Ministry for the Environment
Manatū Mō Te Taiao

Document 1

Secondary Briefing to the Incoming Minister: Climate Change

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Actions sought from Ministers		
Name and position	***Action sought***	***Response by***
To Hon Simon WATTS **Minister of Climate Change**	**Discuss** with officials	4 December 2023
CC Hon Nicola WILLIS **Associate Minister of Climate Change**	None - for information	N/A

Actions for Minister's office staff
Forward this briefing to Minister Willis' office. **Return** the signed briefing to the Ministry for the Environment (ministerials@mfe.govt.nz).

Appendices and attachments
1. Appendix 1: Statutory responsibilities on the Minister of Climate Change 2. Appendix 2: Climate Change Funding Profile

Key contacts at Ministry for the Environment			
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Minister's comments

Secondary Briefing to the Incoming Minister: Climate Change

Key messages

1. The impacts of climate change and related issues are being felt in New Zealand. The 2023 North Island severe weather events highlighted that the existing risk and disaster management systems were not designed for a changing climate, and that the public is expecting solutions. The summer of 2023 will likely bring further challenges as a result of El Niño weather patterns.

2. Managing the impacts of climate change, delivering on New Zealand's statutory obligations and meeting international commitments requires consistent, long-term and effective action by all. New Zealand will need to both continue reducing our greenhouse gas emissions (mitigation) and prepare for inevitable sudden and gradual changes to the physical environment (adaptation).

3. A smooth transition to a net zero and resilient economy can present opportunities for economic growth, exports and prosperity for New Zealanders, while reducing the impacts the country feels from climate change. In contrast, a delayed transition is likely to lock-in high-emissions pathways and infrastructure, increase losses and damages from natural hazards, and make it harder to meet our long-term targets.

4. To deliver on your priorities and meet statutory obligations, there are several key issues and choices for you to make over the coming parliamentary term.

Key issues in the climate change portfolio

5. Key issues in this portfolio over the coming Parliamentary term include:

Delivering a second emissions reduction plan

6. You are the Minister with statutory responsibility for publishing the second emissions reduction plan, which is due to be released by the end of December 2024. The plan has the potential to be an important mechanism to advance your priorities for decarbonisation, including in energy and transport, beyond the first 100 days. Your choices will influence the costs and benefits of the transition to net-zero and how these are distributed across the economy. Officials will seek an early conversation with you to understand your priorities and preferences for how to meet the emissions reduction targets, and how you want to work with your Cabinet colleagues with portfolio responsibilities relevant to climate change.

Strengthening emissions pricing

7. The New Zealand Emissions Trading Scheme (NZ ETS) is a key tool for reducing emissions. You have choices about how to ensure stability, confidence and

support for a carbon price which rises over time, and how to manage the impacts on households, businesses and rural communities. This includes decisions on how to improve price responsiveness across the economy, and how to create financial incentives for additional types of removals, such as from on-farm sequestration and blue carbon.

Reducing agricultural emissions while supporting the sector

8. Agricultural emissions make up nearly half of New Zealand's gross emissions. You have choices about how to work with the agricultural sector to bring down emissions while supporting farmers and rural communities. There is a range of options in the short term, including ensuring farmers have access to the right technologies and tools to lower emissions and through recognising on-farm sequestration. To prevent agricultural emissions pricing coming into the ETS from 1 January 2025, legislated provisions will need to be repealed in 2024.

Meeting our international climate commitment

9. Your first opportunities for international engagement on climate change will be at the UN Climate Change Conference (COP28). COP28 will include a once in five-year 'Global Stocktake' of progress in implementing the Paris Agreement.

10. In addition to advocating for New Zealand's interests at COP28, decisions will be needed this term about how to approach meeting our existing Nationally Determined Contribution (NDC) under the Paris Agreement, including whether to pursue scaled up domestic action and/or progress international negotiations to purchase mitigation from other countries. A first implementation progress report is due in 2024, and our second NDC is due at the end of 2025.

Preparing for a changing climate

11. Recent severe weather events have demonstrated a pressing need for adaptation, to protect lives and livelihoods. You have a series of choices about how to prepare for the impacts of a changing climate, including enabling risk-informed decision-making by all actors, the distribution of adaptation costs, and ensuring resilient infrastructure is built in the right places. A key choice will be how to sequence and prioritise post-event recovery, in relation to developing a broad framework for proactive risk management and pre-emptive relocation.

12. The Climate Change Commission will publish an assessment of the progress and sufficiency of the first national adaptation plan in August 2024. A Government response to the Commission's report in early 2025 will provide an opportunity to introduce any new or different policies, or to decide to focus on implementation of existing policies.

Signatures

	1/12/23		1/12/23
Sam Buckle **Deputy Secretary – Climate Change Mitigation and Resource Efficiency**	**Date**	Nadeine Dommisse **Deputy Secretary – Environmental Management and Adaptation**	**Date**
Hon Simon Watts **Minister of Climate Change**	**Date**		

Secondary Briefing to the Incoming Minister: Climate Change

Purpose

13. The purpose of this briefing is to provide you an overview of:

    i the climate change portfolio, your role as Minister and how the Ministry for the Environment can support you

    ii the strategic context for key issues and decisions coming up this term.

Overview

The global context

14. The world is tracking towards warming of 2.1°C to 3.5°C above pre-industrial levels by 2100 (IPCC, 2023). Significantly greater global action is needed to meet the Paris Agreement target, to keep warming well below 2°C and aim to limit the increase to 1.5°C above pre-industrial levels.

15. We are now witnessing the impacts of climate change. This year, the world has seen its hottest June, July, August and September since records began (World Meteorological Organization [WMO], 2023). Globally, the economic losses from extreme weather events increased sevenfold from 1970 to 2019 (WMO, 2021) and are now estimated to amount to US$143 billion annually (Newman & Noy, 2023). The Intergovernmental Panel on Climate Change (IPCC) has found that climate change-related risks are becoming more complex and difficult to manage.

16. The impacts, losses and damages from climate change are projected to escalate with every increment of global warming – and every bit of warming we can prevent will bring benefits (IPCC, 2022). Climate change will also exacerbate other social and environmental problems such as inequality and biodiversity loss.

17. Since climate change is caused by cumulative global emissions of greenhouse gases, avoiding the worst impacts requires collective global action. It is in each country's interest that we all play our part to reduce emissions.

The local context

Impacts of climate change in New Zealand

18. The impacts of climate change are being increasingly felt by New Zealanders as they become more frequent and severe:

    - A recent study found that 30 per cent of damages from the 12 worst flood events in New Zealand from 2007-2017 were directly attributable to climate change (Frame et al, 2020).

- Cyclone Gabrielle, New Zealand's costliest non-earthquake natural disaster to date, gave rise to 15 fatalities and displaced thousands of people. The Treasury has estimated the combined damage from Cyclone Gabrielle and the Auckland Anniversary Weekend Floods in early 2023 may tally between NZ$9 - $14.5 billion (2023).

- 2022 set a record for climate-related extreme weather general insurance claims in New Zealand for a third consecutive year, with claims over NZ$351 million – a figure already exceeded in 2023 by the North Island Weather Events[1] (Insurance Council of New Zealand, 2023).

19. The risks presented by climate change are expected to increase with further warming. The costs of maintaining critical infrastructure and services will rise under gradual climate impacts (eg, sea level rise and changes in rainfall patterns), along with the costs of responding to severe weather. These costs and impacts will not be evenly distributed. Some communities are more vulnerable to impacts due to geographical location, age, disability, employment, housing and other socioeconomic factors.

20. New Zealand's economic performance may also be affected by climate change. Our primary industries are particularly risk-exposed given their direct dependence on climate-sensitive natural resources. Treasury estimated the droughts in 2007-08 and 2012-13 cost approximately $4.8 billion to the primary sector, including indirect losses (Frame et al, 2018). Recent Reserve Bank stress testing found that a one-year drought could result in 7-8 per cent of sheep, beef and dairy loans defaulting, while a two-year drought could double the default risk (RBNZ, 2023).[2]

New Zealand's emissions profile

21. New Zealand's gross emission levels fluctuate year by year but have remained relatively stable since peaking in 2006, as shown in figure 1.[3] The country's emissions contribute approximately 0.15 per cent of total global emissions,[4] while our people make up around 0.06 per cent of the global population.[5]

22. New Zealand's net emissions are significantly lower than gross emissions, as shown in figure 1. This reflects New Zealand's strong reliance on carbon removals from forestry within its emissions profile. In 2021, carbon removals

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[1] These figures do not capture the full financial costs of these events such as payouts from the Earthquake Commission, and costs of restoring damaged roading, waters, telecommunications and energy systems.

[2] This is compared with around 3 per cent in a baseline with no drought.

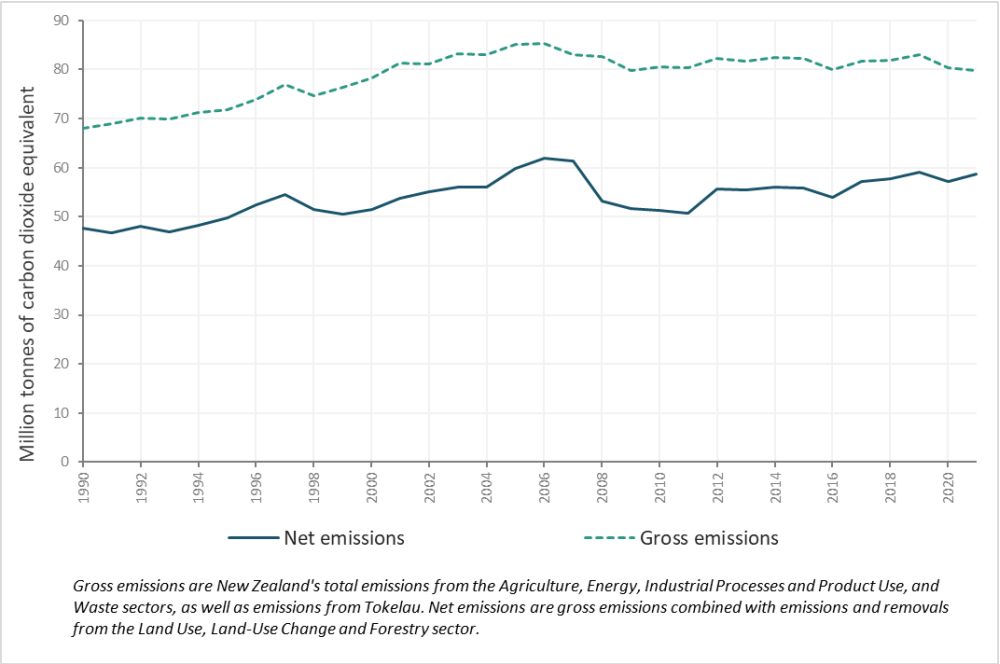
[3] Data are from New Zealand's National Greenhouse Gas Inventory 1990 – 2021. All emissions data in this section are presented using global warming potentials (GWP) with a 100-year time horizon from the Intergovernmental Panel on Climate Change Fifth Assessment Report (AR5).

[4] Data sourced from the Emissions Database for Global Atmospheric Research 2023 report.

[5] Data sourced from the United Nations Department of Economic and Social Affairs, World Population Prospects 2022 report.

offset 26 per cent of New Zealand's gross emissions from other sectors, well above the OECD average of 7.9 per cent.[6]

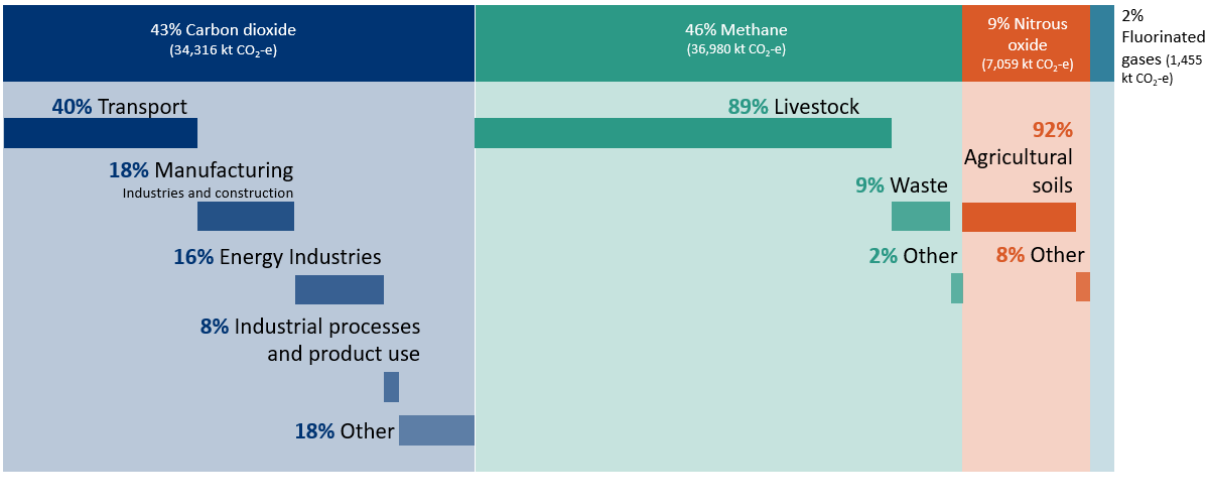
Figure 1: New Zealand's gross and net emissions (in Mt CO_2-e) from 1990 to 2021



Gross emissions are New Zealand's total emissions from the Agriculture, Energy, Industrial Processes and Product Use, and Waste sectors, as well as emissions from Tokelau. Net emissions are gross emissions combined with emissions and removals from the Land Use, Land-Use Change and Forestry sector.

23. New Zealand has an usual emissions profile compared with other developed nations. The sources of our gross emissions are shown in figure 2.

Figure 2: New Zealand's gross greenhouse gas emissions, 2021



Note: Emissions presented here exclude emissions from Tokelau

24. On a per capita basis, New Zealand's gross emissions are relatively high (16.8 tCO_2-e in 2022) compared to the OECD average (9.6 tCO_2-e in 2022). Much of this difference comes from methane emissions, which are around six times

[6] Data sourced from the Emissions Database for Global Atmospheric Research 2023 report.

higher than the OECD average. In contrast, New Zealand's CO_2 emissions per capita are relatively low, around 14 per cent below the OECD average.[7]

25. Based on existing policies and measures, New Zealand's gross emissions are projected to steadily decrease by 30 per cent between 2021 and 2050.

The opportunity in a smooth climate transition

26. Addressing climate change presents a significant challenge, but there are a range of known solutions. A smooth transition to a low-emissions, resilient economy can reduce the impacts New Zealand feels from climate change, and ensure New Zealanders are able to prosper in an uncertain future.

27. The Global Centre on Adaptation (2019) found that investments to improve climate resilience, such as strengthening early warning systems and making new infrastructure resilient, have been shown to have a 1:2 and 1:10 cost benefit ratio.

28. Taking effective action to reduce emissions can also present opportunities for economic growth, exports and prosperity for New Zealand. Boston Consulting Group (2023) found the value of the global green economy is expected to reach NZ$9.4 trillion by 2030, and it identified opportunities for New Zealand in eco-tourism, sustainable construction, low carbon energy systems, sustainable food production and green consumer products.

29. Modelling from Deloitte (2023) estimates that acting decisively now by investing in decarbonisation and climate innovation is expected to deliver NZ$64 billion to New Zealand's economy by 2050. By contrast, inadequate action may result in GDP loss of NZ$4.4 billion over the same time period. These losses may arise if New Zealand does not respond to international policy, regulatory, technology and market changes caused by the global climate response. This includes, changing consumer behaviours and trade requirements.[8]

Legal architecture, roles and responsibilities

The framework of New Zealand's climate response

30. The Climate Change Response Act 2002 (the CCRA) is the core legislation for New Zealand's domestic climate mitigation and adaptation responses. Its purpose is to provide a framework for clear and stable climate change policies that contribute to the global effort under the Paris Agreement to limit warming to 1.5°C; to adapt to the effects of climate change; and to provide for an emissions trading scheme.

[7] Data sourced from the Emissions Database for Global Atmospheric Research 2023 report.
[8] This is already evident, with commitments to net zero emissions supply chains and products by 2050 from major international purchasers of New Zealand exports, such as Tesco and Nestlé.

31. The framework established by the Climate Change Response (Zero Carbon) Amendment Act (2019) includes:

    i A **legislated emissions reduction target** for 2050 and a system of five-yearly **emissions budgets** to provide stepping-stones towards meeting that target. The 2050 target requires:

        a. Net zero emissions of all greenhouse gas (GHG) emissions other than biogenic methane by 2050, and for each subsequent calendar year

        b. 24 - 47 per cent reduction below 2017 biogenic methane emissions by 2050, including 10 per cent reduction below 2017 biogenic methane emissions by 2030

    ii **Emissions reduction plans** for meeting the emissions budgets and keeping on track to achieve the 2050 target

    iii **National climate change risk assessments** to identify and assess the risks to New Zealand from the current and future effects of climate change

    iv **National adaptation plans** to respond to each climate change risk assessment and meet the Government's adaptation objectives

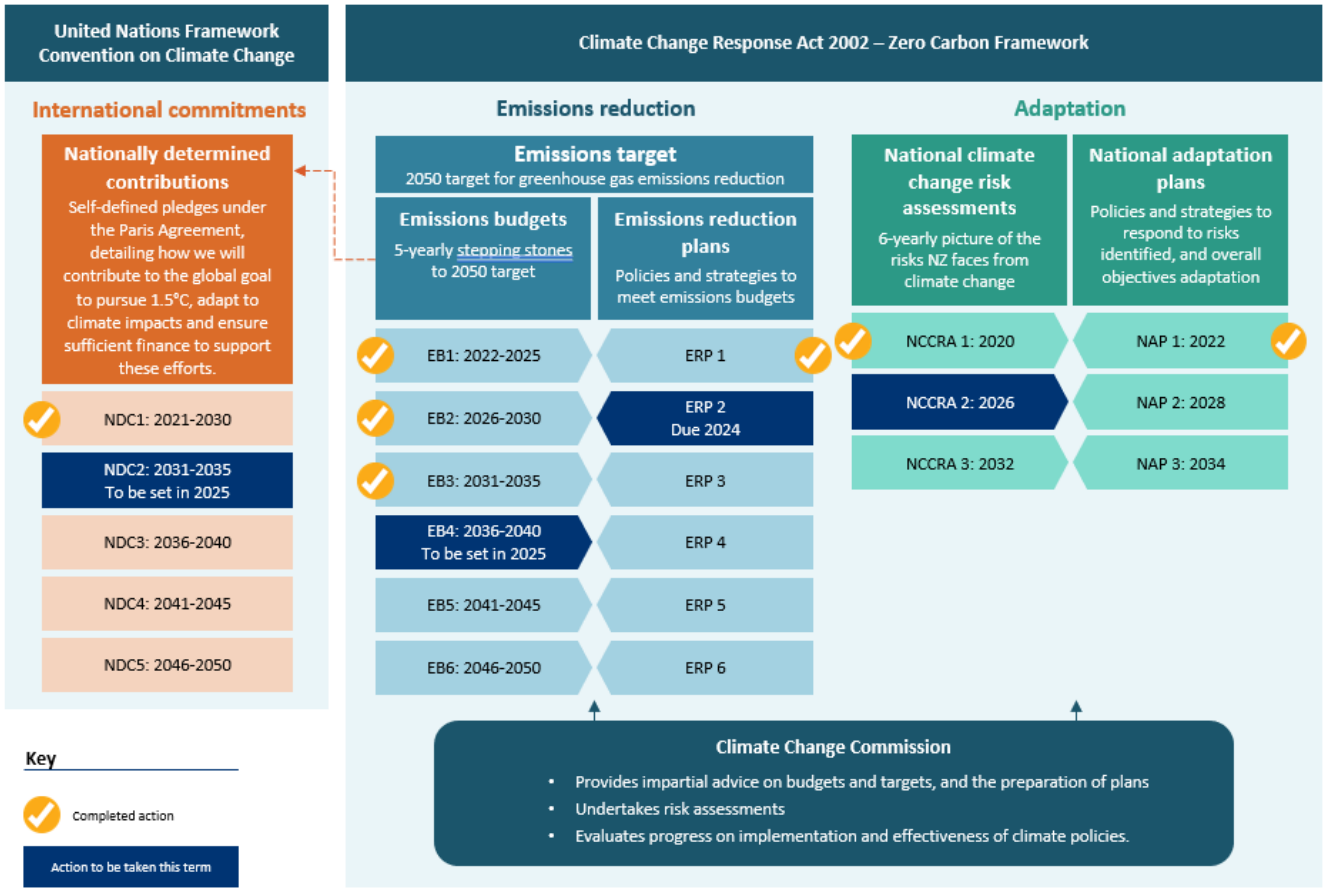
    v The **Climate Change Commission**, an independent Crown Entity which provides impartial advice and holds the Government of the day to account for action on climate change.

