Ministry for the Environment
Manatū Mō Te Taiao

Our Regulatory Stewardship Strategy 2018

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Manatū Mō Te Taiao

Making Aotearoa New Zealand the most liveable place in the world
Aotearoa – he whenua mana kura mō te tangata

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Introduction

The Ministry for the Environment's purpose is that "We make Aotearoa New Zealand the most liveable place in the world". Our job is to make sure New Zealand's environment supports our prosperity – cultural, social and economic – without compromising it for future generations. We are stewards for the environment, so that we continue to have a prosperous Aotearoa New Zealand, now and in the future.

Typically the full implications of our choices only become clear generations later, so being a good steward means taking a long-term view.

New Zealand needs an architecture for a sustainable, low-emissions economy, with institutions and legislative and regulatory frameworks that create the right incentives, and accelerate the momentum for change. This includes accelerating the transition to a circular economy. It also requires sustainable land use and planning that:

- embraces both rural and urban challenges
- integrates the management of greenhouse gases and fresh water.

Making a successful transition means supporting businesses, regions and iwi, including through stronger enforcement of regulatory obligations. Also needed is ongoing science and data capability to understand how the environmental management system performs, to calibrate responses to issues, and to drive a sharper environmental strategy in the long term.

Ultimately the trends we see in our environment reflect the sum of the choices all New Zealanders make every day. They reflect a collective impact, and will require a collective response. To be successful we must work together with a range of partners – Māori/iwi, businesses, environmental groups, local and central government, research institutions and the general public – to find answers that work for everyone. We need to remove barriers to people being involved, and provide the evidence people need to make more informed choices and good decisions.

On the regulatory front, we are continuing to work with other agencies to measure and improve the effectiveness of our systems. This year's strategy is another step along that path, with updated assessments now covering all our regulatory systems using a set of high-level criteria that are common across government.

Our assessments have told us that expectations are rising, tensions between overlapping goals are growing, and demands for collaborative approaches that support a long-term sustainable view are here to stay. We need to:

- better understand the system we are stewards of, including improving the available data and how we use it and communicate it
- understand and use the connections between all the instruments we and others have, and the ecosystems we are managing, with a long-term perspective
- manage our own resources, with our partners at all levels of government and outside it, to ensure we undertake the right reviews at the right time in the right way, and implement them effectively and efficiently.

This is a challenge and an opportunity for all New Zealanders.

1 What is regulatory stewardship?

Under the State Sector Act 1988,[1] the Ministry for the Environment has regulatory stewardship responsibilities for the legislation we administer. A good steward ensures regulation is, and will remain, 'fit for purpose' over time. In 2015, the Government asked seven of the main regulatory agencies[2] to publish annual assessments of the current state of their regulatory systems, plans for amendments to regulation and new regulation, and their views of important emerging issues.

This third annual Regulatory Stewardship Strategy is our evolving response to the Government's request. It covers how we develop and maintain the regulatory systems for which we are responsible, including both longer-term perspectives and day-to-day support of our regulatory partners – the Environmental Protection Authority and local authorities.

Common definitions across agencies

- A **regulatory system** is a set of formal and informal rules, norms and sanctions, and designated actors, actions and practices that work together to shape people's behaviour or interactions in pursuit of a broad goal.
- A **regulated party** is a person or organisation that is subject to expectations, obligations or sanctions within a regulatory system.
- A **regulatory agency** is any agency (other than courts, tribunals and other independent appeal bodies) that has one or more of the following responsibilities for the whole or part of a regulatory system: monitoring, evaluation, performance reporting, policy advice, policy and operational design, implementation, administration, information provision, standard setting, licensing and approvals, compliance and enforcement.

[1] Section 32, as amended in 2013.

[2] Ministry for the Environment, along with the Ministry of Business, Innovation and Employment, Ministry for Primary Industries, Ministry of Transport, Ministry of Justice, and the Department of Internal Affairs and Department of Inland Revenue.

2 Roles in the environmental management system

Role of the Ministry for the Environment

The Ministry for the Environment's purpose is to "make Aotearoa New Zealand the most liveable place in the world". We are stewards for the environment, so that we continue to have a prosperous Aotearoa New Zealand, now and in the future.

We are the Government's primary adviser on the impact of human interactions and uses on the environment, nationally and internationally. We set policy on how the New Zealand environment is managed. We advise the Government on the system of institutions, laws, regulations, policies and economic incentives that forms the framework for environmental management, as well as monitoring the system's performance.

We lead cross-government activity on climate change, and are supported by many other government agencies. We also coordinate national and international reporting on greenhouse gas emissions, removals and projections.

