



Updating RMA National Direction - Ministerial consultation on draft Cabinet Legislation paper - NES for Electricity Network Activities and NES for Telecommunication Facilities and minor amendments

Date:	4 August 2026	Priority:	High	Tracking number:	26-BRF-01912
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To	Action sought	Response by
Hon Chris Bishop Minister Responsible for RMA Reform	Agree the attached draft Cabinet Legislation paper Forward the draft Cabinet Legislation paper to your ministerial colleagues for comment Approve removal of regulation 62(2)(f)(vi) in the NES for Marine Aquaculture to correct a minor editorial error Agree for officials to instruct PCO to draft the minor amendment to the NES for Marine Aquaculture Agree to request approval from Cabinet to waive the 28-day rule for commencement of the minor amendments to the NES for Detached Minor Residential Units	11 August 2026



Contact for discussion (if required)

Name	Position	Telephone	1 st contact
Jo Gascoigne	General Manager	027 531 7202	☐
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Ruby Maurice	Author		

Action for Minister's Office staff

Note any changes required to the draft Cabinet legislation paper
and/or

Circulate the attached draft Cabinet legislation paper for ministerial comment once the Parliamentary Counsel Office has substantially drafted the associated instruments
and

Return the signed briefing to the Ministry for Cities, Environment, Regions & Transport
(ema.pct@mfe.govt.nz and advice@mfe.govt.nz).

Appendices and attachments

Appendix 1: Draft '*Updating RMA national direction – NES for Electricity Network Activities, NES for Telecommunication Facilities and Minor Amendments to the NES for Detached Minor Residential Units and NES for Marine Aquaculture – Approval for submission to Executive Council*' (26-CAB-01289) [appendices 1-10 of the Cabinet paper are attached, appendix 11 to be drafted subject to the Minister's approval]

The following departments/agencies have been consulted

Ministry of Business, Innovation and Employment
Ministry for Primary Industries



Purpose

1. This briefing seeks your agreement to circulate your draft '*Updating RMA National Direction – NES for Electricity Network Activities, NES for Telecommunication Facilities and minor amendments to the NES for Detached Minor Residential Units and NES for Marine Aquaculture – Approval for submission to Executive Council*' [26-CAB-01289] (Cabinet legislation paper) for concurrent agency and Ministerial consultation.
2. Your agreement is also sought on the inclusion in the Cabinet paper of minor amendments to the NES for Marine Aquaculture (NES-MA) and the NES for Detached Minor Residential Units (NES-DMRU), and to seek Cabinet approval to waive the 28-day rule for commencement of the amendments to the NES-DMRU.
3. Your draft Cabinet legislation paper currently attaches the draft NES-ENA and NES-TF as well as the Order in Council for the NES-DMRU. The Order in Council for the NES-MA will be added subject to your approval in this briefing.

Key points

4. You made final policy decisions on amendments to the National Environmental Standards for Electricity Transmission and Electric Vehicle Charging Infrastructure Activities (NES-ETA EV) (to be renamed National Environmental Standards for Electricity Network Activities) and the National Environmental Standards for Telecommunication Facilities (NES-TF) between December 2025 and May 2026, in consultation with relevant portfolio Ministers [CAB-25-MIN-0151 refers].
5. Most of your decisions were publicly released on 4 May 2026 in the recommendations and decisions reports on the proposed NES-ENA and NES-TF. Your most recent decisions [26-BRF-00100 and 26-brf-01204 refer]¹ will be released as addenda to the original report when the instruments are gazetted.
6. The Parliamentary Counsel Office (PCO) is drafting all decisions into secondary legislation.
7. The Ministry for Cities, Environment, Regions & Transport (MCERT) has led the preparation of your draft Cabinet legislation paper and proposed amendment regulations, with input from the Ministry of Business, Innovation and Employment.
8. The proposed regulations are designed to deliver a nationally consistent and enabling framework for electricity and telecommunications infrastructure. They will deliver on the Government's commitments to electrify New Zealand and build infrastructure for the future (National Party Policies).

¹ You also made decisions in March 2026 to include new electric vehicle (EV) charging infrastructure amendments in the NES for Electricity Transmission Activities. The regulations – Resource Management (National Environmental Standards for Electricity Transmission and Electric Vehicle Charging Infrastructure Activities) Amendment Regulations 2026 – have been in force since 7 May 2026 and will be superseded by the NES for Electricity Network Activities in October 2026.