32. The framework was designed to provide enduring predictability about the direction of New Zealand's climate response, while enabling sufficient flexibility to respond to changes in priorities and preferences, such as in how to meet the targets.

33. The United Nations Framework Convention on Climate Change sits alongside the CCRA and provides for New Zealand's international commitments. New Zealand has a **Nationally Determined Contribution (NDC)** to the Paris Agreement within this framework. This outlines our international emissions reduction commitment for 2030, which can be met using both domestic mitigation action and mitigation outcomes purchased from overseas.

34. The overall framework is laid out in figure 3, below.

Figure 3: New Zealand's climate change response framework



Ministerial responsibilities

35. Your role as Minister is to provide strategic direction and decision-making on climate issues, and to establish the policy and regulatory settings required to achieve desired climate outcomes.

36. You are the responsible Minister of Climate Change under the **Climate Change Response Act 2002**. Your powers, functions and responsibilities include:

    i Setting emissions budgets and ensuring they are met

    ii Preparing emissions reduction plans (next in 2024)

    iii Preparing national adaptation plans (next in 2028)

    iv Responding to the Climate Change Commission's progress reports on climate change mitigation and adaptation (next in 2024)

    v Setting regulations for the ongoing operation of the emissions trading scheme and synthetic greenhouse gas levy (annually).

37. As climate issues cross many legislative and portfolio jurisdictions, fulfilling your responsibilities will involve working closely with your Ministerial colleagues across a wide range of issues, including finance, energy, transport, infrastructure,

environment, local government, agriculture, forestry, housing, emergency management, and conservation.

38. In addition, the CCRA requires the Minister of Climate Change to ensure that iwi and Māori be adequately consulted on particular issues.

39. Climate change matters are also included in a range of other legislation, including the Resource Management Act;[9] and the Financial Markets Conduct Act.[10] You do not have responsibility for these legislative frameworks, but will have an important role in any decisions taken in these areas as they relate to your portfolio.

40. Further detail on requirements and statutory obligations of your portfolio are included in Appendix 1.

International obligations

41. As Minister of Climate Change, you are responsible for leading the development and implementation of New Zealand's international policy on climate change and representing New Zealand on the international stage. You will be supported in this by the Ministry for the Environment and the Ministry of Foreign Affairs and Trade (MFAT).

42. We understand a separate briefing has been provided by MFAT on the international role of the Minister of Climate Change, and the next annual Conference of the Parties (COP28), which you are attending.

Role of the Ministry

43. The Ministry is the Government's lead advisor on climate change. This includes working with key agencies and partners to provide joined-up advice to Ministers across climate-relevant portfolios, such as agriculture, energy and transport.

44. The Ministry also plays a key stewardship role within the climate system. This involves:

    i maintaining the overall architecture and providing cross-cutting oversight to ensure the climate response delivers what New Zealand needs

    ii regulatory stewardship of the Climate Change Response Act 2002

[9] The Resource Management Act requires the effects of climate change to be considered and prioritised, and for local government to have regard to the national adaptation plan and the emissions reduction plan.

[10] The Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021 makes climate-related disclosures mandatory for financial market participants.

iii working with other actors including central government agencies, local government, Māori, businesses, and community organisations to implement and deliver on Government priorities

iv building and supporting our climate knowledge and evidence system

v monitoring environmental progress and outcomes

vi facilitating funding, investment and innovation

vii leading the development and implementation of cross-government strategies, including emissions reduction plans and national adaptation plans.

Partnership with Māori

45. The Ministry is responsible for ensuring Māori perspectives, rights, and interests are incorporated throughout policy development and decision-making processes.

46. The Ministry's ability to complete its work in alignment with the principles of the Treaty of Waitangi depends fully on maintaining strong, respectful and productive working relationships with Māori. As noted in the Ministry for the Environment's briefing to incoming Ministers, the Ministry holds a number of specific commitments with iwi and Māori in Treaty Settlement Acts, Deeds of Settlement, relationship agreements and Accords.

Maintaining coherence across environmental policy

47. The Ministry works across environmental policy domains, to deliver multiple benefits for climate change and water quality, biodiversity, planning and resource management policy. This is a core consideration in our advice. For example:

    i Resource management and planning rules are critical to enabling better pre-emptive local management of climate change risks, and can support faster recovery following an event

    ii They are also key to enabling and encouraging the construction of low-emissions infrastructure, such as renewable energy generation and electric vehicle charging infrastructure

    iii How we plan and use our urban areas impacts emissions, particularly from the transport and energy sectors. It also affects the country's climate resilience, for example better stormwater management can reduce the impacts of a flood event

    iv There is potential to explore integrating emissions management, sequestration and freshwater outcomes at the farm scale, potentially leveraging the freshwater farm plan system and incorporating market assurance requirements, though working closely with farmers and processors and better integrating data and reporting systems

    v There are opportunities to both reduce emissions and increase resilience and protect and enhance biodiversity. For example, the use of 'nature-based

solutions' like wetland restoration can reduce flood risk while restoring habitats, and our approach to carbon removals through forestry or blue carbon can also improve outcomes for biodiversity

vi Policies to reduce waste and increase circularity play an important role in meeting emissions targets, given emissions from waste make up 4.4 per cent of our national gross emissions.

Governance and collaboration

48. The Climate Change Chief Executives Board is a cross-agency governance body which provides strategic, cross-agency advice to Ministers on the climate change programme in the context of the Government's broader economic priorities. It coordinates the implementation of, and monitors and reports on progress on New Zealand's emissions reduction plan and national adaptation plan. The Board is chaired by the Secretary for the Environment and comprises eight Chief Executives from across central government. You have received an accompanying briefing from the Board directly.

49. Local government bodies often develop their own climate policies and lead the implementation of government decisions. Local government will continue to be a core delivery partner for climate change outcomes, particularly in embedding climate adaptation in planning processes.

50. There are a number of other key actors relevant to decision-making on climate change, set out in table 2.

Table 2: Other relevant actors key to our climate policy response

Group	Type	Relationship
Climate Change Commission	Independent Crown Entity	Provides independent, impartial advice to the Government, and holds the Government of the day to account for action on climate change. Evaluates progress on implementation and effectiveness based on publicly available information.
Parliamentary Commissioner for the Environment	Officer of Parliament	Provides independent advice to decision makers to maintain or improve the quality of the environment. Includes reviewing, investigating and reporting on environmental matters and the government's environmental systems and processes.
Environmental Protection Agency	Crown Agent	Administers the Emissions Trading Register and Industrial Allocations of NZUs under the Emissions Trading Scheme. Reports to the Minister of Climate Change.
Ministry for Primary Industries (MPI) / Te Uru Rākau (TUR) (NZ Forestry Service)	Crown Agent	As delegated by the EPA under CCRA s87A, MPI/TUR administer forestry operational activities under the NZ Emissions Trading Scheme. Reports to the Minister of Forestry.

Delivering on your commitments and priorities

51. We understand that as a Government, you are committed to New Zealand's climate change targets, including achieving net zero greenhouse gas emissions excluding biogenic methane by 2050, and the first Nationally Determined Contribution to the Paris Agreement.

52. We note that you intend to review the methane science and targets in 2024 for consistency with no additional warming from agricultural methane emissions.

53. To meet New Zealand's targets, we understand your priorities relating to the climate change portfolio are as follows:

    i Lowering transport emissions by reducing planning constraints and undertaking cost-effective investment to improve the EV charging network nationwide.

    ii Reviewing the regulatory burden on farmers while lowering agricultural emissions, by supporting farmers to use new technology, liberalising genetic engineering laws and implementing a fair and sustainable pricing system for on-farm agricultural emissions by 2030, outside of the ETS.

    iii Doubling renewable energy by tackling planning barriers to major investment, whilst ensuring security of energy supply and avoiding excessive prices.

    iv Recognising carbon removals and sequestration on-farm, and exploring other forms of sequestration, such as blue carbon.

    v Restoring confidence and stability to the market by stopping the current ETS review, and delivering sustained increases in the ETS price over time

54. In addition, coalition agreement priorities for post-event recovery efforts, on resource management and infrastructure investment, while led by other portfolios, are closely connected to climate adaptation.

55. We further understand from initial conversations with you and the Blueprint for a Better Environment, that you may have other priorities, including in relation to adaptation.

56. Key actions to take these priorities forward could include:

    i developing a legislated adaptation framework to guide how costs associated with the changing climate will be shared between central and local government, property owners and insurers

    ii building a consensus for the funding of infrastructure, recovery from extreme weather events, and data collection

    iii gathering and sharing high-quality information and data so that property owners and insurers can properly understand risks

iv streamlining rules for landowners near flood-prone rivers to undertake preventative maintenance and recover from extreme weather events

57. In addition, coalition agreement priorities on post-event recovery efforts, resource management, city and regional deals and infrastructure investment, are closely connected to climate adaptation.

58. The Ministry will work closely with you to further understand and deliver on your priorities. These will shape the approach we take to addressing the key issues in the climate portfolio (see key issues, pages 2-3).

Strategic context

59. The following sections provide an overview of the strategic context for delivering your priorities, and key issues in the climate change portfolio.

Mitigation – achieving our emissions reduction targets

60. Reducing emissions in line with New Zealand's emissions budgets and targets requires consistent, long-term and credible policy decisions which provide certainty. To support this, a second emissions reduction plan is due by the end of 2024, which will outline this Government's policies and strategies for decarbonisation.

61. There are different combinations of policy settings that could be applied to reduce emissions, including different ways to use markets, pricing, finance and regulation. The policy mix you choose will determine how quickly we decarbonise the electricity grid, transport network and industrial processes, as well as how we work with farmers to bring down emissions, and the approach to forestry.

62. To inform the policy options and key judgements for emissions reduction, officials will seek to understand your priorities and preferences for:

    i how much you wish to rely on reducing New Zealand's gross emissions by decarbonising the New Zealand economy, or removing carbon from the atmosphere (for example, through forestry)

    ii the extent to which New Zealand's transition will emphasise improving emissions efficiency in current economic activities or involve broader shifts across the economy

    iii the extent to which you wish to lay the groundwork for future emissions reductions, in addition to policies to achieve the immediate budget

    iv who should bear the costs of the transition, which distributional impacts you are most concerned about, and how you manage those impacts

    v any broader outcomes you would like to achieve through decarbonisation.

63. The pace of domestic action will also directly determine how much offshore mitigation (purchase of international emission reduction units) will be needed to meet our first Nationally Determined Contribution (NDC). The NDC requires significantly more emissions reduction by 2030 than is required by our domestic emissions budgets, to better align with the 1.5°C temperature goal of the Paris Agreement.[11]

64. Achieving the NDC will likely require a balance between additional domestic emissions reduction and the purchase of offshore mitigations. Over this term, you will have the opportunity to decide how best to set that balance: the second Emission Reductions Plan is the next opportunity to set the level of domestic reductions.

65. Officials will work with you to progress your priorities for emissions reduction and can provide you with information and advice on the long-term implications of policy choices for New Zealand's transition, and how to remain adaptive to new opportunities and risks that may arise in future.

Adaptation – managing risks to New Zealand and increasing our resilience

66. The 2023 North Island severe weather events highlighted that the existing risk and disaster management systems were not designed for a changing climate, and that there is public expectation of solutions. The summer of 2023 will likely bring further challenges as a result of El Niño weather patterns.[12] While extreme weather events put climate change front of mind for many, chronic changes – such as sea level rise – are also a challenge.

67. Managing New Zealand's growing risks from climate change and adverse weather events will require a mix of:

    - **Being reactive** – Responding to severe weather events such as flooding, droughts, and wildfire, followed by rebuild and recovery

    - **Being proactive** – Protecting against, avoiding or accommodating risk where possible, and retreating where there is no alternative

    - **Building resilience** – Building up a baseline level of protection and making sound, risk-based decisions around land use and where we build our towns and infrastructure.

68. Work is underway to provide national direction for natural hazards, to support local authorities to identify risks in a consistent and rigorous way, understand a

[11] NDC1 sets a headline target of a 50 per cent reduction of net emissions below our gross 2005 level by 2030. Our NDC covers the period 2021-2030.The NDC1 target is economy-wide, covering all sectors and all greenhouse gases.

[12] El Niño is expected to cause drier conditions and slightly above normal fire potential in the East, and more rain in the West of New Zealand (NIWA, 2023).

community's level of risk tolerance, and provide direction on making decisions on land use in hazard prone areas.

69. Where managing risk requires changes to where people live and how we use land, a key choice will be how to sequence and prioritise post-event recovery in relation to developing a broad framework for proactive risk management.

70. To guide how costs arising from climate impacts and adapting to changing climate will be met and shared, you have a number of choices about the scope of costs to consider, sequencing, and form of a framework, which will shape how this work proceeds.

71. The Ministry will work with you to confirm your objectives for recovery, an adaptation framework, and climate risk management, to allow for progression of further work.

Enabling conditions – data and investment

72. Underpinning New Zealand's climate policy are two key enablers: data and investment.

73. Firstly, timely, high quality, and impactful climate data is needed for good real-time decision-making. New Zealand's adaptation strategy relies on people making better risk-informed decisions and the Parliamentary Commissioner for the Environment has recommended more systematic and consistent use of data evidence for emissions reduction plans.

74. Work on an All-of-Government (AoG) Climate Data Initiative is underway, led by the Ministry for the Environment. The initiative aims to create publicly accessible climate data evidence, tools, and models for central & local government, businesses, iwi/Māori, and the public.

75. The initiative will resolve systemic issues around the access, impact, and timeliness of climate data, which have constrained the quality of climate decisions in government and business. It is connecting with existing climate and environmental data investments to provide strategic leadership across the climate data system, and developing targeted partnerships to enable data innovation.

76. Secondly, the availability of finance for new technologies, innovation and infrastructure is a critical condition for success. While emissions pricing creates the primary incentive to invest in decarbonisation, there are remaining market failures and regulatory barriers to drive the scale of investment required between now and 2050. Direct investment from Government is fragmented, and in some areas may be directed where the private sector would otherwise invest.

77. At the same time, the appetite for 'green' investment is growing in New Zealand and globally. This is creating an opportunity to bring in more private capital to New Zealand to meet the climate challenge – along with the associated expertise, efficiencies and innovation. To access this capital, international

investors are increasingly requiring organisations to meet robust climate credentials, in line with their own commitments and regulatory requirements.

78. There is ongoing work across the government to enable greater private investment. For example, the Ministry co-leads the development and implementation of a climate-related disclosure regime and is working with industry to develop a fit-for-purpose 'taxonomy' of sustainable activities for investment.

79. Australia and New Zealand have agreed to align sustainable finance frameworks and tools to support businesses operating across the economic region, with a focus on disclosures and taxonomies. You have options about how to strengthen investor confidence to capitalize on this momentum.

Māori rights, interests and aspirations

80. Māori have a profound interest in New Zealand's climate response. Climate change and the country's response to it have a significant impact on the relationship of Māori to the land, environment, and sites of cultural and spiritual significance.

81. Key areas of interest for Māori in the climate portfolio include:

    i **The design and operation of the NZ ETS, particularly the role of forestry**. Māori were estimated to own $4.3 billion of forestry assets and some 2,200 Māori were employed in the sector (40 per cent of the forestry workforce) as of 2018 (BERL & Land Use Capability Assessments, 2021)

    ii **Treatment of agricultural emissions.** The Māori economy has a relatively high share of pastoral farming (72.4 per cent of Māori economy emissions are from sheep, beef and dairy farming) and as a result is over-represented in New Zealand's emissions profile.[13] Māori and Māori communities will therefore have a strong interest in the approach to reducing agricultural emissions

    iii **Development of an adaptation framework.** Numerous Treaty settlement lands, marae, urupā and the connection of Māori to the land will likely be exposed to climate change impacts. Where homes, communities and sites of cultural significance may need to adapt or relocate from high-risk areas, a particular focus will be in the Crown upholding any Treaty settlements that are affected.

82. The Ministry works with Māori across the climate response. This includes supporting Oho Mauri Trust to develop the Māori Climate Platform, intended to

[13] As of 2018, greenhouse gas emissions from the Māori economy accounted for 11.2% of New Zealand's emissions profile, despite the Māori economy making up 6.4% of New Zealand's GDP (BERL & Land Use Capability Assessments, 2021).

enable Māori climate solutions at place; and maintaining relationships with relevant Pou of the National Iwi Chairs Forum.

Next steps

83. Our priority will be delivering on your 100-day priorities.

84. In the first 100 days, you can also expect to consider additional matters, including, taking decisions to Cabinet to meet statutory annual deadlines for the ETS and how to respond publicly to the release of the Climate Change Commission's final advice to the Government on the second emissions reduction plan, in December. We will work with your office to ensure you receive timely advice on these matters.

85. We propose further meetings once you have returned from COP28 to discuss your key levers over the longer-term and confirm the Ministry's work programme over the coming three years. Officials will work with your office to organise these.

Appendix 1: Statutory responsibilities on the Minister of Climate Change

Climate Change Response Act 2002

The Climate Change Response Act 2002 establishes a legal framework to support New Zealand to respond to climate change and meet its international obligations. It includes the statutory framework for the New Zealand Emissions Trading Scheme.

As Minister of Climate Change, you have the following key functions and responsibilities under the Climate Change Response Act (noting this is not an exhaustive list):

Emissions reductions & trading

a. set a series of emissions budgets, with a view to meeting the 2050 target and contributing to the Paris Agreement goal, in a way that:

    i. allows budgets to be met domestically, and

    ii. provides greater predictability by giving advance information on the emissions reductions and removals required

b. ensure net accounting emissions do not exceed emissions budgets for the relevant period

c. prepare and make publicly available an emissions reduction plan, 12 months before commencement of a budget period, setting out the policies and strategies for meeting the next emissions budget

d. prescribe price controls and limits on the number of units available annually by auction under the NZ ETS

e. consult with the public and iwi and Māori before making recommendations on certain regulations, setting emissions budgets, and publishing emissions reduction plans

f. ensure greenhouse gas reductions match excess NZ ETS units released at auction as a reserve amount or allocated above an emissions budget period

Adaptation

g. prepare a national adaptation plan in response to each national climate change risk assessment, no later than 2 years after the most recent risk assessment

h. respond to the Commission's progress reports on the national adaptation plan, no later than six months after publication of the report and make the response publicly available

i. at your discretion, request certain organisations to provide information on climate change adaptation (eg, State Owned Enterprises, local councils, lifeline utilities)

j. consult with the public and iwi and Māori before publishing national adaptation plans

The Climate Change Commission

k. request the nomination of members for appointment to the Commission and recommend appointments, including terms of office

l. at your discretion, request that the Commission prepare reports to the Government on matters related to reducing emissions of greenhouse gases and adapting to the effects of climate change; and

m. at your discretion, direct the Commission to have regard to Government policy for the purposes of recommending unit supply settings of the NZ ETS, and providing advice about the NDC.

Appendix 2: Climate Change Funding Profile

The Ministry for the Environment's funding profile for the climate change portfolio is set out in table 1, below.

Table 1: Managing Climate Change in New Zealand 5-year funding profile (figures in $'000s)

	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28
Departmental funding	51,846	54,522	54,080	55,727	55,777	53,037
Non-departmental funding	147,662	150,662	153,647	157,647	157,647	157,647

As shown in the table, departmental funding for the climate change portfolio is set to increase over the coming years, peaking in 2026/27, before declining again. This reflects the anticipated ramp up and then slowdown of work programmes across their investment lifecycle.

Most of this movement occurs within the Climate Emergency Response Fund (CERF), which currently contributes 26 per cent of the Ministry's departmental funding for climate change. This is set to increase to 32 per cent ($17.636m) in 2026/27 as work programmes peak.

In particular, the primary driver for the year-on-year movement in the CERF funding profile is the 'Climate Data Infrastructure' initiative, approved in September 2023. This intends to address gaps in data access and quality, including by delivering accessible and comprehensive data tools for climate decision-making, and improving the evidence to track impacts and progress of climate actions. The initial rise in funding reflects the project's ramp up and investment phase, with required resources then reducing in later years as the work programme enters its enduring state.

Note: A significant majority of the Ministry's non-departmental funding is for the 'Debt Impairment - Climate Change Activities' appropriation ($147m annually). This appropriation recognises the 'expense' to the Crown arising from writing down debt owed to the Crown by NZ ETS participants, in accordance with generally accepted accounting practice. There is a risk that NZ ETS participants are unable (through receivership for example) to pay the Crown their unit surrender obligation plus penalties and any interest on those penalties. The new penalties regime (make good on surrender plus three times the emission unit price) plus the increase in emission unit prices necessitates a large funding profile in order to avoid appropriation breach.