We work within international forums to promote action on important international environmental issues. This ensures New Zealand's interests are protected and advanced in the work of international organisations, and that New Zealand meets its obligations under multilateral environment agreements it has ratified.

The environmental management system is regulated by 12 main Acts and underpinned by nearly 200 regulations, codes of practice and notices, national policy statements, and national environmental standards. Our legislative responsibilities span the whole environmental system, relating mainly to managing how people interact with the natural and built environment across the 10 domains.

Role of others

We often operate in a high-level policy role, with other entities handling detailed policy design or implementation at national or local levels. This involves a broad range of participants, each with a different view about managing natural resources to support the economy, conservation, recreation and customary purposes.

We work with the Environmental Protection Authority (EPA) to develop policy and regulations. The EPA's regulatory functions include making decisions on environmental matters, ensuring compliance with rules, and monitoring environmental management on behalf of the Minister for the Environment.

We are working with the EPA and the Ministry of Business, Innovation and Employment (MBIE) on actions to reduce workplace harm. To successfully implement the regulatory framework that underpins the Exclusive Economic Zone (EEZ), the Ministry will also work closely with the EPA to ensure it has robust capability and systems in place to fulfil the obligations under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act).

We invest significantly in maintaining relationships with local authorities and providing guidance and tools to support Resource Management Act 1991 (RMA) plan-making and implementation. Due to the devolved nature of the RMA, the role of local government is crucial. Local government makes most resource management decisions, and is responsible for most monitoring and enforcement. The RMA is the main legislation for making decisions on

the use of resources. As well as managing air, soil, fresh water and coastal marine areas, the RMA regulates land use (including subdivision) and infrastructure, which are integral to New Zealand's planning system.

Relationships with iwi and Māori under Te Tiriti o Waitangi (the Treaty of Waitangi) are significant in most of our work programmes. Other partnerships span:

- Crown entities
- business
- non-governmental organisations
- the wider community.

We have also worked with local authorities to guide planning. The partnership model is reflected in the range of non-regulatory mechanisms that support our strategy: science, information, funding and sharing best practice.

Why environmental regulation matters

The natural and built environment is important to New Zealanders for many reasons. It supplies our basic needs: clean air, water, food and a place to live. Much of New Zealand's international advantage lies in the quality and quantity of its environment and natural resources. Maintaining high environmental standards is essential for market access and economic growth and prosperity, as well as for creating high-quality environments (built and natural) for New Zealanders to live in.

Ecological systems are constantly changing, as are the demands on them. The extent to which we can use the environment before we start to put it at risk is limited. New tools such as the Planetary Boundaries Framework will give us measurable boundary guidelines. Breaching these will increase the likelihood of making the environment less hospitable to human development.

The doughnut economics model is another look at this set of challenges. The inner ring of the doughnut represents resources needed to lead a good life: food, clean water, housing, sanitation, energy, education, healthcare, democracy. The hole in the doughnut is a state of deprivation; the outer ring represents Earth's environmental limits. The area between the two rings – the doughnut itself – is the 'ecologically safe and socially just space'" where we should strive to live.

Often, the full implications of past environmental policies and interventions only become clear generations later. Environmental regulation must support New Zealand's prosperity by allowing ongoing use of the natural environment, while protecting it for future generations.

The environment confers mana and provides sustenance to Māori. It has shaped the living culture of Māori, which has in turn shaped the New Zealand environment over many generations. It is the resting place for those who have died, with features of the landscape representing important ancestors. It is important to tangata whenua as a form of personal and tribal identity, a symbol of social stability and a source of emotional and spiritual strength.

New Zealand may have reached or be nearing some key limits with land, water, resource efficiency/waste and urban development. These include:

- degrading water and soil quality
- excess sediment and nutrient run-off in the marine environment

- increasingly unaffordable housing
- aging and inefficient urban infrastructure.

They are closely linked, highlighting the need for an integrated response. Compounding the challenge is climate change – a fundamental disruption to our planet which presents mounting risks for New Zealand's society, economy and environment.

The economic implications are far-reaching. Thirteen of our top 20 export commodities – about 70 percent of New Zealand's export earnings – depend on natural resources. Total exports of goods and services accounted for $70.2 billion (27.6 percent) of GDP in 2016.[3] Damage to our stock of natural capital compromises our future economic and income-generating potential.

