



## Q&As

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### General questions

#### **Q - What are the Government's priorities for resource management reform?**

Repealing the Natural and Built Environment Act 2023 (NBA) and Spatial Planning Act 2023 (SPA) is the first phase of the Government's three-phase programme to improve the resource management system, which also includes:

- introducing a fast-track consenting regime and making other amendments to the Resource Management Act 1991 (RMA),
- amending or developing national direction under the RMA, and
- introducing new resource management legislation into Parliament by the end of this parliamentary term.

#### **Q – Why repeal the NBA and SPA if the RMA isn't fit for purpose?**

The previous government passed the NBA and SPA in August 2023 to replace the RMA. While we agree the current RMA is not fit for purpose, we do not think the NBA and SPA will deliver an overall improvement.

Reverting to the RMA is a temporary measure aimed at making resource management regulation more straightforward in the short term.

Longer term, we are committed to fixing our resource management system, so it meets the country's changing development needs, and ensures all sectors and stakeholders have consistent and clear direction on resource use.

#### **Q – What is the effect of the repeal?**

The NBA and SPA will no longer be law. The RMA will largely revert to its previous status while the Government progresses its wider resource management work program.

In practice this will have limited impact as the new legislation has (for the most part) not been implemented. Much of the RMA remains in effect and councils continue to apply the RMA in planning and resource consenting decisions.

There are a limited number of NBA functions that have begun implementation. The Bill addresses these by clarifying interim arrangements for activity started under the NBA.

The SPA had not started to be implemented, so repeal of that Act is straightforward.

**Q – Why the need for urgency?**

It is important that repeal happens quickly because there are significant implications for local government, Māori and key sector stakeholders.

A speedy repeal minimises uncertainty in the system and limits the amount of effort spent implementing legislation that is marked for repeal.

The Government campaigned on repealing the NBA and SPA by Christmas and stands by that commitment. Achieving this requires the legislation to be passed under urgency.

**Q – Why repeal the SPA and not just the NBA?**

The SPA is intertwined with the NBA, including through its purpose and governance. We believe that repealing both the SPA and the NBA provides an opportunity for the Government to make a fresh start. We will consider spatial planning as part of the Government's programme to improve the resource management system.

**Q – Millions of dollars were spent on the reforms. Doesn't it seem like a waste of money now?**

Although the previous reforms are being wound back, a lot of lessons have been learned through the process. Getting the RM system right for all New Zealanders is the most important outcome here, and we do not believe continuing with the NBA and SPA would have been effective or efficient.

**Q – Who have you consulted?**

We committed to repealing the NBA and SPA by Christmas 2023.

The tight timeframes have only allowed time for very targeted engagement with local government, Māori, and key sector stakeholders, focused on general messages about the repeal process.

[See *Local Government* and *Māori* sections below for details on feedback]

**Q – What are the implications of this repeal for Treaty Settlements?**

The Government is committed to honouring the undertakings made by the Crown through historical Treaty of Waitangi settlements and other arrangements.

Some specific protections have been provided for Treaty settlements and other arrangements through the repeal process. For example, decision makers must give the same or equivalent effect to Treaty settlements and other arrangements under the interim fast-track consenting process, as is required under the Resource Management Act.

## **Further detail on the Bill**

### **Q – What does the Bill do?**

The main intent of the Bill is to repeal the NBA and SPA and walk back their effect. When the Bill is passed the resource management system, including the RMA and all other legislation amended by the NBA or SPA, will revert back to its previous state – with a small number of exceptions.

For example, changes were made to the Urban Development Act 2020 as a part of the NBA and SPA being enacted. These changes were for clarity and will be retained.

### **Q – What about things that have already started under the new legislation?**

It is important to address the aspects of the NBA that have already begun to be used, particularly where applications for new or amended processes have already been received.

The Bill includes transitional and savings provisions for these matters, aimed at providing an orderly repeal and ensuring that users of the resource management system have a clear understanding of how their interests are affected.