Ministry for the Environment
Manatū Mō Te Taiao

Document 2

Secondary Briefing to the Incoming Minister: Hazardous substances, new organisms, and international chemical and waste agreements

Date submitted: 4 Dec 2023
Tracking number: BRF - 3967
Security level: IN CONFIDENCE
MfE priority: Policy and Privacy

Actions sought from ministers		
Name and position	***Action sought***	***Response by***
To Hon Penny Simmonds Minister for the Environment		N/A

Actions for Minister's Office staff
Return the signed briefing to Ministry for the Environment (ministerials@mfe.govt.nz) — please send both hard *and* soft copies to ensure we meet our public record obligations.

Appendices and attachments
Nil

Key contacts at Ministry for the Environment			
Position	***Name***	***Cell phone***	***First contact***
Principal Authors	Tim Bennetts	027 505 5931	
General Manager	Glenn Wigley	027 491 7806	
Deputy Secretary	Sam Buckle	022 034 0311	✓

Minister's comments

Hazardous substances, new organisms, and international chemical and waste agreements

Key messages

1. This briefing is an initial overview of the Ministry's hazardous substances, new organisms, and contaminated land work programmes.

2. The Ministry administers the Hazardous Substances and New Organisms Act 1996 (HSNO). We are responsible for HSNO policy while the Environmental Protection Authority (EPA) is responsible for its operational delivery.

3. Our current hazardous substances work programme has been developed in response to a report from the Parliamentary Commissioner for the Environment (PCE) about the fate of chemicals in our environment. The report included eight recommendations for the Ministry and the EPA. We have developed a joint work programme with the EPA to implement the report's recommendations. We would welcome the opportunity to brief you in more detail about this joint work programme.

4. We acknowledge the intention under the Government's coalition agreements to liberalise genetic engineering laws while ensuring strong protections for human health and the environment. The work will be led by Hon Judith Collins, Minister of Science, Innovation and Technology.

5. Genetically modified organisms (GMOs) are defined as new organisms and are primarily regulated under HSNO. The regulatory settings for GMOs have not been amended for more than 22 years and there is a strong sense that, given the advances in technologies over this time, our GMO regulations risk being out of date. We note, however, that there are both benefits and risks to carefully consider. Undertaking a full and effective review of these provisions would involve a large and multi-disciplinary policy work programme.

6. We have recently completed public consultation on a set of proposals aimed at improving the regulatory settings for genetically modified organisms (GMOs), primarily focusing on laboratory and biomedical research. We would like to discuss how you would like to advance these improvements. You have an option to continue to progress this work or to incorporate it into a broader review.

7. The Contaminated Sites Remediation Fund (CSRF) provides financial assistance to owners of high-risk contaminated sites to remediate or manage their land. It has operated for 20 years and has been successful in assisting with the clean-up of some of New Zealand's most contaminated sites. We would like to discuss with you the potential to expand the scope of the fund to support contaminated and landfill sites that are vulnerable to the effects of climate change.

8. Our work programme has strong linkages to other Ministry work programmes, including the waste and resource efficiency work programme, and through new organisms' regulations, to the science, technology, and innovation agenda.

9. We would welcome the opportunity to discuss your priorities and the waste and resource efficiency work programme with you.

Recommendations

We recommend that you:

a. **Discuss** the Ministry's hazardous substances, new organisms, and international chemical and waste work programme with officials.

Yes | No

b. **Indicate** the areas where you would like further detailed briefings and advice.

Yes | No | Discuss

Signatures

Name: Sam Buckle
Deputy Secretary

Date
4/12/2023

Hon Penny Simmonds
Minister for the Environment

Date

Hazardous substances, new organisms, and international chemical and waste agreements

Purpose

1. The purpose of this briefing is to provide you with an initial overview of the Ministry's hazardous substances, new organisms, and the international chemical and waste agreements we have responsibility for.

Overview

2. The Ministry administers the Hazardous Substances and New Organisms Act 1996 (HSNO). We are responsible for the policy in respect of the HSNO Act while the Environmental Protection Authority (EPA) is responsible for its operational delivery.

3. The HSNO Act came into force for new organisms on 29 July 1998 and for hazardous substances on 2 July 2001. A hazardous substance includes any substance that can damage the environment or harm human health and safety. Organisms include microorganisms (including bacteria and viruses), human cells (but not human beings), seeds, plants, fish, and animals. The definition of new organism includes an organism belonging to a species that was not present in New Zealand immediately before 29 July 1998 and genetically modified organisms.

4. Under HSNO, anybody wanting to introduce a hazardous substance or new organism that is not already legally present in New Zealand must apply to the Environmental Protection Authority (EPA) for approval. Hazardous substances including petrol, solvents, explosives, industrial chemicals, fireworks, agrichemicals, and some household cleaners and cosmetics all need to be approved before they can be used in New Zealand. The EPA also assesses the risks and approves the release of new organisms into New Zealand.

What we are doing

Current work programme

Hazardous substances policy

5. Our hazardous substances policy work programme in recent years has focused on improvements to HSNO that will enable the EPA to speed up the process for assessing new substances and reassessing existing substances by allowing it to make greater use of information from appropriate overseas regulators. The relevant amendments to the HSNO Act came into force in October 2022. We

acknowledge that some concerns remain about the processing times for assessments and reassessments, but we have not prioritised this policy work while the earlier reforms are still bedding in. We would be happy to discuss this with you further should you wish.

6. Our current and forward work programme has been developed in response to a report from the Parliamentary Commissioner for the Environment (PCE) about the fate of chemicals in our environment. The report highlights shortcomings in New Zealand's chemical management system and provides eight recommendations for the Ministry and the EPA. We have developed a joint work programme with the EPA to enable us to coordinate our efforts in responding to and implementing the recommendations of the report.

7. The report highlighted that of the tens of thousands of chemicals approved for use in New Zealand, only around 200 chemicals are subject to routine monitoring and testing. The PCE's overall assessment was that we have a good scientific basis for chemicals management in New Zealand, but the necessary feedback loops are not working as well as they should. Furthermore, we have many chemicals that have been in use for decades and not subject to scrutiny, during which time the knowledge on their environmental impact could well have changed.

8. The PCE's first recommendation was that all agencies dealing with chemicals, alongside Māori, develop a common framework to better manage the environmental impacts of chemical use. He recommended it should prioritise actions on contaminants that pose the highest risk based on how much a chemical is being used, the potential environmental harm it could cause, and how much of it is being detected in the environment. The Ministry has been developing such a framework, as part of this work programme, and plans to workshop it with relevant agencies in early 2024.

9. Another area where the PCE identified gaps was respect of the information gathered and used by regulatory agencies, and particularly in relation to information on the import, manufacture, and sale of chemicals. The work programme is also addressing this recommendation through the development of an EPA Notice. EPA notices are a form of delegated legislation that are administered by the EPA.

10. We would welcome the opportunity to brief you in more detail about this joint work programme.

11. The EPA and the Ministry have also recently completed consultation on an infringement regime for HSNO. The current range of enforcement tools for hazardous substances is limited to warning letters, compliance orders, or prosecution. An infringement scheme will provide an intermediate enforcement tool. It will let enforcement officers respond to lower-level offences in a way that is more efficient and proportional to the offending. We will be briefing you separately on the outcome of this consultation.

12. For your information, the advertising, sale, and use of fireworks is also controlled under HSNO. We have no work underway to amend the current controls.

New organisms policy

13. The EPA is the authority responsible for the day-to-day implementation of the HSNO Act. Its functions include the assessment and approval of applications for the import, development, field trial and release of GMOs. The Ministry of Primary Industries (MPI) is the agency responsible for compliance monitoring and enforcement of the HSNO Act with respect to new organisms (which include GMOs); its functions include the approval and regular inspection of containment facilities, ensuring that imports have the required approvals under the HSNO Act, and exports of GMOs have the required movement authorisations.

14. Other regulatory participants in the system are Medsafe and the Ministry of Health (MOH). Medsafe is the agency responsible for assessing medicines that are, or contain, GMOs for patient safety, while MOH is the policy lead for health applications of GMOs. Additionally, the assessment and approval of foods derived from GMOs is carried out by Food Standards Australia New Zealand (FSANZ), a trans-Tasman independent statutory agency.

15. The regulatory settings for GMOs have not been amended for more than 22 years, since the Report of the Royal Commission on Genetic Modification in 2001. An overarching recommendation of the Royal Commission was that “we should proceed with caution while preserving opportunities.”

16. We acknowledge the intention under the Government’s coalition agreements to liberalise genetic engineering laws while ensuring strong protections for human health and the environment. The work will be led by Hon Judith Collins, Minister of Science, Innovation and Technology.

17. There have been no new applications for field trials of GMOs for 13 years despite significant advances in technologies, and particularly the development of gene editing technologies that allow for controlled and precise editing of genes. There is a strong sense that our GMO regulations are no longer fit for purpose.

18. An expert panel of the Royal Society Te Apārangi concluded in 2019 that it is time for an overhaul of the GMO regulations and that there is an urgent need for wide discussion about these technologies within and across all New Zealand communities.

19. We agree with these views that the HSNO Act’s new organisms’ provisions are overdue for review. We would note, however, that undertaking a full and effective review of these provisions would involve a large and multi-disciplinary policy work programme.

20. While there are potential benefits from the use of these advanced genetic technologies there are also a range of potential risks, including to our trade and

unique natural environment, that will need to be carefully considered when reviewing our regulatory settings.

21. We have recently completed public consultation on a set of proposals aimed at improving the regulatory settings for genetically modified organisms (GMOs), primarily focusing on laboratory and biomedical research. We are likely to have a summary of submissions ready for your consideration shortly and would welcome the opportunity to discuss these proposals with you further.

22. Our earlier engagement with the research community had highlighted several issues with the current GMO regulatory settings that were likely to be hindering research and innovation to a degree disproportionate to the risks involved. Many say that the regulatory settings are disproportionately restrictive in respect of risk in other parts of the regime also (ie, not just in laboratory settings).

23. We note that Australia's Office of the Gene Technology Regulator (OGTR) has operated successfully for over twenty years. The OGTR is a standalone regulatory agency that operates as an independent office under the Department of Health and Aged Care. Its regulatory responsibility is solely focussed on gene technology-related matters, ranging from risk assessments, and licencing through to compliance monitoring and enforcement activities. This compares with New Zealand's muti-agency approach where GMO regulation is integrated into the EPA's broader environmental protection framework, and MPI has compliance and enforcement responsibilities.

24. We would welcome the opportunity to discuss the issues related to regulatory settings for GMOs and initially your thoughts on the options to advance the improvements to the laboratory and biomedical settings. You have a choice as to whether to continue to progress those targeted reforms or to incorporate them into a broader longer-term review.

Multilateral Environmental Agreements

25. The multilateral environmental agreement (MEA) is the main method available under international law for countries to work together on global environmental issues. There are several MEAs that fall within our responsibilities, as well as one that is currently being negotiated (a global plastics treaty). Our work programme involves working with other agencies eg, the EPA and Customs, and working with the international Secretariats that administer the various MEAs to report on New Zealand's implementation.

26. We would particularly like to discuss the **Minamata Convention on Mercury** with you. It aims to protect human health and the environment from the harmful effects of exposure to mercury. New Zealand signed the convention in 2013, but we are yet to formally ratify it. We are conscious that 128 countries have now ratified the Convention and we would like to discuss the steps needed to ratify the Convention.

27. The other agreements include: New Zealand has obligations under the **Montreal Protocol** on Substances that Deplete the Ozone Layer which is part of the **Vienna Convention** for the Protection of the Ozone Layer. The Montreal Protocol was agreed in 1987. Under the protocol, countries agreed to phase out the production and consumption of certain chemicals that deplete ozone. Phase out of these substances is required by specific deadlines. A report is tabled annually in Parliament on our progress towards these goals.

28. The **Basel Convention** aims to reduce the amount of waste produced by signatories and regulates the international traffic in hazardous wastes. New Zealand ratified this Convention in 1994. From 1 January 2021, new requirements for the trade in certain types of plastic waste under the Basel Convention came into effect globally. This means that importers and exporters need prior consent from the importing country for shipments of certain types of plastic waste.

29. The **Waigani Convention** is a regional agreement under the Basel Convention. It applies the strict controls of the Basel Convention to the South Pacific area and ensures that hazardous waste cannot travel from New Zealand or Australia to another Pacific country, or to Antarctica. New Zealand ratified this Convention on 30 November 2000.

30. The **Rotterdam Convention** relates to a prior informed consent procedure for trade in certain hazardous chemicals. New Zealand ratified this Convention on 23 September 2003. It means that New Zealand needs to ensure that the export of Rotterdam Convention chemicals receive permission in advance from a receiving country that is party to the Convention and must give permission for any proposed import into New Zealand.

31. The **Stockholm Convention** on Persistent Organic Pollutants aims to protect human health and the environment by banning the production and use of some of the most toxic chemicals. The Convention became international law in May 2004. New Zealand ratified the Convention in September 2004. There are 30 chemicals targeted by the Convention including persistent organic pollutants (POPs).

32. **Global Plastics Treaty** (under negotiation) – negotiations on a United Nations legally-binding global plastics treaty are due to conclude by the end of 2024. The Ministry, alongside the Ministry of Foreign Affairs and Trade, is participating in the negotiations and undertaking domestic engagement and policy work. Once countries agree to a treaty text, officials will undertake a National Interest Analysis and present the treaty to the House. To ratify, there could be requirements to amend legislation and implement measures such as targets for recycling, recycled content, reduction of primary plastic polymers; bans on specified plastic products or polymers; implementation of National Action Plans.

Māori rights and interests

33. Māori have an interest in hazardous substances, new organisms, and contaminated land in respect to their communities but also more broadly. Several Treaty of Waitangi settlements include specific provisions in respect of engagement on these issues.

How our work connects to the bigger picture

34. Our work programme has strong linkages to other Ministry work programmes, including the waste and resource efficiency work programme, but also, through new organisms regulations, to the science and technology agenda and innovation to address climate emissions.

Next steps

35. We would welcome the opportunity to discuss your HSNO Act priorities with you.

Hazardous substances, new organisms, and international chemical and waste agreements

Sam Buckle – Deputy Secretary

Ministry for the Environment
Manatū Mō Te Taiao

Context

- The Ministry administers the Hazardous Substances and New Organisms Act 1996 (HSNO).
- We are responsible for HSNO policy while the Environmental Protection Authority (EPA) is responsible for its operational delivery.
- Hazardous substance - any substance that can damage the environment or harm human health and safety.
- New organism - an organism belonging to a species that was not present in New Zealand immediately before 29 July 1998 and genetically modified organisms.
- Anybody wanting to introduce a hazardous substance or new organism that is not already legally present in New Zealand must apply to the EPA for approval.
- The EPA also assesses the risks and approves the release of new organisms into New Zealand

Hazardous substances policy

Work programme

- Current and forward work programme is in response to a report from the Parliamentary Commissioner for the Environment (PCE) about the fate of chemicals in our environment.
- The report highlights shortcomings in New Zealand's chemical management system and provides eight recommendations for the Ministry and the EPA.
- Have a joint work programme with the EPA to implement the recommendations of the report.
- EPA and the Ministry have also recently completed consultation on an infringement regime for HSNO. We will be briefing you separately on the outcome of this consultation.

To discuss

- We would welcome the opportunity to brief you in more detail about this joint work programme.

New organisms' policy

Ministry for the Environment
Manatū Mō Te Taiao

Regulatory settings are outdated

- The regulatory settings for GMOs have not been amended for more than 22 years. No new applications for field trials for 13 years despite significant advances in technologies, and particularly the development of gene editing technologies that allow for controlled and precise editing of genes.
- Acknowledge intention under coalition agreements to liberalise genetic engineering laws while ensuring strong protections for human health and the environment. Work will be led by Hon Judith Collins, Minister of Science, Innovation and Technology.
- Recently completed public consultation on a set of proposals aimed at improving the regulatory settings for genetically modified organisms (GMOs), primarily focusing on laboratory and biomedical research. Will have a summary of submissions to discuss these proposals with you further.
- Other agencies are involved in the regulatory system. The Ministry of Primary Industries (MPI) is responsible for compliance monitoring and enforcement. Medsafe and the Ministry of Health (MOH) are involved in health applications.

To discuss

- It would be good to hear your views about your ambitions for regulatory review and discuss the options to engage with other ministers with new organism system responsibilities.

International chemical and waste agreements

Ministry for the Environment
Manatū Mō Te Taiao

Global environmental agreements on chemicals and waste

- The multilateral environmental agreement (MEA) is the main method available under international law for countries to work together on global environmental issues.
- There are several MEAs that fall within our responsibilities, for chemicals and waste, as well as one that is currently being negotiated (a global plastics treaty).
- One of the most successful MEAs is the Montreal Protocol on Substances that Deplete the Ozone Layer, agreed in 1987. Under the protocol, countries agreed to phase out the production and consumption of certain chemicals that deplete ozone. A report is tabled annually in Parliament on our progress towards these goals.

To discuss

- We would like to discuss the Minamata Convention on Mercury with you. It aims to protect human health and the environment from the harmful effects of exposure to mercury. New Zealand signed the convention in 2013, but we are yet to formally ratify it (128 countries have ratified). We would like to discuss the steps needed to ratify the Convention.

Upcoming decisions and opportunities

We look forward to understand your priorities relating to the Hazardous substances, new organisms and international chemical and waste agreements portfolio. We look forward to discussing your priorities or any of the following immediate decisions and opportunities with you.

There are some upcoming decisions and opportunities from now to the end of Q1 2024 we would like to flag for you for future discussion.

Date	Priorities and decisions
December 2023	**Priority**: We would like to discuss with you our initial thoughts on changes to genetic modification settings as outlined in the coalition agreements with both the ACT party and NZ First
February 2024	**Decision:** We would like to discuss options for progressing our work on improving the regulations for genetically modified organisms in containment and for biomedical research.
March 2024	We would like to update you on progress in responding to the PCE report on monitoring the fate of chemicals in the environment.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Document 3

BRF-3991: Secondary briefing to the incoming Ministers: Built Environment

Date submitted: 6 December 2023
Tracking number: BRF-3991
Security level: In-confidence
MfE priority: Non-urgent

Actions sought from ministers		
Name and position	***Action sought***	***Response by***
To Hon Penny Simmonds Minister for the Environment	Respond to recommendation	N/A
To Hon Chris Bishop Minister Responsible for RMA Reform	Respond to recommendation	N/A

Actions for Minister's Office staff
Forward this report to the office of Hon Chris Bishop, Minister of Housing and Infrastructure, and Hon Simeon Brown, Minister for Energy. **Return** the signed briefing to Ministry for the Environment (ministerials@mfe.govt.nz) and RMReform@mfe.govt.nz;

Appendices and attachments
Nil.

Key contacts at Ministry for the Environment			
Position	**Name**	**Cell phone**	**First contact**
General Manager	Liz Moncrieff	022 048 2314	
Deputy Secretary	Nadeine Dommisse	027 549 7733	✓

Minister's comments

Secondary briefing to the incoming Ministers: Built Environment

Key messages

1. We understand this Government has a number of priorities relating to the built environment, which we are ready to support you on.

2. Well-functioning built environments support the connection of people to housing, employment, and services. Our urban areas and the infrastructure that supports them, are critical components of a successful economy.

3. This briefing outlines key issues and opportunities, as well as responsibilities for the built environment for you and your Ministerial colleagues and the Ministry for the Environment (the Ministry).

4. The Ministry is responsible for the resource management system (RM system). The RM system includes several tools and levers that impact the built environment.

5. We understand your key priorities for the built environment in this portfolio area relate to housing, urban form, renewable energy and infrastructure. The Government's Coalition Agreements and policy priority documents signal proposed changes to ensure better coordination and identification of key infrastructure projects, more certainty and faster processes for infrastructure and ensuring sufficient development capacity in urban areas through the RM system.

6. There has been significant work in recent years to improve how the RM system supports the built environment. This includes requiring councils to plan better for urban growth both up and out through intensification and greenfield development. Positive trends are starting with increases in development capacity and diversity of housing types.

7. The built environment context continues to change quickly with high urban growth rates, infrastructure provision not keeping pace with growth, increased risks from natural hazards and the need to reduce carbon emissions.

8. We welcome opportunities to discuss a work programme for the Ministry on the built environment.

Recommendations

We recommend that you:

a. **meet** with officials to discuss this briefing and your priorities for the built environment

Yes | No

Signatures

Nadeine Dommisse
Deputy Secretary, Environmental Management and Adaptation

Date
6 December 2023

Hon Penny Simmonds
Minister for the Environment

Date

Hon Chris Bishop
Minister for RMA Reform

Date

BRF-3991: Secondary briefing to the incoming Ministers: Built Environment

Purpose

1. The built environment is where the majority of New Zealander's live, and is critically important for our wellbeing and economic prosperity. We understand you have a number of policy priorities for the built environment relating to housing, urban form, renewable energy and infrastructure which we are ready to support you on.