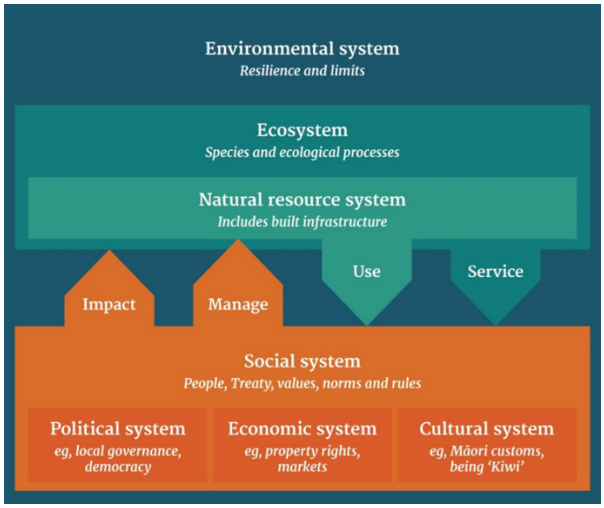
The impact on New Zealanders' well-being is equally pervasive: jobs, health, leisure, cultural identity, housing, safety and security are compromised by negative environmental trends. The effects are often intergenerational.

The risks are increasing over time. The longer we take to respond, the more abrupt and costly the transition will be. New Zealand has experienced economic shocks in the past, with deep social and financial impacts. Climate change marks a shift that is structural rather than cyclical, and will have lasting effects. The difference from most other shocks is that we can see it coming. We have a chance to get ahead of it and address the unsustainable practices of the old economy.

Environmental management system

The term 'environmental management system' describes the many and complex interactions and interdependencies between New Zealand's environmental and social processes (figure 1). This system is determined in part by the resources we have, but also by how we treat them. It is a dynamic system of political, economic, cultural and social drivers.

Figure 1: Environmental management system



Water, land management, and climate change are not simply environmental issues; social and economic systems drive how people value, use and manage natural resources. Therefore, much of what government seeks to achieve with its wider policies and ministerial portfolios depends on the performance of the environmental management system.

[3] Stats NZ Environmental-economic accounts: 2018 (data to 2016).

A long-term, cross-sector view in decision-making is essential. This approach resonates with the holistic way Māori consider their relationship with the environment. The phrase 'ki uta ki tai' (from the mountains to the sea) describes how we should view and manage the environment.

We use a 'domain' approach to understand the components of the system. The domains are air, atmosphere and climate, fresh water, land, marine and urban (figure 2). We build an understanding of each domain, before viewing the system as a whole.

Figure 2: What success looks like in the environmental management system domains in 2045

The domains do not operate in isolation. Ecosystems, activities and interventions connect them in many ways.

3 The Ministry for the Environment's strategy for managing our regulatory systems

Our strategic direction

The outcomes we are working towards are set out in our strategic plan to 2045 (figure 3).

Figure 3: Our strategic direction: Ministry for the Environment's long-term outcomes and strategic priorities

These long-term outcomes and strategic priorities point to a clear direction of travel. They are also the context in which we undertake regulatory stewardship. The way we set and deliver environmental regulation must support them.

To track our progress towards New Zealand being the most liveable place in the world, we have developed a set of headlight performance measures across the environmental system, and determined where we want to be by 2030.

The measures are not designed to capture everything we do, but they enable us to communicate the impact of our work in a tangible way – they are our 'liveability targets'.

In some cases we are unable to provide updated data for the measures in this section. We explain why, and note when and where it will be available.

Domain	Long-term goals	Targets
Air – Āngi	New Zealand is a world leader in managing risks to human health and the environment that result from poor air quality.	By 2030: Health impacts from human-made sources of air pollution are reduced by 35% from 2012 levels.
Atmosphere and climate – Kōhauhau and āhua o ngā rangi	New Zealand has an innovative and productive economy, with fewer greenhouse gas emissions, and is resilient to the physical and economic impacts of climate change and adverse climatic events.	By 2030: New Zealand's greenhouse gas emissions intensity (per unit of GDP) is half of what it was in 1990.
Fresh water – Wai	New Zealand increases the value from, and improves the quality of, our fresh water.	By 2021: No native freshwater fish[4] decline from 'not threatened' to 'at risk', or from 'at risk' to 'threatened' from the 2013 assessment. By 2030: 80% of our rivers and lakes are swimmable; by 2040: 90% of rivers and lakes are swimmable.
Land – Whenua	New Zealand improves the quality of our soils and terrestrial ecosystems and increases the value from our land-based resources.	By 2030: Estimated annual erosion from managed grassland is reduced by 50% (42 million tonnes/year), from the 2012 baseline of 84 million tonnes/year.
Marine – Wai tai	New Zealand is a world leader in the sustainable management of marine ecosystems that support New Zealand's marine life, society and the economy.	By 2030: The resilience of marine ecosystems is improved because a representative 10% of ecosystems in each biogeographic region of New Zealand's territorial sea are marine protected areas.
Urban – Tāone	New Zealand is a leader of environmentally sustainable cities, leveraging the benefits that cities offer while reducing the costs and impacts that they impose.	By 2047: Housing supply in all high-growth urban areas keeps pace with demand. Auckland issues building consents for at least 400,000 new dwellings (approximately 13,500 per year). Targets for other high-growth areas will be established in December 2018.