9. The NES-DMRU were gazetted on 18 December 2025 and the NES-MA on 7 May 2026. Both instruments require minor amendments to resolve an implementation issue and correct an editorial error. You approved the amendment to the NES-DMRU in your Weekly Report (for the week ending 24 July 2026), and PCO has drafted an Order in Council to include in the draft Cabinet paper attached to this briefing.
10. We seek your decision on a minor amendment to the NES-MA in order to instruct PCO to prepare a further Order in Council to include in your final Cabinet paper for decisions.
11. We also seek your approval to include a recommendation to Cabinet to waive the 28-day rule for commencement of the amended NES-DMRU after gazettal, in order for the amendments to have immediate effect.
12. Your draft Cabinet legislation paper (appendix 1) progresses the making of the instruments under the Resource Management Act 1991 (RMA) as:
 - the Resource Management (National Environmental Standards for Electricity Network Activities) Amendment Regulations 2026
 - the Resource Management (National Environmental Standards for Telecommunication Facilities) Amendment Regulations 2026
 - the Resource Management (National Environmental Standards for Detached Minor Residential Units) Amendment Regulations 2026
 - [the Resource Management (National Environmental Standards for Marine Aquaculture) Amendment Regulations 2026] [to be provided to the Cabinet Office by PCO subject to your decisions - recommendation 21(b) and (d) refer] [placeholder]
13. Subject to your agreement, final versions of the Cabinet paper and RMA national direction instruments will be provided to the Cabinet Office on 27 August 2026 for consideration by the Cabinet Legislation Committee and Cabinet on 3 and 7 September 2026 respectively. These timeframes will enable gazettal of the instruments on 10 September before the Natural Environment Bill and the Planning Bill (the Bills) are enacted.
14. To achieve these timeframes, ministerial and agency consultation will need to commence in parallel before 19 August 2026. Your draft Cabinet paper includes holding text for agency comment; however, we do not anticipate any significant feedback at this stage in the process.
15. Two Regulatory Impact Statements (RIS) (appendices 3 and 4) have been prepared to support the NES-ENA and NES -TF. They were assessed by an independent quality assurance panel, and both achieved a “partially meets” rating. An addendum has been provided with the NES-ENA RIS to outline your more recent policy decisions noted in paragraph 5.
16. A Regulatory Analysis Summary is not required for the minor amendments to the NES-DMRU and NES-MA as the relevant issues have been adequately addressed in existing Regulatory Impact Analysis and the changes are technical adjustments that are likely to have no or very low impacts.
17. Officials have prepared Consistency Accountability Statements (CAS) (appendices 6 and 7) and



Summaries of Underpinning Analysis (SUA) (appendices 8 and 9) on the NES-ENA and NES-TF to meet new Cabinet legislation paper requirements on consistency with the principles of the Regulatory Standards Act 2025.² Officials' review of the proposals against the principles of the Act indicates that the amendments pose no inconsistency with the Act's principles on good law-making.

18. A Consistency Accountability Statement and Summary of Underpinning Analysis are not required for the minor amendments to the NES-DMRU or the NES-MA.
19. Subject to Cabinet decisions, the NES-ENA, NES-TF and minor amendments to the NES-MA will be gazetted on 10 September 2026 and come into force on 8 October 2026, marking the completion of Phase 2 of RM Reform and the national direction work programme.
20. The minor amendments to the NES-DMRU will have effect on 11 September, the day after notification in the New Zealand Gazette, subject to your decision and Cabinet approval.

Recommendations

21. We recommend you:

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| a. Approve the draft ' <i>Updating RMA National Direction – NES for Electricity Network Activities, NES for Telecommunication Facilities and Minor Amendments to the NES for Detached Minor Residential Units and NES for Marine Aquaculture - Approval for submission to Executive Council</i> ' [26-CAB-01289] Cabinet legislation paper for joint agency and ministerial consultation | Yes / No |
| b. Approve removing regulation 62(2)(f)(vi) in the NES for Marine Aquaculture to correct a minor editorial error | Yes / No |
| c. Note that the removal of regulation 62(2)(f)(vi) in the NES for Marine Aquaculture will remove redundant content which may lead to confusion by councils implementing the NES | Yes / No |
| d. Agree for officials to instruct PCO to draft the minor amendment to the NES for Marine Aquaculture | Yes / No |
| e. Agree to request approval from Cabinet to waive the 28-day rule for commencement of the minor amendments to the NES for Detached Minor Residential Units | Yes / No |
| f. Forward the draft Cabinet Legislation paper to your ministerial colleagues for comment | Yes / No |

² These requirements are outlined in the Cabinet Office Circular "Expectations for Good Law-making" (30 April 2026).