2. This briefing sets out context, issues and opportunities and responsibilities for you as the Minister for the Environment (along with your colleagues, pending clarity on specific delegations) and the Ministry for the Environment's (the Ministry) for the built environment.

Overview

Background/context

3. Well-functioning built environments connect people to housing, employment, services, and social and cultural opportunities. Urban areas and infrastructure are critical to a successful economy.

4. Built environments need to be able to grow both up and out, and change within environmental limits, be resilient to natural hazards, help reduce emissions, and adapt to the impacts of climate change.

5. New Zealand is projected to grow by 1.2 million people over the next 30 years. Two-thirds of this growth is expected to occur in less than 3% of New Zealand's land area, concentrated in and around Auckland, Hamilton, Tauranga, Christchurch and Wellington[1]. Of this growth 49% is predicted to be in Auckland.

6. It is widely acknowledged that the resource management system (RM system) has failed to effectively manage growth and infrastructure investment in our main urban areas.

[1] New Zealand Infrastructure Commission (2022). Rautaki Hanganga o Aotearoa 2022 - 2052 New Zealand Infrastructure Strategy. Wellington: New Zealand Infrastructure Commission. rautaki-hanganga-o-aotearoa.pdf (umbraco.io)

7. Recently developed policy including the National Policy Statement on Urban Development 2020 (NPS-UD) and medium density residential standards (MDRS) were enacted to address some of these issues. These instruments direct councils to provide for growth through intensification and greenfield development. Additionally, the NPS-UD requires strategic integration of land use and infrastructure planning.

Your priorities for housing, urban form, renewable energy and infrastructure

8. Changes to the systems and processes which shape our built environment are proposed in the Coalition Agreements and the Government's policy priority documents. We understand your priorities include:

    a. unlock land for housing by requiring councils in major towns and cities to zone land for 30 years' worth of housing demand immediately, and to provide housing performance incentives for councils

    b. to make the MDRS optional for councils, with the need for councils to ratify any use of the MDRS, including existing zones

    c. consideration of sharing a portion of GST collected on new residential builds with councils

    d. to amend the Building Act 2004 and the resource consent system to make it easier to build granny flats or other small structures up to 60 square metres requiring only an engineer's report

    e. provision of public transport upgrades, a rapid transit network for Auckland, investment in roads to unlock housing growth, new Roads of National Significance and more infrastructure to support EVs

    f. changes to the planning system to reduce resource consent processing time and costs for renewable energy generation, provide national direction on renewable electricity generation, and provision of electricity distribution and hydrogen production and distribution

    g. establish a new National Infrastructure Agency with the intent to better coordinate funding and delivery of infrastructure. Other infrastructure policies include:

        i. changes to the planning system to ensure resource consent decisions for major infrastructure projects (including for renewable energy generation) are issued within one year

        ii. strategic infrastructure is prioritised to improve the resilience of heavy industry

iii. provision of infrastructure for fuel security

iv. the development of a 30-year infrastructure pipeline

h. establish city and regional infrastructure deals, including use of Public Private Partnerships (PPP), tolling and value capture rating to fund infrastructure.

Role of the Ministry for the Environment, key levers, and other actors

9. The Ministry has a key role in supporting policy settings for the built environment. We administer specific tools but are also connected to wider legislative and funding work that influences outcomes in the built environment. A cross-government approach is key, and we work closely with other agencies and Crown entities including the Ministry for Housing and Urban Development (HUD), Ministry of Business, Innovation and Employment (MBIE), Treasury, and the New Zealand Infrastructure Commission (InfraCom).

10. The Ministry is the administrating agency and has a stewardship role for the RM system covering the natural and built environment. The Ministry is responsible for developing regulations and national direction, and has a range of obligations in relation to Te Tiriti o Waitangi/the Treaty of Waitangi, Treaty settlement legislation, and other relationship agreements and accords. We often work in partnership with other agencies on national direction where it interacts with other government portfolios or areas of expertise.

11. The key Resource Management Act 1991 (RMA) national direction for the built environment is the:

    a. NPS-UD

    b. National Policy Statement for Renewable Electricity Generation (NPS-REG)

    c. National Policy Statement on Electricity Transmission (NPS-ET)

    d. National Environmental Standards for Electricity Transmission Activities (NES-ET)

    e. National Environmental Standards for Telecommunication Facilities (NES-TF)

    f. National Environmental Standards for Air Quality (NES-AQ)

    g. National Planning Standards particularly in relation to the zone framework

h. National Policy Statement for Freshwater Management (NPS-FM) and National Environmental Standards for Freshwater (NES-F)

i. National Environmental Standards for Sources of Drinking Water

j. National Policy Statement for Highly Productive Land (NPS-HPL).

12. As a steward of the RM system, the Ministry's work in the built environment can involve:

a. preparing national direction, including new legislation

b. inputting into new legislation that affects the built environment

c. oversight of implementation, monitoring and evaluation

d. supporting the use and development of non-regulatory policy documents such as the Urban Design Protocol

e. advising on statutory functions such as applications for requiring authority status and streamlined planning processes

f. advising on resource consenting pathways which require Ministerial decisions

g. advising on interactions between the RM system and other potential legislation or frameworks under development.

13. In 2021 the RMA was amended to introduce the MDRS. It requires 15 councils (referred to as Tier 1 Councils[2]) to undertake an intensification streamlined planning process to bring the NPS-UD and the MDRS into their district plans. Councils were to notify the plan changes by August 2022. Five councils have completed this process, with the remaining 10 due to complete by December 2025.

14. Responsibility for overseeing implementation of the NPS-UD and MDRS is shared between the Ministry and HUD. Responsibility for the NPS-REG, NPS-ET, NES-ET and NES-TF is shared with MBIE. The NPS-HPL and NPS-FM were developed with the Ministry for Primary Industries. The Ministry is responsible for overseeing implementation of the NES-AQ.

[2] Tier 1 Councils are Auckland Council; Hamilton, Waikato Regional Council, Waipa, and Waikato District Councils; Tauranga City Council, Bay of Plenty Regional Council, and Western Bay of Plenty District Council; Wellington City Council, Greater Wellington Regional Council, Kapiti Coast District Council, Porirua, Hutt and Upper Hutt City Councils; and Christchurch City Council, Environment Canterbury, Selwyn and Waimakariri District Councils. Rotorua District Council has also opted to be treated as a Tier 1 Council.

Role of others

15. Local Government has important statutory responsibilities under the RMA. This includes the development, implementation and enforcement of regional policy statements and regional plans by regional councils, and district plans by territorial authorities. The Ministry works closely with councils across New Zealand to support the implementation of the NPS-UD and MDRS.

16. Iwi/Māori (including post-settlement governance entities (PSGEs)), infrastructure providers, and the development sector are also critical partners. We engage directly with these parties, either solely or in partnership with other agencies.

Other key levers

17. There are many other levers across government that impact on outcomes in the built environment. They include our regulatory responses under the Building Act 2004, and the Crown's input into decision-making processes and functions undertaken by road controlling authorities under the Land Transport Management Act 2003 and by councils under the Local Government Act 2002.

18. The Urban Development Act 2020 (UDA) is a significant lever to enable increased housing supply. The UDA enables Kāinga Ora to undertake comprehensive, large-scale, and timely urban development that delivers a range of economic, social and environmental outcomes. The key mechanism for achieving this is through a comprehensive process for the planning, funding, and delivery of complex urban development projects – called Specified Development Projects. There have not been any Special Development Projects established, although two[3] are at a due diligence stage.

19. The government's funding and supply of physical and social infrastructure is another significant built environment lever. The Infrastructure Funding and Financing Act 2020 (IFF) provides one way to fund and finance infrastructure projects and support housing and development. The IFF has been used twice: for the Tauranga Transport Systems Plan (a collection of 13 transport projects) and for the Wellington Sludge Minimisation Facility. We support HUD and other agencies with policy advice relating to the IFF and other innovative infrastructure funding and financing solutions including value capture tools and city deals. This includes our work with the Ministry of Transport and HUD on value capture options for transit-oriented development in Auckland.

20. The Government's taxation system and supply of public housing are two other levers that drive outcomes in the built environment. There are also levers

[3] Porirua Northern Growth Area and Tauranga Western Corridor.

outside of the government that have strong effects on the built environment such as loans/mortgages and insurance.

Ministerial responsibilities for the built environment

21. There are several responsibilities and powers in the RM system that relate to the built environment, including making decisions about national direction, referrals for Proposals of National Significance and fast-track consenting, system monitoring, and approval of the intensification planning instruments.

Key issues and opportunities

Planning for growth

22. There are housing supply shortages in many parts of the country, particularly in our main urban centres. Existing housing markets are often unaffordable and dominated by stand-alone, three to four bedroom houses. These housing options are not meeting an increasing demand for a greater range of housing typologies across urban areas.

23. The National-led government introduced the National Policy Statement for Urban Development Capacity 2017 (NPS-UDC) which focussed on the provision of ‘sufficient development capacity’ and associated monitoring and strategic planning requirements. The NPS-UD 2020 carried over concepts in the NPS-UDC relating to development capacity and provided further direction on intensification and well-functioning urban development.

24. The subsequent MDRS was designed to be directive and facilitate a fast and significant increase in development capacity. It is also intended to assist in facilitating a shift in public opinion to be more accepting of intensification and see its role in addressing housing affordability and climate change challenges.

25. The implementation of these policies is ongoing. While we are seeing positive trends emerge, the fuller impact will be more visible in coming years as all plan changes are completed. Building consents data illustrates increasing diversity in the types of housing being consented (apartments, townhouses and standalone houses), particularly since the NPS-UD came into effect in 2020.

26. The ‘one size fits all’ approach of the MDRS has been contentious at the local level, with some communities expressing strong opposition.

27. The dramatic increase in plan enabled capacity facilitated by MDRS has exacerbated infrastructure deficient challenges in some places. This policy has created a greater need for a wider range of flexible, practical methods to encourage the integration of land use and infrastructure decisions and address infrastructure deficits.

28. The NPS-UD and MDRS enable councils to use ‘qualifying matters’ to exclude development from an area for reasons such as indigenous biodiversity or natural hazard risk. We noted however significant variability in how ‘qualifying matters’ are being used to exclude areas from intensification. In some places, the status quo is being retained, often in the areas that provide the best economic opportunity for intensification.

29. Officials acknowledge the bluntness of the MDRS, given its ‘one size fits all’ approach and that is has reduced the focus on ‘getting intensification right’ in areas that are the most accessible. The timeframes for implementation have also been particularly challenging for many councils.

30. We have been working with HUD to investigate possible amendments to add nuance and flexibility to these policies and seek a meeting with you to support more detailed written policy advice.

Supporting the delivery of infrastructure

31. The timely and appropriate provision of infrastructure is critical for built environments. As well as supporting future growth, well planned infrastructure can enable reductions in greenhouse gas emissions and enhance water quality. However, infrastructure planning and delivery is often fragmented, underfunded and misaligned with urban growth.

32. An inability to plan, fund and deliver infrastructure is a key obstacle to enabling urban growth in both brownfield and greenfield areas.

33. Strategic planning is vital for improving the delivery of infrastructure due to its long-term approach to identifying infrastructure need and prioritising investment. Mechanisms to encourage better strategic planning have been enabled including Urban Growth Partnerships and Future Development Strategies under the NPS-UD. However, due to strategic/spatial planning processes having limited legal weight, they continue to lack effectiveness and do not always flow into planning and investment decisions.

34. Within the RM system, the key infrastructure issues are:

    a. increasing the supply of renewable energy and its transmission to meet national targets through strong national direction

    b. integrating land use and infrastructure planning, sequencing, and investment, so infrastructure matters are considered for both greenfield and infill development

    c. protecting infrastructure corridors and sites from incompatible activities and ensure appropriate planning rules for infrastructure provision

d. improving the resilience of infrastructure to climate change and natural hazards.

35. Getting regulatory settings right for renewable electricity generation, transmission and distribution could significantly contribute towards ensuring that there will be adequate supply, at the right pace, to electrify the economy. The Ministry has been progressing proposed amendments to the National Policy Statements for Renewable Electricity Generation and Electricity Transmission with MBIE. The development of infrastructure will invariably have environmental impacts, so the challenge is to ensure renewable energy infrastructure can be developed, whilst recognising environmental outcomes. Accordingly, the current proposals seek to address challenges to consenting renewable electricity generation and electricity transmission in areas of high ecological or cultural value, including in the coastal environment (in collaboration with the Department of Conservation (DOC)). We will provide advice to you on these proposals and how they could be expanded to have a greater impact, including if they could be used to further accelerate renewable generation.

36. There are opportunities to improve the RM system to address the challenges for planning, funding and consenting infrastructure projects. To address some infrastructure challenges the Ministry has been working with InfraCom on opportunities to create consistent rules and standards for infrastructure development, maintenance and upgrading.

37. There is an opportunity to standardise rules and conditions for renewable electricity generation and transmission through the development of national environmental standards. These could assist with the objective to rapidly increase the pace and scale of renewable electricity generation, transmission and distribution.

38. The Ministry notes the Government's Coalition Agreements and policy priority documents signal the intention to repeal the Natural and Built Environment Act 2023 (NBEA) and the Spatial Planning Act 2023 (SPA), and to introduce a fast-track consenting regime. The Ministry is also working to ensure a fast-track consenting process continues to be available for housing and infrastructure in the RM system[4]. There are a range of options to provide for fast-track consenting, if the NBEA is repealed.

[4] The Covid-19 Recovery (Fast Track Consenting Act) 2020 has been replaced by provisions for a fast track consenting process in the Natural and Built Environment Act 2023 (NBEA). The NBEA fast-track consenting process came into force on 20 August 2023. There are a range of options of what legislative provision could be proposed for fast-track consenting, if the NBEA is repealed.

Enabling quality urban environments

39. The Ministry considers there are opportunities for better outcomes in the built environment through incentivising and encouraging urban design, and quality built environments.

40. The Parliamentary Commissioner for the Environment (PCE)[5] has identified urban trees and green spaces as a significant component for ensuring quality urban environments. Prior regulatory responses under the RMA were costly and ineffective; we would be happy to advance fresh thinking and policy approaches in this area if appropriate.

41. The 2005 New Zealand Urban Design Protocol records the government's commitment to quality design in New Zealand's urban environment. It promotes the importance of the design of buildings, streets, and public spaces to people's quality of life, the economic viability of towns and cities and the enhancement of the natural environment within urban area. An update and refresh of the Urban Design Protocol could provide an effective, non-statutory tool to support high quality urban development and coordinate across the housing, environmental and infrastructure policies.

42. There are opportunities to advance tools and direction on nature-based solutions, especially for management of urban stormwater. In addition to the water quality benefits derived from "green infrastructure", better recognition of the way nature provides solutions to mitigate severe weather events can contribute to improving resilience of communities and adaption to climate change. We will continue to consider opportunities for including green infrastructure when appropriate in general work to better enable infrastructure.

43. There is an increasing demand for more flexible approaches to the way land-uses are controlled. Mixed use areas or zones in cities provide opportunities for different forms of residential living with the convenience of having a range of health, education and commercial services in close proximity to where people live. Enabling mixed uses along major transport corridors would help reduce carbon emissions through less reliance on cars, whilst promoting more opportunities for healthier lifestyles through creating walkable suburbs. We will consider how this can fit in with the wider built environment and housing work.

[5] Parliamentary Commissioner for the Environment. (2023). Are we building harder, hotter cities? The vital importance of urban green spaces (report-are-we-building-harder-hotter-cities-the-vital-importance-of-urban-green-spaces.pdf (pce.parliament.nz)).

Reducing risks of natural hazards

44. New Zealand is increasingly at risk from a range of natural hazards, including earthquakes, flooding, and landslips. Severe weather events are becoming more frequent due to climate change.

45. In many parts of New Zealand, housing and infrastructure are affected by the risks of natural hazards. Developing in areas at high risk from natural hazards increases risk to human life, community wellbeing, property, infrastructure and may lead to adverse effects on the environment. Recovering from natural hazard events when they occur is costly. The insurance industry has asked central government to take action to reduce the amount of new development going ahead in flood prone areas to address the increasing insurance costs.

46. Under the RMA, the management of significant risks of natural hazards is a matter of national importance and local government have functions relating to the control of land to avoid or mitigate natural hazards. There is currently very little national direction providing guidance on decision-making where natural hazard risk is a concern[6] and the information available to support decisions about natural hazard risk are inadequate. There is an opportunity to provide stronger direction to ensure better consistency and overall management of natural hazard risk.

47. We have begun developing national direction for local government consideration of natural hazards in a phased approach. Phase one is a proposed national policy statement (NPS) which introduces a framework for how local government considers natural hazard risk when making decisions on new development and encourages local government to avoid development in areas of intolerable risk from natural hazards. Phase two proposes to support local government to identify natural hazard risk in a consistent and rigorous way.

48. The phase one NPS has been put to public consultation, which closed on 20th November 2023.

49. Based solely from our early conversations with stakeholders, we understand that the local government, banking and insurance sectors strongly support the provision of direction from central government to improve and standardise an approach to identification and management of risks from natural hazards under the RM system. Post settlement governance entities (PSGEs) and other Māori entities have mixed views. Most were supportive of stronger direction from central government and better information on natural hazard risk to support their own decision making but they sought more detail on how Māori will be involved

[6]There are NZCPS policies dealing with management of hazards in the coastal environment.

in decision-making as part of its Te Tiriti o Waitangi/Treaty of Waitangi obligations.

50. We will brief you on the work to date, including a summary of feedback on the proposed national direction, and seek your direction on the next steps for this work.

Improving air quality

51. Air quality issues in New Zealand predominantly occur in urban environments, largely caused by domestic fires, transport emissions and industrial activities.

52. The NES-AQ sets ambient standards for particulate matter, nitrogen dioxide, sulphur dioxide, carbon monoxide and ozone, prohibits or controls activities that release high levels of dioxins, and includes standards for domestic wood burners and landfill emissions. The NES-AQ is implemented by regional councils, which can implement more stringent provisions if they choose to.

53. The latest Health and Air Pollution in New Zealand study (HAPINZ 3.0)7 highlighted the serious health impacts associated with air pollution in New Zealand, particularly PM2.5 and nitrogen dioxide (NO2) from domestic home heating and vehicle emissions. The report found that air pollution contributes to the premature deaths of more than 3300 New Zealanders every year and a social cost of more than $15.6 billion per annum.

54. There are opportunities to bring air quality standards better in line with international best practice and help to address the adverse health and social effects of air pollution. An opportunity also exists to better align air quality provisions and GHG emission reductions, enhancing the co-benefits between them. The standards would also benefit from amendments to address implementation challenges around the exceptional circumstances provision.

55. The Ministry consulted on amendments to the NES-AQ in 2020. Those amendments focused on a new PM2.5 standard, strengthening solid fuel burner standards and regulating mercury emissions (to align with the Minamata Convention on Mercury). The amendments (excluding Minamata Conventions updates) were put on hold in 2021 awaiting an update to the WHO guidelines which created stricter ambient standards than those consulted upon in 2020. Air quality monitoring technology has also advanced since the NES-AQ were last amended. There is need to update the regulations to reflect the current best practice (e.g. Schedule 2). This need also applies to the current authorisation

[7] Kuschel et al (2022). *Health and air pollution in New Zealand 2016 (HAPINZ 3.0): Volume 1 – Finding and implications.* Report prepared by G Kuschel, J Metcalfe, S Sridhar, P Davy, K Hastings, K Mason, T Denne, J Berentson-Shaw, S Bell, S Hales, J Atkinson and A Woodward for Ministry for the Environment, Ministry of Health, Te Manatū Waka Ministry of Transport and Waka Kotahi NZ Transport Agency, March 2022.

process for solid fuel burners. Technology and testing standards have moved on and need revising.

56. New Zealand signed the Minamata Convention on Mercury in 2013 but the NES-AQ has not yet been amended to align with the convention. Amendments needed to ratify the Minamata Convention reached the drafting stage in May 2023 but have not been completed. We will provide advice to you on this work.

Impacts on Treaty settlements

57. The Crown has obligations relating to the matters set out in this paper in numerous Treaty settlements, which it has committed to upholding. These include specific commitments to engage with PSGEs on relevant policy matters under relationship agreements and accords, including certain actions when preparing national direction such as national policy statements.

58. Changes to the way the RM system operates are therefore likely to impact Treaty settlements, as well as other arrangements where applicable (such as marine and coastal area legislation which provides for the exercise of customary rights in the common marine and coastal area, including consenting processes).