### **Q – What about fast-track consenting?**

This Government is committed to introducing legislation for a permanent fast-track consenting regime for infrastructure projects within the first 100 days of office. I have instructed agencies to work on options for a fit-for-purpose, permanent fast-track regime, which I will take to Cabinet in early 2024 seeking decisions on its design.

The fast-track regime from the NBA will be maintained until a permanent regime is developed, as a stop-gap to avoid a hiatus with no fast-track regime.

There may be some opportunities to incorporate more changes to the RM system alongside the permanent fast-track consenting regime, for instance to start addressing coalition commitments relating to freshwater.

The Bill carries over protections from the NBA that uphold existing rights and arrangements under historical Treaty settlements and other relevant arrangements, including the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

This will allow us to work towards introducing a permanent fast-track regime, while providing assurance to Post Settlement Governance Entities (PSGEs) that their settlement arrangements will still be upheld.

### **Q – What about all the legislation amended by the NBA and SPA?**

The Bill repeals most of the consequential amendments to over 150 other Acts and regulations made by the NBA and SPA. Those Acts and regulations will largely return to what they were prior to the NBA and SPA.

A small number of amendments have been retained, where they improve the workability and coherence of the amended legislation. For example, minor process improvements to the Marine and Coastal (Takutai Moana) Act 2011 have been left in place.

### **Q – What about freshwater planning?**

To give certainty to councils working on freshwater planning, the Bill extends the deadline for when new freshwater planning instruments must be notified by three years, to 31 December 2027. This gives councils additional time as we review the National Policy Statement for Freshwater Management.

See separate freshwater notes for more detail.

### **Detail on transitionals**

The areas that will be impacted by transitional, savings and consequential amendments include –

- **Compliance and enforcement direction.** Includes provisions for those aspects of the NBA compliance framework that are already in effect, to provide for decisions on consent applications received, costs incurred, and where proceedings have commenced.
- **Freshwater consents under the RMA that link to NBA provisions.** Includes Provisions relevant to the granting, duration and public notification of freshwater consents applied for since 24 August 2023
- **Requiring authorities (including council-controlled organisations) and notices of requirement.** Includes provisions to require NBA requiring authority applications in progress to cease processing and any notices of requirement that have been confirmed cannot be exercised and also provides that NBA requiring authority applications that have been approved will be revoked, except for applicants meeting the RMA definition of network utility operators.
- **Mana Whakahono ā Rohe and joint management agreements (JMA's) initiated under the NBA.** Any Mana Whakahono ā Rohe and joint management agreements initiated under the NBA, will fall away at repeal and the parties involved may then re-start the process under the RMA.
- **RMA amendments to retain the NBA requirement for the ongoing provision of information about resource consent applications by consent authorities to post-settlement governance entities (PSGEs) that have statutory acknowledgements provided in Treaty settlements.**
- any **transfers of powers** made under section 57 of the NBA.

- any matters required to ensure that Treaty settlements and rights under Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, and the Marine and Coastal Area (Takutai Moana) Act 2011 are upheld;

## Partners and stakeholders

### *Māori*

#### **Q – Has the repeal process been communicated to Māori?**

I have written to relevant Māori groups, including Post Settlement Governance Entities, notifying them of the Government's intention to repeal the NBA and SPA and the upcoming work on further reform of the resource management system.

#### **Q – What effect will the repeal have on partnerships with Māori and Māori participation?**

The Government is committed to improving the resource management system and we expect Māori partnership and participation will be part of those discussions.

#### **Q – The requirement to give effect to the principles of Te Tiriti was a core part of the legislation passed in August. How will the repeal address this?**

I have written to key partners, including iwi and PSGEs, outlining the next phases and committing to honour undertakings made by the Crown through historical Treaty of Waitangi settlements.

### *Local government*

#### **Q – What engagement has there been with local government?**

Engagement with local government has indicated a desire from this sector for clear information about the repeal, to help manage the transition, and to work closely with the Government as new policy is developed.

Due to the tight timeframes to repeal this legislation before Christmas, limited engagement has occurred to inform mayors, chairs, and chief executives about the repeal process.