- g. **note** that an addendum to the recommendations and decisions report for the proposed NES-ENA and NES-TF will be publicly released when the instruments are gazetted to provide a clear record of additional policy decisions made after the report was released on 4 May 2026.

Yes / No

Jo Gascoigne
General Manager
Resource Management System, Ministry
for Cities, Environment, Regions &
Transport
04 / 08 / 2026

Hon Chris Bishop
Minister Responsible for RMA Reform

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Comments



Updating RMA National Direction - Ministerial consultation on draft Cabinet Legislation paper - NES for Electricity Network Activities, NES for Telecommunication Facilities and minor amendments

Draft Cabinet Legislation paper package

22. Your draft *'Updating RMA National Direction – NES for Electricity Network Activities NES for Telecommunication Facilities and Minor Amendments to the NES for Detached Minor Residential Units and NES for Marine Aquaculture – Approval for submission to Executive Council'* Cabinet Legislation paper is provided as appendix 1. This is the final paper in the RM Phase 2 national direction work programme and among the first prepared under MCERT.
23. The paper includes the draft National Environmental Standards for Electricity Network Activities (NES-ENA), draft National Environmental Standards for Telecommunication Facilities (NES-TF), and minor amendments to the National Environmental Standards for Detached Minor Residential Units (NES-DMRU) and National Environmental Standards for Marine Aquaculture (NES-MA). The drafts of the NES-ENA and NES-TF incorporate your recent decisions to improve the workability of the regulations and better enable their transition to the new planning system [BRF-00100 and 26-BRF-01204 refer]. PCO will lodge final versions with the Cabinet Office.
24. PCO has prepared an Order in Council for the minor amendment to the NES-DMRU [see appendix 10] you approved on 27 July 2026 [RMA Reform Portfolio Weekly Report for the week ending 24 July 2026 refers] to clarify the original policy intent that minimum setback requirements under the NES-DMRU and the corresponding building consent exemption under the Building Act 2004 are measured consistently.
25. Through implementation, stakeholders identified ambiguity when measuring minimum setback distances as the building consent exemption is applied from the external face of the wall cladding, while the NES-DMRU could be interpreted as measuring from the building's outermost features, such as eaves and gutters. This could require some granny flats to be set back further from the main dwelling or legal boundaries than intended to meet both exemptions, or otherwise require resource consent. This outcome is unintended. The policy intent, as clearly communicated in the consultation document on the NES-DMRU, was for the two frameworks to align. An urgent amendment will address this ambiguity identified by stakeholders to clarify the original policy intent, improve consistency across both frameworks, and provide greater certainty for homeowners, local authorities and builders.



26. A further Order in Council for a minor amendment to the NES-MA to resolve an editorial error will also be included in your Cabinet paper subject to your approval in this briefing. We seek your approval to instruct PCO to remove regulation 62(2)(f)(vi) from the NES. Regulation 62 relates to research or trial activities for aquaculture outside of marine farms and provides a list of areas where research and trials cannot be conducted. Regulation 62(2)(f)(vi) relates to an area of effects around the footprint of a marine farming activity rather than an actual location for a research or trial activity. The regulation is therefore redundant and could lead to confusion by councils implementing the NES.
27. You can make minor amendments to an NES under section 44(3)(f) of the RMA when they are no more than minor in effect, to correct errors, or to make similar technical alterations, without following a full consultation process. However, the amendments remain subject to requirements under the Legislation Act 2019 for changing secondary legislation, including making changes under Order in Council, publishing changes on the New Zealand Legislation website and publicly notifying changes in the New Zealand Gazette following Cabinet decisions.
28. The Cabinet paper also includes:
- two Regulatory Impact Statements (RIS) and an addendum to the NES-ENA RIS - the draft instruments and RIS must be considered by the Executive Council and the Governor-General.
 - two Consistency Accountability Statements (CAS), supported by two Summaries of Underpinning Analysis (SUA) – these documents must accompany the Cabinet paper for Ministerial consultation and Cabinet Legislation Committee consideration.
29. A Regulatory Analysis Summary is not required for the minor amendments to the NES-DMRU and NES-MA as the changes have no or only minor economic, social, or environmental impacts and changes are technical adjustments that do not fall under the technical or case-specific exemptions but are likely to have no or very low impacts. The relevant issues have already been adequately addressed in existing Regulatory Impact Analysis. The amendments are also exempt from Consistency Accountability Statement and Summary of Underpinning Analysis requirements.³

Te Tiriti Analysis

30. Treaty and Treaty settlement impacts of the proposed NES-ENA and NES-TF were assessed throughout the policy development phase [BRF-5449, BRF-5317, BRF-6930, 26-BRF-00100, 26-BRF-01204 refer]. The proposed minor changes to the NES-DMRU and NES-MA are limited to correcting errors and have negligible impacts.