59. Upholding settlements in the context of relevant changes requires engagement and agreement with relevant PSGEs at the start of the policy process and sufficient time for that to occur. The nature and outcome of the engagement may impact delivery timeframes, depending on the impact of the changes. We will provide you advice on these matters throughout the policy development process.

Māori rights and interests

60. In addition to Treaty settlement obligations, our work on the built environment intersects with Māori rights and interests in various ways, including (but not limited to) Māori owned land and interests in resource management processes, national direction, planning, consenting, and monitoring8 under the RM system.

61. Māori have a significant role in housing and land development, including the provision of papakāinga, commercial development and land ownership. Iwi providers have played a lead role in the provision of housing, including temporary housing in response to recent severe weather events.

[8] Section 24 of the RMA sets out the Minister for the Environment's functions, including monitoring of the effect and implementation of the RMA (including any regulations in force under it), national policy statements, national planning standards, and water conservation orders.

62. There are opportunities to support the development of Māori land for housing and other purposes. This could involve addressing planning and consenting barriers on Māori land.

63. Māori land is disproportionately at risk from natural hazards, so policy work in this area includes engagement with Māori, including Māori landowners, as part of the proposed National Policy Statement on Natural Hazards decision making.

64. Any built environment proposals that impact on Māori rights and interests requires engagement with Māori, as part of meeting our Te Tiriti o Waitangi/Treaty of Waitangi obligations.

Next steps

65. Officials are keen to meet to discuss work programme and priorities. Further briefings on the built environment will follow.

Built Environment

Ministry for the Environment
Manatū Mō Te Taiao

Context

The built environment

- We are ready to support you on your priorities relating to the built environment
- We understand your key priorities for the built environment in this portfolio area relate to housing, urban form, renewable energy and infrastructure
- There are a number of portfolios and Ministers with interests in the built environment. We work with a number of agencies to ensure joined up advice is provided to the right Ministers

Key issues and opportunities relating to the built environment

- NZ is highly urbanised, with over 86% of people living in cities
- NZ is also one of the most unaffordable countries in the world to purchase property, partly due to high urban growth rates and a lack of housing supply and choice
- Infrastructure planning and investment has not kept pace with population growth, particularly in our major cities
- Natural hazard events are placing increased pressure on housing, land-use and infrastructure investment
- Built environment policy is critical to addressing these issues through:
    - increasing housing supply and choice in existing and new urban areas
    - the timely and appropriate provision of infrastructure
    - enabling renewable energy generation and transmission
    - developing low-emissions, climate resilient cities

Opportunities

Relevant Ministers and portfolios
Minister for the Environment
Minister Responsible for RMA Reform
Minister of Housing
Minister for Infrastructure

Ministry for the Environment
Manatū Mō Te Taiao

Urban

- We understand your priorities for urban include increasing housing supply while ensuring flexibility for councils around where and how development occurs
- The NPS-UD is driving significant change in our cities:
  - it requires councils to provide enough housing and business development capacity to meet 30-years of demand
  - this capacity can be provided both up (intensification) and out (greenfield)
  - intensification is required in and around centres and around rapid transit stops
- Advice will be provided to you on options for amending the MDRS
- The 15 Tier 1 councils are progressing on intensification plan changes – options will be provided to you on how NPS-UD/MDRS changes could be incorporated into these plan changes.

Next steps

- Together with HUD officials, we would like to better understand your policy intentions and priorities. At the same time, we can provide updates on council's activity to increase housing opportunities in their city/region.

Opportunities

Relevant Ministers and portfolios
Minister for the Environment
Minister Responsible for RMA Reform
Minister for Infrastructure
Minister for Energy

Ministry for the Environment
Manatū Mō Te Taiao

Infrastructure and renewable energy

- The timely and appropriate provision of infrastructure is critical
- It supports growth, enables reductions in greenhouse gas emissions and enhances water quality
- Infrastructure planning and delivery is often fragmented, underfunded and misaligned with growth
- There are key opportunities through national direction on renewable energy and electricity transmission, and standardising processes in the RMA for approvals and re-approvals for infrastructure
- MfE is well placed alongside MBIE and to progress the Infrastructure Commission to work on renewable energy and infrastructure

Next steps

- Together with other relevant agencies we would like to better understand your policy intentions and timing priorities
- We can then brief you on options to achieve these priorities.

Relevant Ministers and portfolios
Minister for the Environment
Minister Responsible for RMA Reform
Minister for Emergency Management and Recovery

Opportunities

Reducing risks of natural hazards

- New Zealand is increasingly at risk from a range of natural hazards, and severe weather events are becoming more frequent due to climate change
- Local government is required to manage significant risks from natural hazards under the RMA. Implementation of this requirement is mixed with communities often not adequately protected from natural hazard events
- There is currently little national direction to assist local government to manage natural hazard risk. The information available to support decisions is also inadequate
- Work is underway on National Direction to support local government management of natural hazard risk. A phased approach was adopted:
    - Phase 1 - the proposed NPS for Natural Hazard Decision Making requires councils to assess natural hazard risk and to avoid development in areas of intolerably high natural hazard risk (public consultation closed 20th November 2023)
    - Phase 2 was proposed to direct local government to identify natural hazard risk in a consistent and rigorous way.

Next steps

- We would like to provide you with a briefing on work undertaken to date, and welcome more direction on your priorities relating to management of natural hazards.

Opportunities

Relevant Ministers and portfolios
Minister for the Environment
Minister of Health

Ministry for the Environment
Manatū Mō Te Taiao

Air Quality

- The latest research highlights the serious health impacts and social costs associated with air pollution in New Zealand
- The air quality standards in the National Environmental Standards for Air Quality (NES-AQ) require updating to align with international best practice. The expected cost benefit ratio of the amendments is 8.4 (Akehurst et al, 2019)
- Work is well underway to ratify the Minamata Convention on Mercury but it needs finalising
- Implementation challenges remain for the solid fuel burner authorisation process and exceptional circumstances applications
- Technology has advanced meaning that improved monitoring methods are available to councils, but the NES-AQ needs amending to allow for their use
- There are opportunities to enhance co-benefits by improving alignment between air quality regulations and GHG emission reduction measures.

Next steps

- We would like to better understand your policy intentions and priorities with respect to air quality, and welcome more direction from you.


Ministry for the
Environment
Manatū Mō Te Taiao

Secondary Briefing: Land Use, Freshwater, and the Marine Environment - Date submitted: 14 December 2023

Tracking number: BRF-3973
Security level: In-Confidence
MfE priority: Not Urgent

Actions sought from ministers		
Name and position	***Action sought***	***Response by***
To Hon Penny Simmonds Minister for the Environment	**Note** the key decisions for your consideration (Appendix 1) **Agree** to meet with officials for further discussion	N/A
CC Hon Chris Bishop Minister Responsible for RMA Reform	For information	N/A

Actions for Minister's Office staff
Forward to Hon Andrew Hoggard, Associate Minister for the Environment if agreed **Return** the signed briefing to Ministry for the Environment (ministerials@mfe.govt.nz) — please send both hard *and* soft copies to ensure we meet our public record obligations.

Appendices and attachments
Appendix 1: Key decisions for the first 100 days

Key contacts at Ministry for the Environment			
Position	***Name***	***Cell phone***	***First contact***
Principal Author	Vicki Addison		
General Manager	Hayden Johnston	022 153 0221	
Deputy Secretary	Nadeine Dommisse	022 034 0311	✓

Minister's comments

Secondary Briefing: Land Use, Freshwater, and the Marine Environment

Key messages

1. New Zealanders have a strong relationship with land, water, and the marine environment – the health and wellbeing of our communities and economy is dependent on the sustainable use of these resources.

2. The quality of our land, water and marine environments has deteriorated over time and is under pressure in some areas – in both urban and rural environments.

3. This briefing provides an overview of the land use, freshwater and marine areas of work. It sets out relevant primary and secondary legislation, as well as work underway – including challenges and opportunities for your consideration. We view this briefing as a starting point for an ongoing discussion about how we can support you to deliver on your priorities.

4. There are some themes in the Coalition Agreements that the land use, freshwater and marine areas of work can support. These themes are around:

    - growing the economy, including the primary sector, while
    - reducing the regulatory burden and compliance costs for farmers.

5. Further advice will be provided on options to achieve these priorities. For example, by giving farmers the tools they need (eg, water storage) and simplifying aspects of existing secondary legislation (eg, stock exclusion).

6. As well as providing policy advice on legislative and regulatory settings, the Ministry for the Environment (the Ministry) supports effective implementation of the system, including through:

    - funding and investment – eg, restoration projects and building capability and capacity of people who engage with the freshwater management system
    - data and evidence – eg, environmental reports, research strategies and data sharing platforms, and monitoring council progress in implementing regulations and national direction
    - partnerships – with iwi/Māori, regional councils, key agencies, sector groups and key stakeholders.

7. Key areas that are likely to require your input in the first three months are outlined in Appendix 1 of this briefing, including:

    - Freshwater Farm Plans – these now apply in Southland and Waikato and will begin to be rolled out in Otago, Horizons (Manawatū-Whanganui), and the West Coast from early 2024. Rollout to other regions will require your decisions.

    - Changes to plan notification timeframes for the National Policy Statement for Freshwater Management 2020 (NPS-FM) and changes to the content and application of the NPS-FM as set out in the coalition agreements.

    - Review of the operation of existing Significant Natural Areas (SNAs) and steps to cease implementation of new SNAs as set out in the coalition agreements.

    - The management and protection of highly productive land – consultation has recently concluded on amendments to the National Policy Statement for Highly Productive Land (NPS-HPL). Proposed changes address restrictions on the construction of new infrastructure (such as solar farms) and intensive indoor primary production. Joint advice from the Ministry and the Ministry for Primary Industries will be provided on the outcome of the consultation with options to consider.

8. Some strategic issues for your consideration over a longer timeframe will be on:

    - Biodiversity – including biodiversity credits and New Zealand's contribution to the Global Biodiversity Framework. The Ministry and the Department of Conservation have recently consulted on biodiversity credits, and the potential role of central government in relation to these. A summary of submissions, and further advice can be provided with options for you to consider.

    - Forestry – including addressing longer-term recommendations from the Ministerial Inquiry into Land Use (MILU) and ensuring that regulatory settings effectively manage land use impacts and risks.

    - Marine – better integrating the different systems that are used to manage activities occurring in the ocean, and progressing commitments to protect marine biodiversity under the Kunming-Montreal Global Biodiversity Framework.

Recommendations

We recommend that you:

a. **note** that key upcoming advice and decisions are outlined for your attention in Appendix 1

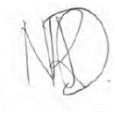
b. **agree** to meet with officials to further discuss the direction of the sustainable land use, freshwater and marine work programmes.

Yes | No

c. **agree** to forward this briefing to your colleague Hon Andrew Hoggard, Associate Minister for the Environment

Yes | No

Signatures



Nadeine Dommisse
Deputy Secretary
Environmental Management

Date
14 December 2023

Hon Penny Simmonds
Minister for the Environment

Date

Hon Chris Bishop
Minister Responsible for RMA Reform

Date

Ministry for the Environment
Manatū Mō Te Taiao

Secondary Briefing: Land Use, Freshwater, and the Marine Environment

Purpose

1. This briefing provides an overview of the land use, freshwater, and marine environment policy settings, and outlines how the Ministry for the Environment (the Ministry) can support you to deliver on the Government's priorities in these areas.

Introduction

2. New Zealanders have a strong relationship with, and reliance on, our land, water, and oceans. The health and wellbeing of our land, water, and oceans is intrinsically linked with the health and wellbeing of our communities and economy.

3. Land use (eg, agriculture, urban development, forestry), and certain land-use practices (eg, intensive winter grazing, forest harvesting), significantly influence the health and resilience of our freshwater and land. As water moves down-catchment, it transports contaminants which concentrate in receiving environments (lakes, wetlands), before discharging into coastal waters (estuaries, lagoons).

4. Environmental reporting shows that the quality of New Zealand's freshwater, soils, estuaries, oceans, and associated biodiversity are under increasing pressure from climate change, land uses, and/or practices that are not well-suited to the geophysical characteristics of the land they take place on.[1]

5. The Ministry has a core function of providing advice to you on environmental matters[2] and developing primary and secondary legislation (including regulations and national direction). We also have a stewardship role to support and review the implementation of environmental legislation.

6. The Ministry is committed to working in partnership with iwi/Māori, other agencies, local government, sector groups and communities to ensure our work is well connected. We work particularly closely with natural resources sector

[1] The latest three reports on Our Freshwater, Our Land and Our Marine.
[2] Environmental matters include, social, economic, aesthetic and cultural conditions in addition to natural and physical resources and ecosystems.

agencies such as the Ministry for Primary Industries (MPI) and Department of Conservation (DOC).

7. Understanding the interconnectedness of our environment is a key consideration in sustainable use, and there are further opportunities to ensure policies mutually re-enforce one another to achieve multiple outcomes, while reducing the cumulative regulatory burden.

8. This briefing sets out:

    - Your Ministerial role and responsibilities
    - Relevant legislation/regulation/national direction in respect of sustainable land use, freshwater and the marine environment
    - How we support implementation and improved outcomes through funding and investment, data and evidence, and our partnerships.

Your Ministerial role and responsibilities

9. The Minister for the Environment has a range of responsibilities and powers under the resource management system that relate to sustainable land use. These include making decisions on secondary legislation, considering proposals of national significance, and fast-track consenting. There are also responsibilities under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act).

10. There are a range of regulatory and non-regulatory levers that are available to the Minister for the Environment to achieve the Government's goals.

11. One lever is legislation and the secondary legislation that is made under it. Secondary legislation varies in whom it applies to, and how it takes effect. Some direct the content of local council planning documents (eg, National Policy Statements). Others set standards that apply directly to resource users and regulate activities by requiring consents or permitting activities subject to specific standards (eg, National Environmental Standards).

12. Some types of secondary legislation apply directly (without resource consent) and are suited to relatively straightforward matters with limited local variation (eg, Resource Management (Measurement and Reporting of Water Takes) Regulations 2010). Whereas others have been designed to provide a flexible, tailored approach to on-farm management of effects (eg, Resource Management (Freshwater Farm Plans) Regulations 2023).

13. It is the role of councils to implement, monitor, and undertake compliance monitoring and enforcement of secondary legislation. The Ministry, in turn, has an oversight and monitoring role of council activities on behalf of the Minister for the Environment.

14. There are a range of non-regulatory ways to support implementation or drive change. These include government funding, strategies, guidance and/or protocols.

15. You can also decide to exercise statutory and discretionary functions such as requesting data/reports from councils on the environment, investigating council performance, or submitting on regional plan content at freshwater plan hearings under the Freshwater Planning Process set out in the RMA.

16. The Ministry's 'Briefing for Incoming Ministers – Environment, Climate Change and RMA Reform' provides further detail on your statutory responsibilities and functions.

Key decisions needed in the near term

17. Some matters will require your consideration and decisions soon, and these are set out in Appendix 1. We can discuss these with you, including timing, and will provide further information as they arise or on request.

Relevant primary and secondary legislation

18. The Ministry, together with our partners, does a wide range of work focused on developing, implementing and reviewing environmental secondary legislation (including regulations and national direction). This work is summarised below in terms of the relevant secondary legislation and opportunities for:

    i. Sustainable land use and land-use practices – including biodiversity

    ii. Human health considerations – for drinking water and recreation

    iii. Improving the quality and management of freshwater ecosystems

    iv. Managing the marine environment.

i. Sustainable land use and land-use practices

Resource Management (Freshwater Farm Plans) Regulations 2023

19. Freshwater farm plans were established under Part 9A of the RMA in 2023 as a tailored but enforceable tool to address on-farm risks to freshwater.

20. The freshwater farm plan system was designed to reduce or replace the need for resource consents related to farming activities. Regional councils remain responsible for setting the regulatory context and monitoring the overall system.

21. Farmers will engage a trained certifier to ensure that planned actions meet regulatory requirements. Auditors will then assess whether those actions are undertaken. Certifiers and auditors will be appointed by regional councils. Farmers and growers can choose which certifier and auditor they engage.

22. Freshwater farm plan regulations do not apply to a region until activated by an Order in Council. To date they have been applied to Southland and Waikato (starting from 1 August 2023) and Otago, Horizons (Manawatū-Whanganui), and the West Coast (starting from early 2024). We (jointly with MPI) will be seeking your decision on the next regions for rollout and will provide you with advice and recommendations on these matters in due course.

23. We understand you may wish to make improvements to the farm planning system to align with the coalition policy that farm environment plans are cost effective and pragmatic. Advice on options to achieve this can be provided to you.

24. Funding has been allocated to support the development of a freshwater farm plan workforce and to monitor system performance. Initiatives are underway to build capability and support practices, provide famers with a dispute resolution process, and streamline how farmers engage with the system within a catchment context. We will continue to update you on progress with the implementation of the regulations.

Forestry is a key consideration in respect of sustainable land use

25. Forestry is a contributor to environmental outcomes, and can support a sustainable, low emission and circular economy. We work closely with MPI and Te Uru Rākau – New Zealand Forest Service on policy advice that relates to forestry matters.

26. For the first time since the 1990s, New Zealand is seeing significant afforestaion. Afforestation rates are driven by Emissions Trading Scheme (ETS) incentives, while the Forestry and Wood Processing Industry Transformation Plan (led by MPI) sets out a pathway for greater value capture and supports domestic value chains. On this important strategic issue, it is likely that you will work closely with your colleagues who hold related portfolios; the Minister of Climate Change and the Minister of Forestry.[3]

27. Different types of forestry can form key parts of a sustainable land-use mix. For example, intensive production forests provide raw materials for a wide range of industries and are economically important to communities in which they operate. In order to minimise the effects on the natural and built environment, they must be located in appropriate places and be well-managed.

28. Other forest models are more appropriate in certain locations. On erosion-prone land, large-scale clear-fell harvest can create unacceptable risks. Permanent cover forest (exotic or native) may be the best way to reduce these risks and provide for other values, such as biodiversity.

[3] The Minister of Climate Change is responsible for the ETS and supports the broader context of transition to a low emissions economy while the Minister of Forestry is responsible for growth and development of the forestry sector.

29. You have a regulatory tool to directly manage some types of forestry practice – the National Environmental Standards for Commercial Forestry 2023 (NES-CF).[4] The NES-CF focuses on providing a consistent regulatory framework for key plantation and permanent forestry activities (eg, afforestation, and harvesting of plantation forests). Amendments in 2023 gave councils the ability to control the location of new forestry, extended coverage to permanent exotic forestry and made operational changes, including new slash management provisions, resulting from a recent review.[5]

30. The NES-CF remains limited in its ability to respond to broader land use issues and may not be adequate to manage forestry in a changing environment. There are several options which would allow you to influence the mix of land uses through regional planning documents and advice can be provided on this.

31. We understand you may wish to make changes around councils' ability to control the location of forestry, to maintain the availability of productive agricultural land. There are a range of possible instruments you could use depending on the outcomes you are seeking to achieve, and officials can provide further advice on this.

32. We also understand you may seek to amend the provisions in the NES-CF around containing and removing post-harvest slash. We would welcome an opportunity to discuss potential approaches, including the impact of the changes to the NES-CF on 3 November 2023, which introduced new requirements to contain and remove post-harvest slash.

33. A Ministerial Inquiry into Land Use (MILU) investigated land use and forestry issues following the damage caused by Cyclones Gabrielle and Hale in Tairāwhiti Gisborne and Wairoa. The response to the MILU to date has prioritised actions to clean up woody debris and to provide support for Gisborne District Council. The longer-term response could consider how to reduce the risk of further events of this nature.

Protecting Highly Productive Land

34. Highly productive land is defined as having fertile soil with a good climate and ideal terrain for cultivation. It generally requires fewer inputs to produce quality food and fibre.

35. Highly productive land is found across New Zealand and is prevalent in our food growing hubs: south of Auckland; Waikato; Hawke's Bay; Horowhenua; and Canterbury. Productive areas are often on the fringes of towns and cities. Urban expansion as well as fragmentation for rural lifestyle development has impacted the availability of highly productive land.

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[4] Formerly the National Environmental Standards for Plantation Forestry.
[5] https://www.mpi.govt.nz/dmsdocument/44914-Report-on-the-Year-One-Review-of-the-National-Environmental-Standards-for-Plantation-Forestry

36. Approximately 15% of land in New Zealand is highly productive land, with about 5% being on Land Use Capability (LUC) 1-2 land.[6] Between 2002-2019, more than half of all urban growth and rural lifestyle development was on highly productive land. Whilst this represents only 2.6% of the total highly productive land in New Zealand, this varied across regions with it being most evident in the Auckland region (where 8.4% of highly productive land was lost).