How we determine our regulatory priorities

We also consider several other factors to determine our approach and help frame our priorities. These include:

- non-discretionary obligations (ie, statutory obligations) and international agreements and obligations
- long- and medium-term environmental stewardship considerations as identified by environmental reporting and National Monitoring System findings
- feedback from our stakeholders and within our business, and what this tells us about regulatory adjustments that may be necessary
- supporting ministerial priorities, Cabinet-mandated work, and the Government's priorities
- robust analysis and support for changes to regulatory systems.

[4] Fish includes indeterminate and determinate taxa.

We place a high priority on quality. In general, our approach to quality advice supports clearly defining problems, impact analysis, and guidance to ensure the case for regulations (and their design and delivery) is robust. This includes:

- training, tools and processes to support good commissioning of work, backed by similar arrangements for effective peer review
- regular assessments of 10 – 20 per cent of advice that has been sent, followed by feedback to staff and adjustment of guidance, tools and processes.

Externally, we have extensive partnerships with local authorities and others engaged in planning to promote sharing of knowledge and best practice.

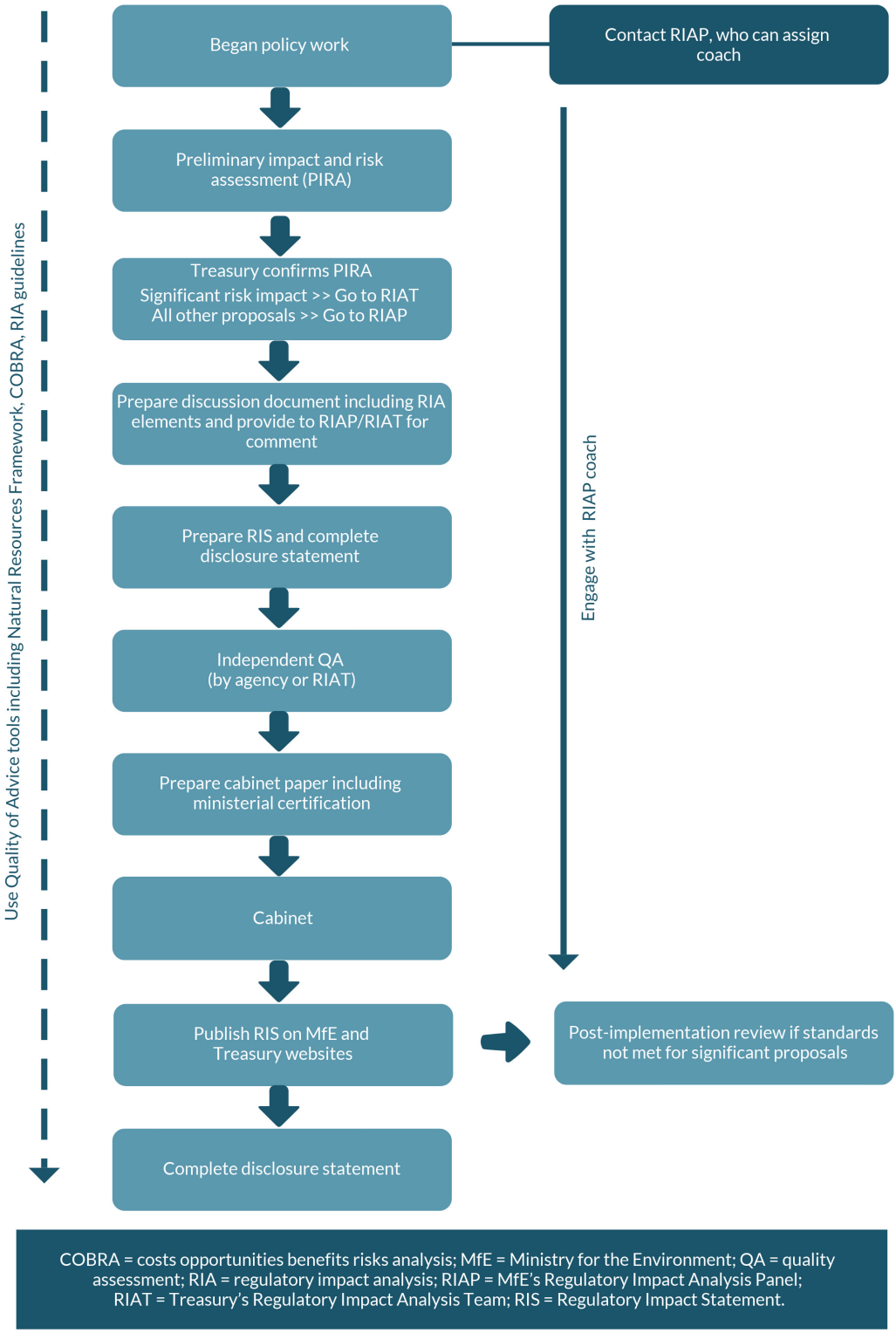
Our regulatory approach is increasingly supported by investment in science, support for and integration of data on environmental outcomes, the development of models, and collating the results through mechanisms such as the environmental reporting work programme. Better understanding of evidence and drivers supports improved policy and implementation at national and local levels.

