



## BRF-3963: Cabinet paper for lodgement – Repealing the Natural and Built Environment Act and Spatial Planning Act

Date submitted: 30 November 2023

Tracking number: BRF- 3963

Security level: In-Confidence

MfE priority: Urgent

### Actions sought from Ministers

<i>Name and position</i>	<i>Action sought</i>	<i>Response by</i>
To Hon Chris BISHOP <b>Minister responsible for RMA Reform</b>	<b>Lodge</b> the attached Cabinet paper with the Cabinet Office by 2.00pm on Friday 1 December 2023	1 December 2023

### Actions for Minister's office staff

**If agreed to, forward** this briefing to: Hon Nicola Willis, Minister of Finance; Hon Chris Bishop, Minister of Housing and Infrastructure; Hon Dr Shane Reti, Minister for Health; Hon Simeon Brown, Minister for Energy, Local Government and Transport; Hon Paul Goldsmith, Minister for Arts, Culture and Heritage and Treaty of Waitangi Negotiations; Hon Judith Collins, Minister of Defence; Hon Todd McClay, Minister for Agriculture, Forestry and Hunting and Fishing; Hon Tama Potaka, Minister for Conservation and Māori Crown Relations: Te Arawhiti; Hon Melissa Lee, Minister for Economic Development; Hon Simon Watts, Minister for Climate Change; Hon Penny Simmonds, Minister for the Environment; Hon Chris Penk, Minister for Land Information; Hon Shane Jones, Minister for Oceans and Fisheries, and Resources

**Lodge** the attached Cabinet paper with Cabinet Office by 2:00pm on Friday 1 December 2023

**Return** the signed briefing to the Ministry for the Environment ([ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)) and [rm.reform@mfe.govt.nz](mailto:rm.reform@mfe.govt.nz)

### Appendices and attachments

1. Cabinet Paper: *Repealing the Natural and Built Environment Act and Spatial Planning Act* (clean version)
2. Cabinet Paper: *Repealing the Natural and Built Environment Act and Spatial Planning Act* (track-change version)



# **BRF-3963: Cabinet paper for lodgement – Repealing the Natural and Built Environment Act and Spatial Planning Act**

## **Purpose**

1. This briefing provides an updated version of the Cabinet paper *Repealing the Natural and Built Environment Act and Spatial Planning Act* (the Cabinet paper) for consideration by Cabinet on 4 December 2023.

## **Cabinet paper**

2. The Cabinet paper informs Cabinet of your intention to repeal the Natural and Built Environment Act 2023 (NBA) and the Spatial Planning Act 2023 (SPA), as the first step in your wider plans for the resource management system.
3. The Cabinet paper is scheduled to be considered by Cabinet on 4 December 2023. We invite you to lodge the Cabinet paper with the Cabinet Office by 2.00pm on 1 December 2023.
4. An initial draft of the Cabinet paper was provided to you on 29 November 2023 alongside a briefing seeking decisions on the scope of the repeal legislation (BRF-3951: Delivering your resource management priorities: repeal of the NBA and SPA refers). You provided feedback on the initial draft at a meeting with officials on 30 November 2023.
5. The attached version of the Cabinet paper has been updated following your feedback on the initial draft and to align with your decisions on BRF-3951. A 'track change' version is provided alongside the clean version, so you can see the changes that have been made.
6. We have removed recommendations to retain components of the compliance and enforcement regime in the NBA, in line with your decisions on BRF-3951. The Cabinet paper now also notes your intention to write to Post-Settlement Governance Entities (PSGEs), other relevant Māori groups and local government.
7. A particular change to note is that more detail has been added to some of the Cabinet paper recommendations, particularly for those relating to transitional and savings arrangements. This is to provide the Parliamentary Counsel Office (PCO) with the level of detail and certainty they need to commence drafting, noting that tight timeframes mean that the ability to seek further decisions from you will be limited. The additional detail is still within the scope of your decisions on BRF-3951.
8. Another key change is that the Cabinet paper now sets out an approach to consequential and other amendments made by the NBA. The repeal legislation

will reverse or amend all amendments made by the NBA unless they are listed in an appendix attached to the Cabinet paper. The Cabinet paper makes it clear that the amendments proposed to be retained are those that improve the workability or coherence of other legislation and are not related to the NBA or SPA. We consider that this approach will allow for easier drafting and aligns with your decisions on BRF- 3951. This briefing seeks your confirmation that you are comfortable with this approach.

9. Based on new information, recommendations 11 and 12 in BRF- 3951 which relate to freshwater-related resource consents are no longer best advice. Best advice is set out in the Cabinet paper at paragraphs 26 and 27, which is for no transitional arrangements to be provided and for officials to keep a watching brief. This briefing seeks your agreement to that change.
10. The Cabinet paper also clarifies the proposed approach to the provisions in the NBA on requiring authorities, as the recommendations in BRF- 3951 left some room for ambiguity. Under the proposed approach, requiring authority applications submitted under the NBA will cease to be processed and where requiring authority status has been approved under the NBA, this status will be revoked. Notices of requirement lodged by NBA requiring authorities will cease to be processed and, if a notice of requirement has been confirmed, it will not be able to be exercised. The exception to this approach is where an approved requiring authority applicant is a network utility operator under the RMA, in which case requiring authority status will be retained.
11. The Cabinet paper also provides greater detail around how the fast-track consenting provisions in the NBA can be retained until a permanent fast-track consenting regime is developed. This includes providing appropriate measures to uphold Treaty settlements through retaining provisions in the NBA that were designed to uphold Treaty settlements, takutai moana legislation, and other arrangements.

## Next steps

12. Officials are available to meet and discuss any matters prior to Cabinet if you wish. We will also provide you with talking points later today to support your discussions at Cabinet.
13. We will update the letters to local government and PSGEs in line with the direction you provided at the meeting on 30 November 2023. We will also provide you with separate advice on a wider communication strategy following Cabinet decisions.
14. We are currently operating to the schedule below:

Action/Meeting	Proposed date
Lodge Cabinet paper	1 December

Cabinet meeting	4 December
Targeted engagement with PSGEs, relevant Māori groups, and local government to inform them of the repeal process	4 -21 December
PCO draft bill	4 – 14 December
Draft legislative Cabinet paper and near-final bill provided to your office (departmental/Ministerial consultation in parallel)	11 December
LEG paper and bill lodged with Cabinet office	14 December
Cabinet meeting, followed by introduction of the bill to the House after PCO's final quality assurance processes	18 December
Bill accorded urgency by the House, select committee stage bypassed	19-21 December

## Recommendations

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We recommend that you:

- a. **note** that we have updated the Cabinet paper to incorporate your feedback and to provide PCO with the level of detail needed to commence drafting

Yes | No

- b. **note** that the Cabinet paper clarifies the proposed approach to repealing the requiring authority provisions in the Natural and Built Environment Act 2023

Yes | No

- c. **agree** to the approach to consequential and other amendments made by the NBA set out in paragraphs 44-48 and Appendix 1 of the Cabinet paper

Yes | No

- d. **agree** that recommendations 11 and 12 of BRF-3951 on freshwater-related resource consents are not reflected in the Cabinet paper

Yes | No

- e. **lodge** the attached Cabinet paper with the Cabinet Office by 2:00pm on 1 December 2023, for consideration by Cabinet 4 December 2023.

Yes | No

## Signatures

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Jo Gascoigne  
General Manager – Resource Management System  
**Ministry for the Environment**  
**1 December 2023**

Hon Chris BISHOP  
**Minister responsible for RMA reform**

**Date:**



## **Appendices**

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Please see appendices as attached via email to the Minister's office.