37. The National Policy Statement for Highly Productive Land (NPS-HPL) protects land for land-based primary production, by restricting inappropriate use, development, or subdivision. It provides consent pathways for other activities on highly productive land such as infrastructure, and flood control and protection. Other activities (including urban and residential development) may be considered via a resource consent when there are permanent or long-term constraints on that land being used for primary production.

38. Land that was 'identified for future urban development' is excluded from highly productive land. There is a pathway for rezoning highly productive land for urban development where necessary, subject to specific tests (ie, consideration of alternative options for accommodating growth and the costs and benefits).

39. Regional councils are required to map all highly productive land in their regions by October 2025. District councils must update district plan maps no later than 6 months following the regional council update. Since the NPS-HPL's introduction in 2022, issues have been raised regarding:

    - the challenges it presents to constructing *new* specified infrastructure on highly productive land (such as solar farms); and

    - the development and relocation of intensive indoor primary production and greenhouses on highly productive land.

40. Public consultation on proposed changes to address these issues concluded in October 2023. We will provide a summary of the feedback with options for you to consider, including allowing for a broader range of productive rural activities under the NPS-HPL and enabling further housing development on Land Use Capability (LUC) 3 land.

Improving biodiversity outcomes

41. Biodiversity is a unique and critical part of the health of our environment. We have one of the highest proportions of threatened indigenous species in the world – despite ongoing efforts, many of our assessed indigenous species show a declining population trend.[7]

[6] LUC refers to Land Use Capability classification - a system that classifies all rural land into one of eight classes. LUC 1, 2 or 3 is considered as highly productive land for the purpose of the NPS-HPL

[7] More than 75% of indigenous species in reptile, bird, bat, and freshwater fish species groups are threatened with extinction or are at risk of becoming threatened https://www.stats.govt.nz/indicators/extinction-threat-to-indigenous-species/

42. Under section 6 of the RMA, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna is a matter of national importance. Councils are at different stages and have taken different approaches to giving effect to this.

43. The National Policy Statement for Indigenous Biodiversity 2023 (NPSIB) was made to provide local authorities and resource users with a consistent approach to protecting these areas of significant indigenous biodiversity.

44. The NPSIB must be given effect by changes to regional policy statements and/or plans within 5 years of commencement (by 2028) and councils must have a regional biodiversity strategy within 10 years.

45. We understand the Government wishes to urgently receive advice on the operation of existing Significant Natural Areas (SNAs) and steps to cease implementation of new SNAs. An initial briefing on these matters will be with you soon.

46. The Ministry contributes to international work on biodiversity mainly through the Convention for Biological Diversity (CBD), to which New Zealand is a party. We work with the Ministry of Foreign Affairs and Trade (MFAT) and DOC to ensure New Zealand can respond to the CBD's Global Biodiversity Framework which sets 23 global targets to achieve by 2030. This includes the "30x30" commitment to protect 30% of the planet by 2030.

47. The Minister for the Environment has a specific role in considering the human-induced threats to biodiversity from a resource management perspective. As Minister, you will help shape New Zealand's negotiating position and, along with the Minister of Conservation, may represent New Zealand at Conference of the Parties meetings.

48. At a national level, we support Te Mana o te Taiao (the Aotearoa New Zealand Biodiversity Strategy), which provides strategic direction for the protection, restoration, and sustainable use of biodiversity. Te Mana o te Taiao and its action plan is the framework by which New Zealand implements the CBD. DOC is reviewing the framework to identify gaps and to better align with the Global Biodiversity Framework.

49. A voluntary biodiversity credits[8] market is emerging both internationally and in New Zealand, generally as an extension of voluntary carbon markets. This presents one of several opportunities to close the finance gap faced by landowners and project proponents to restore land and ecosystems.

50. We (alongside DOC) have recently consulted on a biodiversity credit system[9] that could incentivise wetland restoration and creation, alongside other biodiversity restoration and protection benefits. We will provide you with advice on the

[8] Biodiversity credits are legal instruments that recognise an action or outcome achieved to support nature.
[9] https://consult.environment.govt.nz/biodiversity/nz-biodiversity-credit-system/

feedback received and discuss how you would like to direct future work on this issue.

ii. Human health considerations – drinking water and recreation

51. Activities on land and in water impact the quality and safety of sources of drinking water and the ability to safely collect food from, and swim at, our rivers, lakes, and beaches.

Drinking water

52. Many hundreds of New Zealanders become ill from drinking contaminated water every year. Taumata Arowai (the water services regulator) reports that in the 2022 calendar year, 188 consumer advisory notices were issued instructing consumers to 'boil water', or 'do not drink' or 'do not use' their tap water. This occurred throughout the country, with more than half of district councils issuing such warnings. Taumata Arowai also received 387 notifications in 2022 that Maximum Allowable Values in drinking water were exceeded.[10]

53. Changes to the National Environmental Standards for Sources of Human Drinking Water 2007 (NES-DW) were consulted on in March 2022. We recognise that you may wish to make further changes and will provide you with more detailed advice on the themes from the consultation process, and potential options for you to consider.

54. There is growing public concern regarding the level of nitrates in drinking water and the potential health impacts. Intensive land use has led to increasing nitrate concentrations across New Zealand in source water, with worsening trends being most prevalent in Canterbury, Southland, Waikato, Hawke's Bay and Wairarapa. The Ministry is a member of a cross-agency working group led by the Ministry of Health (MoH) to monitor the health impacts of nitrates in drinking water and to advise of any further work that may be required.

Swimming

55. Councils must monitor and manage freshwater swimming sites under the National Policy Statement for Freshwater Management 2020 (NPS-FM). Land, Air and Water Aotearoa (LAWA) reported in 2023 that two-thirds of all monitored freshwater swimming sites presented a potential risk to public health.[11]

56. LAWA uses regional council monitoring data. The guidelines for safe levels of bacterial contamination for primary contact (swimming) are based on science that is currently being reviewed and is due for completion by January 2025. We will provide a summary of the findings when available with options to consider. Advice on nationally consistent water quality standards for swimming in coastal waters can also be provided to you.

[10] https://www.taumataarowai.govt.nz/assets/Uploads/Governance-docs/Drinking-Water-Regulation-Report-2022.pdf
[11] Land, Air, Water Aotearoa (LAWA) -

iii. Improving the quality and management of freshwater ecosystems

57. Freshwater is a strategic resource relied on by key sectors of the New Zealand economy, including primary production and processing. Climate change, and an increasing awareness of environmental limits, is placing pressure on freshwater resources.

58. A considerable amount of work and momentum has built around restoring and protecting the health of our waterways over the last decade. This includes significant non-regulatory initiatives (funding) as well as a comprehensive suite of secondary legislation.

59. Some of this secondary legislation addresses high-risk land-use practices with immediate effect. They are supported by a national policy statement for freshwater management designed to reverse declining trends over the longer term by strengthening local government and communities' planning and decision-making.

60. Below is a summary of the key pieces of primary and secondary legislation that work together to support councils, iwi/Māori, farmers, and growers to take action to improve freshwater outcomes in their own catchments. We recognise that changes will be needed across these areas of work, to ensure alignment with Government priorities and commitments.

National Policy Statement for Freshwater Management 2020 (NPS-FM)

61. The NPS-FM is the key driver of the freshwater management framework and primarily takes effect through the rules set by councils in their regional plans.

62. Councils must manage freshwater so that water bodies do not deteriorate beyond a benchmark (referred to as the 'maintain or improve' requirements). There are 22 freshwater attributes (measures) that regional councils must set targets for and monitor against.[12]

63. Some of the attributes also have nationally-defined bottom lines. In locations where water quality is below these, councils must improve water quality to at least the national bottom line. They can do so over long timeframes if necessary to spread the costs to sectors and communities and allow time for change.

64. Councils must engage with communities and tangata whenua to establish the long-term vision sought for local water bodies. Together, they then set objectives, and catchment level targets and 'limits on resource use' (rules on water takes and discharges) to achieve the vision. If improvement on the current state is

[12] Attributes are set out in tables in Appendices of the NPS-FM. Each table has a series of ranges or bands (A-D) which denote thresholds of harm. The threshold between C and D-Band is known as the 'national bottom line'. All attributes have national bottom lines except Dissolved Reactive Phosphorus, Fish (habitat and community) and *E. coli* (average infection risk to swimmers).

desired, it is possible to achieve this over multi-year targets. This spreads costs and acknowledges change takes time.

65. Te Mana o te Wai is a fundamental concept in the NPS-FM, it is about restoring and preserving the balance between the water, the wider environment, and the community. It also creates three priorities for water management, leading with the health and well-being of water bodies and freshwater ecosystems, secondly the health needs of people (such as drinking water) and third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future (NPS-FM clause 2.1).

66. We note the coalition policy to rebalance Te Mana o te Wai to better reflect the interests of all water users and we have provided you with initial advice on the process for how this could be addressed.

67. We note the coalition policy to replace the NPS-FM to allow district councils more flexibility in how they meet environmental limits and to receive advice on exempting councils from obligations under the NPS-FM, we will prepare advice for you on these matters early next year.

Managing land-use practices – winter grazing, stock exclusion and wetlands

68. Other secondary legislation does not require a plan change to take effect, and addresses land-use practices that can impact freshwater quality if not managed appropriately.

69. The National Environmental Standards for Freshwater (NES-F) covers activities resulting in the loss of wetlands and rivers, controls on intensive winter grazing, and a cap on the maximum amount of synthetic nitrogen fertiliser that can be applied to pastoral land.

70. Amendments to the wetland rules in 2022 provided consent pathways for the following purposes: urban development, quarries, mining, landfills, and water storage. These also clarified the application of the national direction in relation to wetland restoration and that the NES-F does not apply to coastal wetlands.

71. The Resource Management (Stock Exclusion) Regulations 2020 do not require consents and apply to any person who owns or controls deer, pigs, dairy support cattle, dairy cattle, and beef cattle. They took immediate effect in 2020 for new pastoral systems, and to existing farms in mid-2023 or mid-2025 depending on stock type and practices. The regulations do not require farmers to fence waterways *per se*, though in many cases this will be the practical option.

72. The stock exclusion regulations were amended in 2023 to provide more flexibility for lower intensity farming. This includes clarifying the application of the low slope map (does not include any land that exceeds 10 degrees in slope), providing an exception from the low slope map for land that is subject to existing controls (eg, pastoral lease or grazing concession) and enabling Otago Regional Council to manage stock access in the Taieri Scroll Plains in lieu of the regulation.

73. One aspect of regulation is that it can be rather blunt when applied at a national scale. We acknowledge the feedback from the primary sector and many councils that highlights support for regulations that provide flexibility while still achieving desired outcomes. There is an opportunity to achieve this by simplifying aspects of existing direction to reduce the cumulative burden on the primary sector. We will discuss potential options for this with you in due course.

Allocation of freshwater – reducing overallocation and managing within environmental limits

74. Allocation of freshwater is a technically and socially complex issue to navigate. Historically, freshwater resources have been allocated by regional councils under the RMA on a "first in, first served" basis with an effective perpetual right of renewal of time-limited consents, and limited ability to review users' consents to meet environmental outcomes. There have also been few transfers of water consents. Despite it being enabled in the RMA, few councils have set rules enabling transfers. This approach has led to water being allocated inefficiently and inequitably, with the same users retaining access – to the exclusion of potential new users who may have higher value uses.

75. In many parts of the country, allocation of freshwater resources has exceeded environmental limits (ie, are overallocated). The NPS-FM requires regional councils to first avoid, then phase out, existing overallocation. Phasing out overallocation makes resources scarcer and heightens the impacts of an inefficient and inequitable approach to allocation.

76. Local decision makers may not be able to move towards more efficient and equitable allocation alone, central government support can help. This could be through providing non-statutory guidance on using existing RMA allocation tools/methods, enabling further allocation methods through amending the RMA, or being more prescriptive through secondary legislation. There are opportunities for setting out efficient and equitable methods for water allocation that provide certainty and make the best use of water resources for all New Zealanders.

77. We can provide further advice on options for:

    - bringing together sector groups, other stakeholders and iwi to navigate these complex issues

    - amending the RMA to better facilitate more efficient and equitable allocation and

    - better measuring freshwater takes and discharges, to help facilitate efficient and equitable allocation methods.

78. We would like to discuss with you the level of central government direction you envisage to support the allocation of freshwater. Depending on what you seek to achieve, this may require further policy development and working closely with iwi/Māori, sector groups, local government and other key stakeholders. Further detail and advice on these matters will be provided.

Māori rights and interests in freshwater

79. In 2012, former Deputy Prime Minister Rt Hon Bill English made assurances to the High Court in the context of mixed ownership model litigation that it acknowledges that Māori have rights and interests in freshwater and geothermal resources.[13] The Crown stated that any recognition must:

> *'Involve mechanisms that relate to the on-going use of those resources, and may include decision-making roles in relation to care, protection, use, access, and allocation, and/or charges or rentals for use. Currently the Ministry for the Environment has responsibility for progressing policy development around these issues.'*[14]

80. Māori rights and interests can be broadly categorised in four dimensions:[15]

- water quality (mechanisms to improve water quality and the health of ecosystems and give effect to Māori freshwater values)
- recognition (recognise Māori relationships with particular water bodies)
- governance / management / decision-making (enhance Māori participation at all levels of freshwater decision-making)
- economic interests (develop mechanisms to enable Māori to access and use freshwater in order to realise and express economic and development interests).

81. Progress has been made since the 2012 acknowledgement on the first three dimensions of Māori rights and interests through subsequent amendments to the NPS-FM and introduction of the Mana Whakahono ā Rohe provisions in the 2017 amendments to the RMA.

82. The fourth dimension – economic interests – has been the most challenging to address and has seen the least progress between Māori and the Crown. The Freshwater Working Group and related provisions in the NBA set out processes to progress this dimension. We will seek your direction on next steps for the Freshwater Working Group, and can provide advice to support your decision on how you would like to direct future work on this issue.

iv. The marine environment

83. We rely on our ocean and coasts for social, cultural, and economic activity.

84. Iwi/Māori have diverse rights and interests in the marine environment. This includes as kaitiaki of their moana, recipients of rights and assets provided as

[13] New Zealand Māori Council v Attorney-General [2012] NZHC 3338 at [302].
[14] New Zealand Māori Council v Attorney-General [2013] NZSC 6.
[15] Developed in a joint work programme between the Crown and Freshwater Iwi Leaders Group in 2015.

redress under Treaty of Waitangi settlements[16] and the Marine and Coastal Area (Takutai Moana) Act 2011, plus as investors in the blue economy.[17]

85. The ocean is under new and increasing pressure from climate change, land-based and marine activities. The way we use and manage land and water can significantly impact the coastal marine environment. For example, initiatives that reduce sediment loads also protect marine fisheries and near-shore environments.

86. The ocean plays a critical role in regulating the climate. Estimates to date are that the ocean has absorbed about 30% of CO2 emissions (increasing ocean acidification) and 90% of the warming energy in recent decades (causing both a rise in sea level as well as temperature).

87. Management of the marine environment sits with several agencies plus local government and the Environmental Protection Authority (EPA). To support a collaborative approach, an Oceans Secretariat has been set up – hosted by DOC, involving the Ministry and MPI with support from MFAT. You have been provided with a briefing from this secretariat with joint agency advice on the oceans aspects of your portfolio.

88. There is increasing interest in undertaking activities in New Zealand's Exclusive Economic Zone (EEZ) and coastal waters (the territorial sea), such as offshore renewable energy (including offshore wind), and carbon capture and storage. The Ministry for Business, Innovation and Employment (MBIE) is in the process of developing a regulatory framework for offshore renewable energy that would apply to both the territorial sea and EEZ.

89. Aquaculture is regulated primarily under the resource management system. The Ministry and MPI jointly worked on the Resource Management (National Environmental Standards for Marine Aquaculture) 2020 (NES-MA) that set national rules for existing marine farms. The NES-MA provides consistency and certainty for the industry while appropriately managing the effects of aquaculture activities. A review of the implementation of the NES-MA was completed by MPI in August 2023 and further advice will be provided to you on this.

90. Ministers will need to make decisions on New Zealand's contribution to the Kunming-Montreal Global Biodiversity Framework target of at least 30% of coastal and marine areas conserved and managed by 2030. Agencies will provide joint advice to Ministers on this next year, prior to the Conference of the Parties to the Convention on Biological Diversity to be held in October 2024.

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[16] Treaty of Waitangi (Fishing Claims) Settlement Act 1992, the Māori Fisheries Act 2004, the Māori Commercial Aquaculture Claims Settlement Act 2004, and individual iwi settlements.

[17] The blue economy encompasses all economic activities in the marine space. There are varying definitions, but generally these include sustainable use and maintaining ocean health. The Sustainable Seas National Science Challenge defines the blue economy as "*marine activities that generate economic value and contribute positively to ecological, cultural and social well-being*."

91. Decisions will also be needed on next steps for the Kermadec Ocean Sanctuary Bill (the Bill). Over the last three years, the Ministry led discussions with Te Ohu Kaimoana (and northern iwi) to develop a revised proposal that better recognises Māori rights and interests. In June 2023, iwi organisations voted not to support the revised proposal and the Government decided not to progress the Bill. Te Ohu Kaimoana, on behalf of iwi organisations, has since begun a process to create an indigenous, iwi-led approach to oceans management. Further advice on this will be provided in due course.

Supporting implementation and improved outcomes

92. As part of our stewardship role, we support the implementation of regulatory and non-regulatory initiatives through:

    - funding and investment
    - data and evidence
    - partnerships – with iwi/Māori, agencies, sector groups, communities, and other stakeholders.

Funding and investment

93. Funding and financing are key enablers to improving environmental outcomes and progressing government priorities.

94. The Ministry administers a range of funding schemes to address freshwater management issues. These funds can help communities to address legacy issues. For example, the cross-agency investment package of $1.254 billion for the Jobs for Nature Programme (you will receive a separate briefing on this – BRF-4008 refers).

95. We take a strategic approach to fund what will make the most difference to the environmental management system. A focus on building capacity and capability across local authorities, and those who engage in the resource management system, will generate improved outcomes and cost-savings over the long-term.

Data and Evidence

96. Data and evidence are a cornerstone of effective policy intervention. To fulfil our stewardship role, we need to understand both the short and long-term drivers of environmental degradation to inform the appropriate policy response.

97. Our data and evidence gathering system has gaps. Most environmental monitoring is undertaken by regional councils. Their resources are regionally focused, and unevenly spread. This creates challenges for maintaining a nationally representative monitoring network to inform government decisions.

98. We anticipate improvements in growing our data and evidence base with the implementation of the NPS-FM. It requires regional councils to set targets for 22 compulsory attributes,[18] and to monitor and report on progress against them. This will provide more comprehensive information on state and trends of freshwater health. While the current attributes are all necessary to manage freshwater, additional attributes could be included for groundwater and urban contaminants (eg, heavy metals).

99. We are developing a strategic approach to ensure data and evidence have dedicated resources that produce robust information. We partner with other agencies (eg, MBIE, MPI) and crown entities (eg, NIWA, the National Science Challenge) to align commissioning and funding of data and research (you will receive a separate briefing on this).

Partnerships with Māori, agencies, sector groups, communities and other stakeholders

100. Connecting with key partners is essential for current and future work to be successful. To achieve its goals, the Ministry works alongside, and partners with, other agencies, local government, industry groups, environmental non-governmental organisations (ENGOs), professional bodies and communities.

101. The Ministry is committed in its role as a Māori-Crown partner to deliver in partnership with iwi/Māori. A more detailed description is provided in the Ministry's 'Briefing for Incoming Ministers – Environment, Climate Change and RMA Reform'.

102. When developing policy we connect with interested agencies, Crown entities and departments. Our closest working relationships are with Department of Conservation, Ministry for Primary Industries, Department of Internal Affairs, Taumata Arowai (the water services regulator), Ministry of Business, Innovation and Employment, the Treasury, Ministry of Health, Land Information New Zealand and Ministry of Foreign Affairs and Trade.

Next steps

103. We look forward to meeting with you and discussing how we can best support you to achieve the Government's priorities for improving environmental outcomes relating to sustainable land use, freshwater, and the marine environment.

104. Any additional information can be provided on request.

[18] An attribute is a measurable characteristic (numeric, narrative, or both) of water quality and ecosystem health eg, dissolved oxygen, nitrogen, or macroinvertebrates.