Next steps

³ In accordance with item 7 of Part 3 of Schedule 2 of the Regulatory Standards Act 2025, and clause 4(3)(h), and clause 8(4) of Schedule 8 of the Regulatory Standards (Excluded Legislation) Notice 2026



31. Subject to your agreement, the draft Cabinet Legislation paper, proposed NES-TF and NES-ENA drafts, and NES-DMRU and NES-MA Orders in Council will proceed through agency and ministerial consultation from 19 – 26 August, or earlier if possible.
32. Subject to your approval, your final Cabinet paper will be lodged with the Cabinet Office on 27 August 2026 and considered by the Cabinet Legislation Committee on 3 September 2026, followed by Cabinet on 7 September 2026. PCO will lodge the final instruments with the Cabinet Office following completion of quality assurance processes.
33. The instruments will be submitted to the Governor-General in the Executive Council on 7 September 2026 and are expected to be gazetted on 10 September 2026, before the Bills are enacted. The NES-ENA, NES-TF and minor amendments to the NES-MA will have legal effect 28 days later from 8 October 2026.
34. The minor amendments to the NES-DMRU will have effect the day after gazettal if Cabinet approves a waiver of the 28-day rule.
35. MCERT will notify all submitters, councils and relevant post settlement governance entities to comply with section 44(5) of the RMA.
36. Your reasons for making minor amendments to the NES-DMRU and the NES-MA will be published on the MCERT website to comply with section 44(4)(b) of the RMA.
37. The instruments will be presented to the House of Representatives within 20 working days of being made, in accordance with section 114 of the Legislation Act 2019 and Standing Order 325A.
38. An addendum to the reports and recommendations for the proposed NES-ENA and NES-TF⁴ covering further policy decisions will be publicly released when the proposed instruments are gazetted, providing a clear record of all decisions in one place. The release and notification of the original reports and recommendations prepared under section 46A(1)(c) of the RMA occurred on 4 May 2026 [BRF-00416 refers] and before the national environmental standards were recommended to the Governor-General, satisfying the requirement under section 44(1)(b) of the RMA.

⁴ Prepared under section 46A(1)(c) of the RMA



Appendices

Appendix 1: Draft ‘Updating RMA national direction – NES for Electricity Network Activities, NES for Telecommunication Facilities and Minor Amendments to NES for Detached Minor Residential Units and NES Marine Aquaculture – Approval for submission to Executive Council’ Cabinet legislation paper [26-CAB-01289], with appendices:

Appendix 1: Draft version of the Resource Management (National Environmental Standards for Electricity Network Activities) Amendment Regulations 2026 [final instruments to be provided at a later date]

Appendix 2: Resource Management (National Environmental Standards for Telecommunication Facilities) Amendment Regulations 2026 [final instruments to be provided at a later date]

Appendix 3: Final Regulatory Impact Statement: National Environmental Standards for Electricity Network Activities

Appendix 4: Final Regulatory Impact Statement: National Environmental Standards for Telecommunication Facilities

Appendix 5: Minor changes to the Regulatory Impact Statement: National Environmental Standards for Electricity Network Activities

Appendix 6: Consistency Accountability Statement: National Environmental Standards for Electricity Network Activities

Appendix 7: Consistency Accountability Statement: National Environmental Standards for Telecommunication Facilities

Appendix 8: Summary of Underpinning Analysis: National Environmental Standards for Electricity Network Activities

Appendix 9: Summary of Underpinning Analysis: National Environmental Standards for Telecommunication Facilities

Appendix 10: Resource Management (National Environmental Standards for Detached Minor Residential Units) Amendment Regulations 2026

[Appendix 11: Resource Management (National Environmental Standards for Marine Aquaculture) Amendment Regulations 2026][to be provided to the Cabinet Office by PCO if recommendation 21(b) of this briefing is agreed to] [placeholder]