended (Certain activities to be treated as discretionary activities or prohibited activities)

- (1) In the heading to section 87B, insert “, non-complying activities,” after “discretionary activities”.
- (2) After section 87B(1), insert:
- (1A) An application for a resource consent for an activity that has the effect, or is likely to have the effect, of increasing nitrate levels in an aquifer or groundwater must be treated as—
- (a) an application for a resource consent for a non-complying activity; or
 - (b) where the relevant plan specifies the activity is a prohibited activity, a prohibited activity.
- (3) After section 87B(4), insert:
- (5) Unless **subsection (1A)** applies, any activity that involves the discharge of a harmful substance or contaminant into an aquifer or groundwater must be treated as a prohibited activity.