Appendix 1 – Key upcoming advice and decisions

Key decisions	Dates	Notes
How to progress changes to the NPS-FM including rebalancing Te Mana o te Wai	Q4 2023 / Q1 2024	Officials are already working with you on this. Co-lead with MPI
Progress phased rollout for Freshwater Farm Plans	Q1 2024	Decisions needed on rollout to other regions
Advice on implementation of significant natural areas (SNA) and decisions on next steps for Biodiversity Credits	Q4 2023 / Q1 2024	Consultation on credits completed
Decisions on possible amendments to the National Environmental Standards for Commercial Forestry 2023 (NES-CF) and response to the Ministerial Inquiry into Land-Use	Q1 2024	Co-lead with MPI
Decisions on proposed changes to the National Policy Statement for Highly Productive Land (NPS-HPL)	Q1 2024	Co-lead with MPI
Decisions on proposed changes to the National Environmental Standards for Sources of Human Drinking Water (NES-DW)	Q1 2024	Changes proposed in response to the Havelock North Drinking Water Inquiry
Decisions on review of implementation of the National Environmental Standards for Marine Aquaculture (NES-MA) regulations	Q1 2024	Led by MPI with support from MfE
Response to Environment Select Committee Inquiry on seabed mining	Q1 2024 TBC	Dependent on Committee's decision to reinstate inquiry
Response to Environment Committee Briefing on environmental outcomes – freshwater (Cabinet report back required)	Q1 2024 TBC	Cross-agency work underway with MPI, MBIE, DOC, DIA, and LINZ

Ministry for the Environment
Manatū Mō Te Taiao

Document 6

Secondary Briefing to the Incoming Minister: Waste and resource efficiency programme

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MfE priority: Policy and privacy

Actions sought from ministers		
Name and position	***Action sought***	***Response by***
To Hon Penny Simmonds Minister for the Environment		N/A

Actions for Minister's Office staff
Return the signed briefing to Ministry for the Environment (ministerials@mfe.govt.nz) — please send both hard *and* soft copies to ensure we meet our public record obligations.

Appendices and attachments
Nil

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Minister's comments

Waste and resource efficiency programme

Key messages

1. This briefing provides you with an initial overview of the Ministry's waste and resource efficiency work programme.

2. New Zealand generates a considerable volume of waste. It has a negative impact on our ecosystem, climate, and quality of living. Our reuse and recycling rates are comparatively poor compared with other developed countries. There is strong business and community interest in waste reduction.

3. The waste sector also contributes around 4 per cent of New Zealand's total greenhouse gas emissions and around 9 per cent of our biogenic methane emissions. The waste sector can make an important contribution to New Zealand's efforts in reducing emissions, especially in relation to the 2030 biogenic methane reduction target.

4. The national waste strategy confirmed in March 2023 includes a focus on:

    - Strengthening national resource recovery infrastructure.
    - Reducing waste emissions and waste volumes.
    - Moving up the waste hierarchy to avoid waste generation.
    - Targets to reduce waste generation, disposal, and emissions.

5. Recycling in New Zealand has been hampered by a lack of infrastructure, lack of household confidence and confusion around recyclability, as well as the presence of too many non-recyclable materials in our supply chains. There are several opportunities to address these challenges.

6. There is an opportunity for you to determine the priorities for waste levy investment to provide the sector with clarity around investment for the next 3-5 years.

7. There is also an opportunity to strengthen the legislative framework, modernise the regulatory tools to reduce waste, review the waste levy settings, and better align strategic investment in resource recovery and recycling infrastructure.

8. We would welcome the opportunity to discuss your priorities and the waste and resource efficiency work programme with you.

Recommendations

We recommend that you:

a. **Discuss** the Ministry's waste and resource efficiency programme with officials.

Yes | No

b. **Indicate** the areas where you would like further detailed briefings and advice.

Yes | No | Discuss

Signatures

Sam Buckle **Deputy Secretary**	**Date** **4/12/2023**
Hon Penny Simmonds **Minister for the Environment**	**Date**

Waste and resource efficiency programme

Purpose

9. The purpose of this briefing is to provide you with an initial overview of the Ministry's waste and resource efficiency work programme.

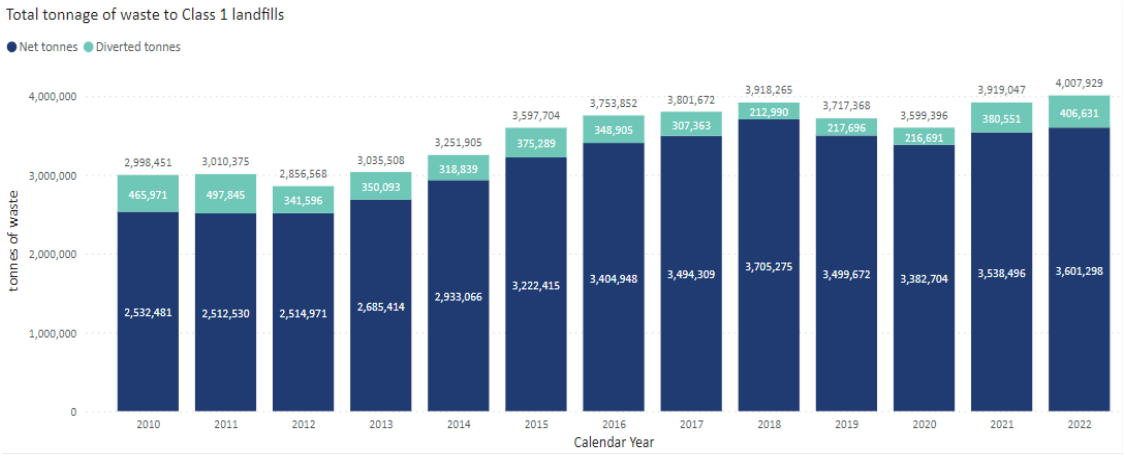
Overview and strategic context

10. We deliver a portfolio of work to reduce waste and improve New Zealand's performance in the management of waste and recycling. Our waste work programme involves a range of policy measures and levers including regulatory, economic, investment, and compliance monitoring and enforcement.

Problem definition

Room for improvement

11. In 2021, each New Zealander is estimated to have sent nearly 700 kilograms of waste to municipal landfills. The per person average for Organisation for Economic Co-operation and Development (OECD) countries is 534 kilograms.



12. Our reuse and recycling rates are comparatively poor. South Australia, a recognised regional leader, achieved over 80 per cent diversion of waste to recycling and recovery back in 2016, with only 360 kg per person going to landfill.

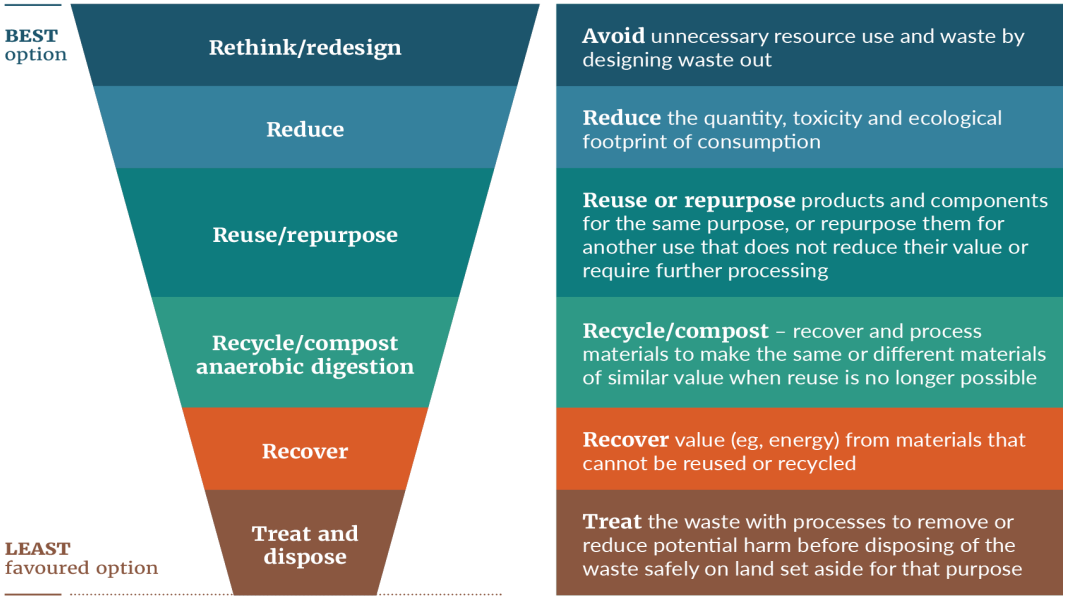
13. The waste sector also contributes around 4 per cent of New Zealand's total greenhouse gas emissions. Waste and agriculture make up 4.2% and 49.2% of total emissions respectively. However, waste and agriculture produce all New Zealand's biogenic methane emissions, at 9.1% and 90.9% respectively. Widely adopted 'off the shelf' systems and technology to reduce waste emissions are an important abatement opportunity for New Zealand.

14. This highlights the potential of the waste sector to make an important contribution towards New Zealand's efforts in reducing emissions, especially in relation to the shorter term, Climate Change Response Act 2030 biogenic methane reduction target. The current emissions reduction plan (ERP) provides for ambitious waste sector sub-targets aligned to the Climate Change Commission's demonstration path and a ~40% abatement from the waste sector by 2035. Currently, with existing ERP measures, the sector is on track for a 19% abatement by 2030 (2017 baseline).

15. The national waste strategy released in March 2023 includes a focus on:

    - Strengthening national resource recovery infrastructure.
    - Reducing waste emissions and waste volumes.
    - Moving up the waste hierarchy to avoid waste generation.
    - Targets to reduce waste generation, disposal, and emissions.

Waste hierarchy



16. Landfills in some areas are reaching capacity. The resistance of communities to new landfills and other disposal options, the long-term costs of landfill management, and the environmental consequences all underscore the need for comprehensive waste reduction. Landfill waste disposal also presents long-term risks from leachate discharge, which is managed under the Resource Management Act 1991 (RMA), with the potential to impact human health and the environment.

17. The Environment Select Committee released a report in August 2023, following an inquiry into construction and demolition waste going to landfill. The committee's report concluded with concern expressed about the effects that growing volumes of waste will have on the environment and climate, and that

there could be numerous economic benefits through more efficient use of resources and improved waste infrastructure.

More than just landfills and recycling.

18. There are other drivers for change, including opportunities to recover significant value (and associated innovation, productivity, and employment opportunities), reducing the burden of plastics and microplastics in our environment, risks from the stockpiling of low value goods like used tyres and electronic waste (e-waste), and the risks of severe weather exposing closed landfills that are increasingly vulnerable to the impacts of climate change.

19. Concern about the build-up of plastic in the environment remains one of the top ten issues of concern to New Zealanders, as shown in the Kantar Better Futures report 2023. The same survey highlighted that when purchasing a good or service, while cost of living had the biggest impact on purchasing decisions, the next five considerations all related to waste/recycling matters (eg, “overpackaging, non-recyclable packaging and landfill”).

20. Companies are increasingly adopting policies and practices that better meet consumer demand for lower waste/more recyclable options. Supporting these efforts through improved recycling infrastructure, policies and regulations that improve the quantity and quality of recycling materials provides businesses with the confidence to invest in improvements.

The sector

21. The waste and resource recovery sector is big business. It is also quite a complex sector and needs to be thought about in terms of the full supply chain. There are multiple overlapping supply chains from import and manufacture to end of life processing and landfills, involving a wide range of materials and operators.

22. The key stakeholders include:

    - Manufacturers, importers, and the packaging sector.

    - Waste and resource recovery collectors and the landfill operators. New Zealand’s two largest waste management companies have combined revenues of over $880 million and employ more than 1700 staff. Between them they own or operate 15 landfills, 13 materials recovery facilities (MRFs) and six composting sites.

    - Local councils have a statutory responsibility under the WMA to consider the need for waste services, to plan for those services and ensure services are provided for efficiently and effectively. They play a significant role in providing for collection services, transfer stations, landfill operations and some reprocessing. Councils spend hundreds of millions of dollars per annum to collect, process, recycle, and dispose of residential waste. Some councils also own and operate landfills, and most operate recycling facilities of various types.

- Community based, Māori, local and national resource recovery operations, and organisations.

Regulatory framework

23. The regulatory framework is the Waste Minimisation Act 2008 (WMA) and the Litter Act 1979. The Litter Act is 44 years old. Both Acts need upgrading and amendment to reflect significant changes in the waste sector over the last 15 years.

24. Our regulatory role in respect to waste, under the WMA, differs from some of the other legislation we administer e.g., the RMA, in that we have a direct compliance monitoring and enforcement (CME) role under the WMA, including in relation to the various regulations and statutory obligations. As an example, this includes site audits of levied landfills and enforcement action on non-complying operators.

25. We have consulted on proposals to repeal and replace the WMA and the Litter Act. The rationale for amendments is to:

    - better align local and central government investment in waste infrastructure and initiatives
    - modernise regulation of products, waste and recycling
    - improve waste data collection, including for emissions reduction purposes.

26. Amended legislation could also update the purpose and principles of the WMA, governance arrangements, and roles and responsibilities for waste issues. It could also transfer some operational roles to the Environmental Protection Authority (EPA).

27. We recognise that there are immediate priorities for the legislative programme, but there are opportunities to strengthen the legislative framework, modernise the regulatory tools to reduce waste, review the waste levy settings, and better align strategic investment in resource recovery and recycling infrastructure.

28. We lack good data about waste, such as the composition of our waste stream and recycling rates. A programme of work is underway to address this, including new waste data regulations that were recently gazetted and will take effect in July 2024, which will collect additional data on waste and recycling from councils and waste sites such as landfills.

Ministerial responsibilities and governance

29. A Waste Advisory Board (WAB) is established under the WMA to provide independent advice to the Minister for the Environment. The Minister appoints at least four, but not more than eight, members to the WAB (including a chairperson). The WAB currently has eight members. The terms of three members have expired (although they will remain in office until successors are

appointed or they are given notice they will not be reappointed) and the terms of two further members, including the chairperson, are due to expire in April 2024. We would like to discuss WAB appointments further with you soon.

What we are doing

Current work programme

Investment

30. We have a Waste Minimisation Fund (WMF) that is funded from a waste disposal levy (levy). The waste disposal levy is charged on waste at municipal and other landfills. The municipal levy, which had been low by international standards, has been progressively increased from $10 per tonne (its rate from 2009 to June 2021) to $50 per tonne at present, with a further increase to $60 per tonne scheduled for 1 July 2024. The two key intents of the levy are to incentivise waste reduction and diversion, and to fund investments.

31. The levy for waste disposed of at construction and demolition landfills is also being increased, from $20 per tonne to $30 per tonne from July 2024. Landfills for non-hazardous soils and inert materials (eg rubble) are levied at $10 per tonne (with no further changes to this levy rate currently planned). Modelling indicates the levy is expected to peak at around $260 million per annum from July 2024, before tapering off over time as the impact of waste reduction policies and investments take effect.

32. Under the WMA at present, half of the levy collected must be allocated to councils (distributed proportionately based on their populations) for them to spend on waste minimisation eg recycling collections. Some levy revenue is also allocated to levy collection, compliance, and administration. Accounting for these costs, approximately $600m in levy revenue may be available over the next five years for central Government investment.

33. There is an opportunity, if new waste legislation is introduced, to review the settings related to the distribution of the levy, what the levy can be spent on, and governance.

34. Forecasting levy revenue is complex and uncertain due to multiple factors such as market dynamics, policy impact, and data quality. However, total projected annual waste levy revenue over the next six years is estimated at:

2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
$109m	$222m	$257m	$255m	$240m to $255m	$233m to $253m	$224m to $251m

35. The increase in levy revenue represents a significant opportunity to invest strategically to support development, alongside private and council investment, of a much stronger modern, efficient, and effective resource recovery infrastructure. MfE has been preparing a draft investment plan setting out priorities for the next 3-5 years that we had intended to test with you before engaging the sector. This plan will be an important tool for signalling priorities and something the sector has been asking for.

36. Between 2009 and 2022 there were 288 projects awarded WMF funding aimed at minimising waste to landfills. These projects involved $140 million of WMF funding and unlocked third-party funding of $132 million. Since reopening in October 2022, with investment signals directed towards waste minimisation and emissions reduction, 63 applicants have been invited to submit a full application. These 63 applications represent a potential diversion from landfill of more than 85,000 tonnes of waste per annum from an investment of around $89 million, with a similar level of third-party co-funding unlocked. 13 of the applications are now in deed form ($7 million) with a further 19 projects in contracting ($46 million).

37. The Plastics Innovation Fund is a four-year, $50 million fund, also funded through the levy. Since 2021, 16 active projects, aimed at minimising plastic waste and its harm to the environment, have received funding of $11 million and unlocked third-party funding of $14 million. Another four projects have been awarded, which are in contracting, with a total value of $7 million.

Product stewardship schemes

38. An accredited product stewardship scheme is where people and organisations involved in the life of a product (such as brand owners, importers, and retailers) collaborate to reduce the harm caused by products at end-of-life. There are currently six products declared as ‘priority products’ under the WMA, for which regulated (mandatory) product stewardship schemes must be developed. These products include plastic packaging, tyres, e-waste including large batteries, agrichemicals and their containers, refrigerants, and farm plastics. These schemes are co-designed with industry (with additional stakeholder input) to design, accredit, regulate, and implement product stewardship schemes for each priority product group.

39. The first scheme to come into effect will be the tyres scheme, in 2024. Other schemes are at varying stages of sector design, consultation, or regulation development.

40. These schemes are intended to be transitioned into extended producer responsibility schemes under the new waste legislation, which will improve some of the limitations for both government and scheme participants in the current legislation. The approach to date had been to complete the work on these six

products and transition to the new extended producer responsibility provisions before initiating any new schemes.

Plastics

41. On average each New Zealander sends at least 60 kilograms of plastic to landfill every year. Our recovery and recycling rates for plastics are low. Plastic is present in our soils, water, food, and the air we breathe. As noted above, topics relating to plastic packaging, microplastics and ocean plastics remain of high public concern.

42. There have been several initiatives underway to address problematic plastics (including those that are difficult or not able to be recycled). First, several problematic plastics have been / are being phased out and banned. The phase outs are being introduced in three phases, including an initial phase which came into force on 1 October 2022 and a second phase on 1 July 2023. Policy approval was also given to develop regulations for a third tranche of phase-outs that would come into force in mid-2025, covering all remaining polystyrene and PVC food and beverage packaging. We would, in time, like to discuss these proposals with you and seek your direction for our work programme.

43. The New Zealand Food and Grocery Council (FGC) and the Packaging Forum are currently leading work (working with other stakeholders) to develop a plastic packaging product stewardship scheme. Recommendations for the scheme design are due to be submitted mid-late 2024.

44. On the international front, we have been participating in negotiations towards development of a global plastics treaty. Negotiations on a United Nations legally binding global plastics treaty are due to conclude by the end of 2024. The Ministry, alongside the Ministry of Foreign Affairs and Trade, is participating in the negotiations and undertaking domestic engagement and policy work. Once countries agree to a treaty text, officials will undertake a National Interest Analysis and present the treaty to the House. To ratify, there could be requirements to amend legislation and implement measures such as targets for recycling, recycled content, reduction of primary plastic polymers; bans on specified plastic products or polymers; implementation of National Action Plans.

45. We would like to discuss the Cabinet mandate for these negotiations with you and the Minister for Foreign Affairs and Trade early in the New Year.

46. Historically New Zealand heavily relied on exporting its plastic waste to China. In 2018 China introduced the Green Fence and National Sword policies, which placed greater restrictions on the types of plastic wastes they accept. This has resulted in waste exporters redirecting their waste to other countries, in particular Thailand and Malaysia. The sudden increase of plastic imports into these countries has put a strain on their local recycling and waste management capacity. Concerns on New Zealand’s contributions to human and environmental effects in undeveloped countries was the focus of a petition considered by the Environment Select Committee earlier this year. We are required to report back

on responses to the Select Committee recommendations in the first quarter of 2024.

47. As noted above, the Plastics Innovation Fund supports projects that will minimise plastic waste and its harm on the environment. It funds projects that find ways to use less plastic and make what we do use reusable or recyclable. We had been planning to reopen the fund for a further 'round' on 1 November but have not reopened until such time that we get Ministerial direction. The round was going to focus on projects that design out waste, as well as seeking applications to increase onshore processing and manufacturing capacity for recycling plastics into higher value products.

Improving recycling

48. Recycling in New Zealand has been hampered by a lack of infrastructure, lack of household confidence and confusion around recyclability, as well as the presence of too many non-recyclable materials in our supply chains. There are several opportunities to address these challenges.

49. We have been working on a more consistent approach to household recycling across councils – to reduce confusion and increase confidence in recycling. New requirements for councils will come into effect on 1 February 2024 and we are planning some communications activity to support that “go live” date, but this is an initiative we would like to discuss with you first. Additionally, by 2027 it is intended that all councils will be required to provide a household recycling service to urban areas and by 2030 a food scraps collection. Drafting the regulations that will give effect to these changes is a priority for 2024 and we would like the chance to test the next steps with you.

50. There are also different views across the supply chain as to the materials and items that should be included in standardised kerbside collections. We are in the process of setting up an advisory group (including manufacturers, collectors, recyclers, and councils) to provide advice on this issue longer term.

51. Work had been undertaken last term to design a potential container return scheme based on the success of schemes overseas in significantly increasing the recovery of containers, and reducing litter, through a financial incentive to return. All Australian states now have or are in the process of implementing a container returns scheme. We expect that stakeholders will be likely to ask about the Government’s intentions in respect of a container return scheme.

Emissions reduction

52. Efficient management of emissions from waste is a key priority towards New Zealand meeting its emission reduction targets, especially in relation to the shorter term, *Climate Change Response Act 2002* 2030 biogenic methane reduction target. The current emissions reduction plan (ERP) provides for ambitious waste sector sub-targets aligned to the Climate Change Commission's demonstration path and a ~40% abatement from the waste sector by 2035.

Currently, with existing ERP measures, the sector is on track for ~19% of its abatement target by 2030 (2017 baseline). The waste chapter of the current ERP includes activities in the following broad categories:

- Reducing waste generation and the flow of materials to landfill. This includes investment in resource recovery infrastructure; standardising kerbside waste collections; product stewardship (to manage impacts across products' lifecycles); and other actions, some of which are options for the second emission reduction plan, such as the phase out of some organic materials from landfill disposal, redirecting them towards resource recovery systems.

- Reducing emissions from materials disposed of to landfill, including options to include a wider range of facilities in within existing framework and improvements in the infrastructure for the management of gas emitted from landfills.

- Improving waste data and evidence, including landfill composition surveys; improved reporting requirements; and improved monitoring and enforcement.

53. We currently face an issue due to a lack of conclusive data on the efficiency of landfill gas capture systems in New Zealand. The assumptions made for landfill gas capture are important in determining the best approach to reducing waste emissions. In short, the default assumptions are challenged by both industry and the United Nations Framework Convention on Climate Change (UNFCCC). The basis of these assumptions needs to be reviewed robustly and as a priority or the impact on our emissions reporting could be distortionary.

54. Overall gas capture efficiency is currently estimated at a default capture rate of 68 per cent over the lifetime of a landfill. However, the operators of some Class 1 landfills report they capture more than 90 per cent of methane emissions. Yet the most recent expert review of New Zealand's greenhouse gas (GHG) inventory by the UNFCCC recommends that unless better measurement data can be provided to justify our default gas capture efficiency estimate, the international default value of 20 per cent should be used instead, which would have implications for our ability to meet emission reduction budgets. Currently, 18 (of a total of 40 active and 26 closed) class 1 landfills across New Zealand operate gas capture facilities. Work is required to strengthen our landfill gas capture framework.

Waste-to-Energy

55. Waste-to-Energy (WtE) operations cover a spectrum of technologies and feedstocks, with differing emissions and environmental impacts. WtE activities such as burning woody residues and fermenting whey into ethanol are well established in New Zealand. Incineration of municipal solid waste for energy (which is more common overseas) is not, although it has attracted recent interest, with a handful of plants suggested up and down the country. Like landfills, there is high public interest and local concern about the siting of these facilities.

56. The choice of feedstock and application are critical factors that influence environmental outcomes. There is also an issue as to what type of energy is being substituted and especially in the New Zealand context where the focus is on renewable energy. In general, using biological waste materials (such as wood) for energy is likely to have more positive effects, while combustion of inorganic or mixed materials (such as municipal waste) can result in harmful emissions and other potentially hazardous by-products that pose risks to human and environmental health.

57. We consider there are significant opportunities to promote the greater use of organic biomass for WtE, especially when potential inputs are abundant/readily available. On the other hand, to achieve economies of scale and operate economically, investment in plants for pyrolysis, incineration or gasification of municipal solid waste require ongoing inputs of waste once they are established. Individual proposals will need to be assessed on a case-by-case basis depending on their emissions, feedstock, and hazardous discharges profiles. However, large scale WtE operations based on municipal solid waste would likely find it challenging to meet those considerations.

58. A recent resource consent application by South Island Resource Recovery Limited for a WtE plant in Waimate, Canterbury has been called in, under the RMA, meaning the EPA will take over the consent process, with the final decision on the plant to be made by the Environment Court.

Contaminated land and vulnerable landfills

59. The Contaminated Sites Remediation Fund (CSRF) is a non-departmental environmental management fund administered by the Ministry. It provides financial assistance to owners of high-risk contaminated sites to remediate or manage their land. It also assists regional councils and unitary authorities to fulfil their contaminated land management functions under the Resource Management Act 1991 (RMA). The CSRF has a presumption of 50:50 cost share between central and local govt but there is some flexibility. Ultimately the Minister for the Environment currently makes the final decision on the allocation of funding for all CSRF applications.

60. The CSRF has an annual appropriation of $2.67 million with up to $0.89 million required to be available on a contestable basis through biannual funding rounds, and the remaining $1.74 million on a non-contestable basis throughout the year. The contestable portion of the allocation is intended to fund less costly investigation phases, and the non-contestable portion to fund major contaminated sites.

61. The CSRF has operated for 20 years and has been successful in assisting with the clean-up of some of New Zealand's most contaminated sites. Over the past few years, there has been an increase in applications to the CSRF for costs associated with either removal, or mitigation of risks, for landfills vulnerable to increased flood events and coastal erosion. The CSRF in its current form is not

an easy match to fund these types of sites. We would like to discuss with you expanding the scope of the fund to enable these sites to be funded more easily.

62. We would welcome the opportunity to discuss with you the options to further develop an improved contaminated land management regime, including potentially through enhancements to the existing National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS) and future legislative reform.

63. We also have a project underway to undertake a preliminary assessment of landfill and contaminated sites that are vulnerable to the effects of climate change. The Vulnerable Landfills Project forms part of our response to 2 actions on vulnerable landfills within the National Climate Change Adaptation Plan. The plan requires that by 2024, regional councils and unitary authorities, in collaboration with the Ministry, have undertaken an assessment of these sites in their regions.

64. We would welcome the opportunity to discuss these programmes with you.

Funding and investment

65. There is opportunity to better align private sector, local and central government investment in waste infrastructure and initiatives.

Māori rights and interests

66. Māori have an interest in waste minimisation and recycling in respect to their communities but also more broadly we have heard their concern around the impact of waste on wider environmental outcomes (biodiversity, marine plastic etc).

How our work connects to the bigger picture

67. The waste and resource efficiency work programme has strong linkages to our climate emissions reductions commitments.

Next steps

68. We would welcome the opportunity to discuss your priorities and the waste and resource efficiency work programme with you.

Waste and resource efficiency

Sam Buckle – Deputy Secretary

Ministry for the Environment
Manatū Mō Te Taiao

Meet the team

Sam Buckle
Deputy Secretary
Climate Change Mitigation and Resource Efficiency

Glenn Wigley
General Manager
Waste and HSNO Policy

Responsible for waste policy and legislation, including hazardous substances, new organisms and biotechnology, and chemical and waste-related international agreements.

Shaun Lewis
General Manager
Waste Systems

Leads work on waste systems, product stewardship, kerbside, recycling and waste streams policy. Leads Compliance, Monitoring and Enforcement function for Waste Minimisation Act.

Michelle Kazor
Programme Director
Waste Investments

Responsible for waste investment funding. Responsible for waste and infrastructure programmes, including the Waste Minimisation Fund, Climate Emergency.

Jon Ryan
Programme Director

Programme Director for climate change mitigation and resource efficiency

Becky Prebble
Chief Advisor

Chief Advisor for climate change mitigation and resource efficiency

Regulatory framework

Statutory responsibilities

- Responsibility for:
  - Waste Minimisation Act 2008 (WMA)
  - Litter Act 1979
- Waste Advisory Board (WAB), appointed by Minister, to provide independent advice to the Minister.
- WAB currently has eight members. Terms of three members have expired (remain until successors appointed or given notice) and two further members, including the chairperson, due to expire in April 2024. We would like to discuss with you further the appointments of members to the WAB.
- MfE's regulatory role in respect to waste, under the WMA, differs from some of the other legislation we administer in that we have a direct compliance monitoring and enforcement (CME) role under the WMA.
- New waste data regulations will take effect in July 2024, which will collect additional data on waste and recycling from councils and waste sites such as landfills.

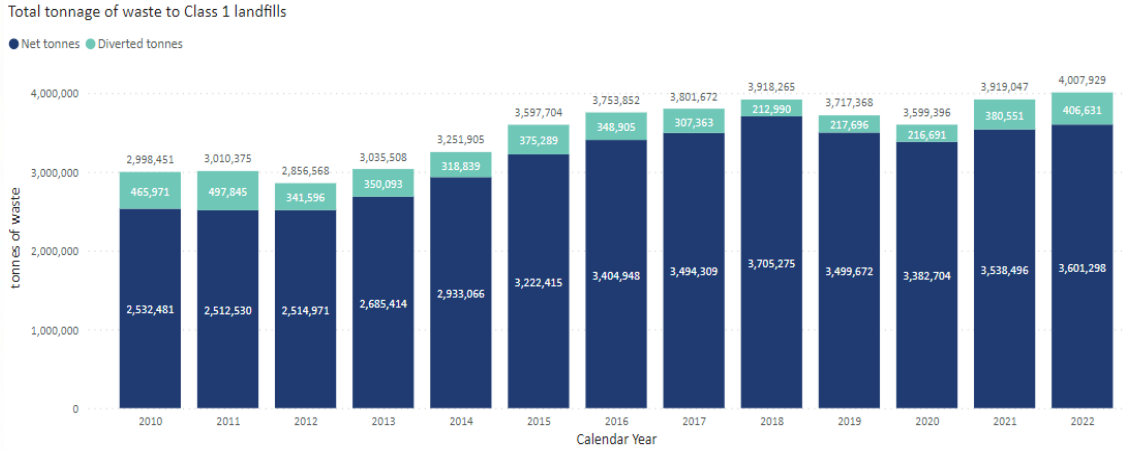
To discuss

Whether you would like further advice on the process for appointments to the WAB.

Waste and resource efficiency

Work programme

- New Zealand generates a considerable volume of waste. It has a negative impact on our ecosystem, climate and quality of living. There is strong business and community interest in waste reduction and change.

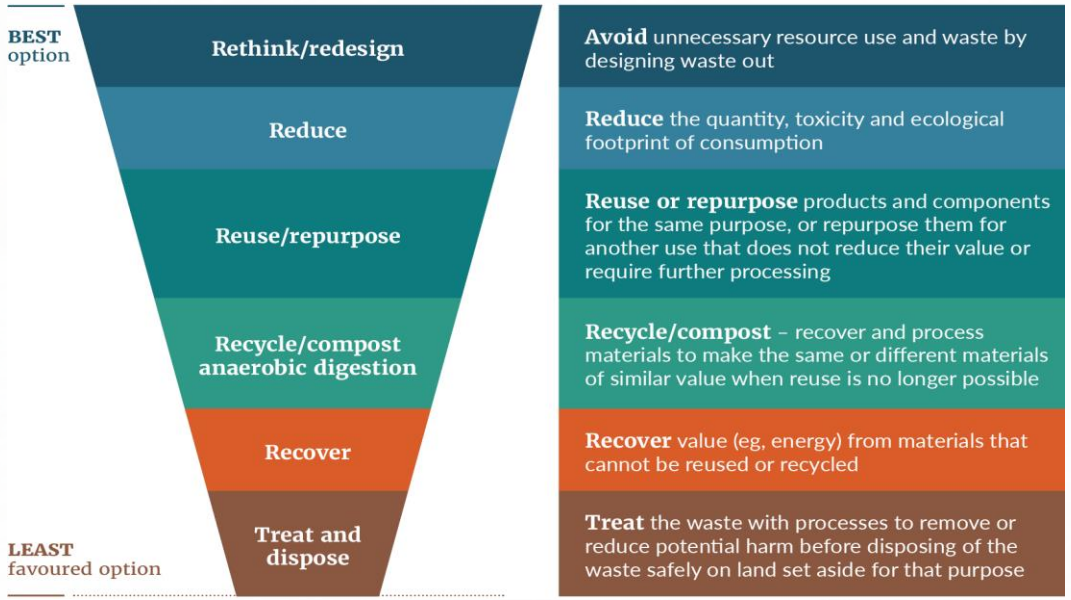


- The national waste strategy confirmed in March 2023 includes a focus on:
  - Strengthening national resource recovery infrastructure
  - Reducing emissions from waste
  - Moving up the waste hierarchy to avoid waste generation
  - Targets to reduce waste generation, disposal and emissions

Waste and resource efficiency

Work programme (contd)

- The waste hierarchy is a tool which indicates an order of preference for action to reduce and manage waste

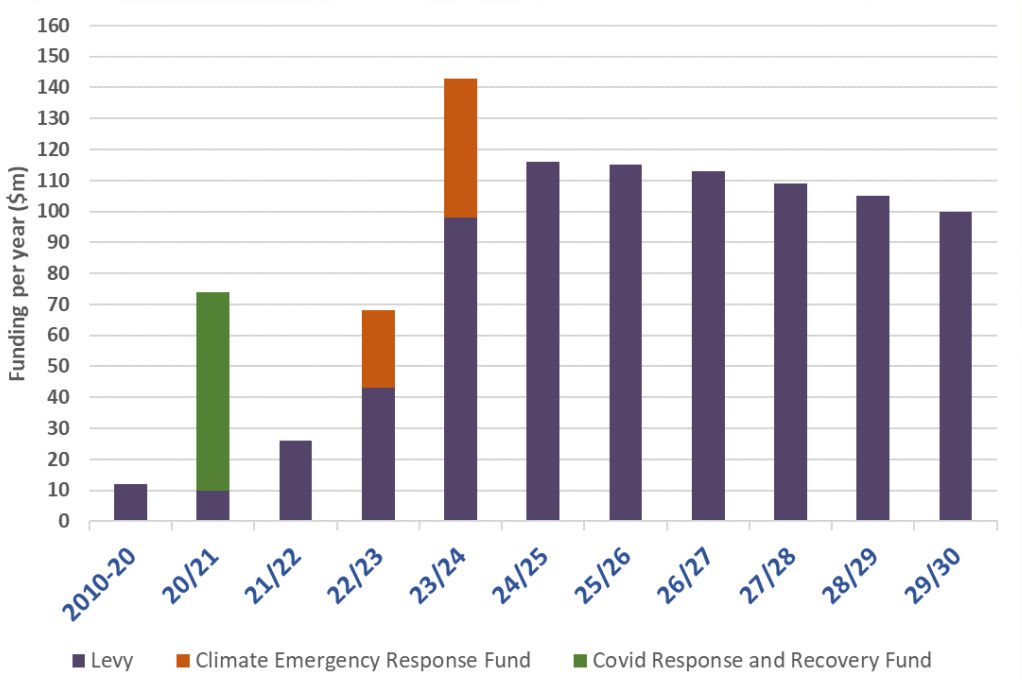


- Other work currently underway relates to improving recycling, working with the sector to deliver product stewardship, tackling plastic waste, reducing emissions from waste, and working to remediate landfills vulnerable to the adverse effects of severe weather events.

Waste levy investment

Opportunity to provide sector with greater investment clarity

- Waste levy is expected to peak at around $260 million per annum from July 2024
- Significant opportunity to invest strategically to support development, alongside private and council investment, of a much stronger modern, efficient and effective resource recovery network
- Opportunity to review the settings, depending on legislative programme, related to the distribution of the levy and governance of its investment – and maximise results.



To discuss

The Action and Investment Plan we have in development and the short- and medium- term investment priorities available to you.

Improving recycling

Significant opportunity to improve recycling performance

- Recycling in New Zealand has been hampered by:
  - a lack of infrastructure
  - lack of household confidence and confusion around recyclability
  - too many non-recyclable materials in our supply chains

To discuss

New requirements for councils will come into effect on 1 February 2024. Would like to discuss with you ahead of communications activity to support the “go live” date.

The food waste kerbside collection requirements for councils by 2027/2030.

Emissions reduction

The waste sector can contribute to emissions reduction

The waste sector contributes around 4 per cent of New Zealand's total greenhouse gas emissions – including 9 per cent of our biogenic methane emissions.

Current focus is:

- Reducing waste generation and the flow of materials to landfill
- Reducing emissions from materials disposed of to landfill - including gas capture
- Improving waste data and evidence

Lack of conclusive data on the efficiency of landfill gas capture systems. Our default assumptions need to be reviewed robustly and soon or the impact on our emissions reporting could be distortionary.

To discuss

There is currently an opportunity to set up a regulatory framework that creates the appropriate incentives to divert organic materials from landfills and/or to implement more effective landfill gas capture technologies. We would like to discuss these options with you.

Waste legislation

New Zealand would benefit from modernised fit-for-purpose legislation

- There is an opportunity to better strategically align and prioritise investment and accountabilities for waste infrastructure and initiatives across the private, central and local government sectors. Any significant changes to the levy regime will require legislative reform.
- Modernise legislation and regulations for waste, products and materials, recycling and extended producer responsibility (some of which dates back to the 1970s)
- Improve waste data collection and reporting for better targeted investments and progress milestones

To discuss

The choices you have in respect of priorities and the phasing of any legislation changes.

Contaminated land and vulnerable landfills

We have a contaminated land legacy issue to address

- The Contaminated Sites Remediation Fund (CSRF) has operated for over 20 years and has been successful in assisting with the clean-up of some of New Zealand's most contaminated sites. Annual appropriation of $2.67 million.
- Presumption of 50:50 cost share between central and local govt - but there is some flexibility. Minister makes final decisions on the allocation of funding for all CSRF applications. Expect to provide you with advice on latest applications shortly.
- We have a legacy of more than 100 poorly sited closed landfills. These are increasingly vulnerable to the impacts of sea level rise and storm damage. Have developed a risk ranking tool to assist with prioritising sites that could be considered for remediation.
- The CSRF in its current form is not an easy match to fund these types of sites. There is an opportunity to expand the scope of the waste levy to fund landfills and contaminated sites vulnerable to adverse storm events. Would require legislation to take effect.

To discuss

- The focus of the Contaminated Sites Remediation Fund.
- Potential use of the waste levy to fund remediation of closed landfills vulnerable to effects of climate change.

In summary

Waste and resource efficiency programme objectives

- Reduce waste
- Recover more
- Reduce emissions
- Strategic investment
- Work in partnership
- Better legislation
- Use better data
- Work to targets

Upcoming decisions and opportunities

We look forward to understand your priorities relating to the waste and resource efficiency portfolio. There are some upcoming decisions and opportunities from now to the end of Q1 2024 we would like to flag for you. We look forward to discussing your priorities or any of the following immediate decisions and opportunities with you.

Date	Decisions and opportunities
December 2023	Kerbside standardization changes comes into effect Feb 2024. **Decisions:** We are proposing a communications campaign to support those changes.
December 2023	You have responsibilities and delegations for the Contaminated Sites Remediation Fund. **Decisions**: There are three funding applications for your decision, all for vulnerable landfills.
From December onwards	You have responsibilities and delegations under the WMA 2008 with respect to Waste Minimisation Fund project applications. **Decisions:** You have an opportunity to make decisions on applications for waste levy investment funding.
December 2023	The Plastics Innovation Fund is a $50m investment fund from waste disposal levy revenue. **Opportunity**: There is an opportunity to reopen the fund for projects to minimise plastic waste.
Early 2024	The Ministry has been developing and Action and Investment Plan to provide greater investment clarity to the sector. **Opportunity:** We would like to discuss the plan and the short and medium-term investment priorities available to you.
Early 2024	Through the United Nations Environment Programme Countries are currently negotiating a Global Plastics Treaty to end plastics pollution. The next international negotiating committee (INC-4) is in April 2024. **Opportunity**: We would like to discuss with you stakeholder engagement to date and the Cabinet Mandate for negotiations at INC-4.
Early 2024	In September 2023 the Environment Select Committee made recommendations on banning plastic waste exports to developing countries. **Opportunity**: We would like to discuss the proposed approach to responding to the Select Committee recommendations.
Early 2024	We have a legacy of more than 100 poorly sited closed landfills. These are increasingly vulnerable to the impacts of sea level rise and storm damage. **Opportunity:** We would like to discuss with you funding options relating to landfills vulnerable to the effects of climate change.
Early 2024	The 2nd Emissions Reduction Plan (ERP2) being prepared for consultation will contain a waste and F gases chapter. **Opportunity**: We would like to discuss approaches to reducing emissions waste and F-Gases, ahead of Cabinet decisions to consult on the second ERP2 in Q2 of 2024.
Early 2024	The first regulated product stewardship scheme for tyres will come into effect from 1 March 2024. **Opportunity**: We would like to discuss options for how you would like announce this publicly.


Ministry for the
Environment
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