Regulatory impact analysis (RIA) is a part of the many ways we measure and improve our advice. All our regulatory proposals must meet RIA requirements. We have embedded the RIA approach into our policy advice (figure 4). This means we are clear about the problems we are addressing and the objectives.

We consider both regulatory and non-regulatory options (eg, product stewardship, education and marketing campaigns, and funding schemes) to determine how best to address the problem and achieve the objectives. We expect non-regulatory options, especially in partnership with different levels of government, iwi and stakeholders, to become more common in achieving lasting change.

Our independent Regulatory Impact Analysis Panel assesses our regulatory impact statements to determine whether they meet the requirements (ie, convincing, clear and concise, and consulted).

Figure 4: Ministry for the Environment's regulatory impact analysis process



4 Monitoring, implementation and compliance

Monitoring

We have a mixture of monitoring arrangements, reflecting the range of systems and instruments we administer. Internal monitoring systems include the RMA Enforcement Oversight Unit, the National Monitoring System for the RMA, and the environmental reporting programme with Stats NZ. These allow us to understand how (and how well) systems work. We also draw heavily on councils and stakeholders, public consultation, and data collected under individual systems and by other agencies.

National Monitoring System

The National Monitoring System identifies and captures consistent and comparable information on how the RMA is implemented.

It provides information on the implementation of the RMA and the performance of tools (national policy statements, national environmental standards, and water conservation orders). This information is used to draw a picture of the impact of the functions, tools and processes of the RMA.

We continue to improve the availability, consistency and comparability of RMA information, and to streamline data collection. In the longer term, improving the links between RMA data and wider monitoring will help in assessing the effectiveness of regulatory processes on environmental outcomes.

The data from the National Monitoring System will contribute significantly to our information base and ability to measure performance. It will also help councils and local communities compare performance and identify best practice. This information will support better local decision-making and planning.

Environmental reporting

Our major monitoring mechanism for environmental outcomes is the Environmental Reporting Act 2015. Under this Act, we jointly operate a statutorily independent and statistically sound public reporting cycle with Stats NZ. The system provides regular, independent and robust reports that detail the current state of New Zealand's biophysical environment. Information on biodiversity and ecosystems will feature in the fresh water, land and marine domains. Every three years, a comprehensive report (the Environment Aotearoa synthesis report) brings together information on the domains of air, atmosphere and climate, fresh water, land and marine. The next report is due in 2019 – the first since the Act was passed.

We are improving the quality and consistency of monitoring, and the data that underpins reporting. Several collaborations with regional councils will address consistency, representativeness and accessibility.

Mechanisms are in place to measure climate change emissions, air quality exceedances, waste minimisation, and water monitoring (for water see Land, Air, Water Aotearoa (LAWA) website).

International monitoring

Periodically, international agencies assess New Zealand's environmental performance. The information is useful for assessing how the international community views New Zealand, and it is an effective way to promote discussion and debate about our environmental regulatory settings.

For example, the Organisation for Economic Co-operation and Development (OECD) reviews our environmental performance. These reviews are designed to help member countries improve their individual and collective performances, to achieve sustainable development. The review evaluates progress on actions taken to date and results achieved. These results are assessed against the country's own stated intentions, international commitments, and the aims of the OECD's environmental programme.

The OECD released its third Environmental Performance Review of New Zealand on 20 March 2017, at an event led by Minister Smith and Simon Upton (Director, Environment Division OECD). Previous reviews were made in 1996 and 2007. The report says that New Zealand is one of the most dynamic economies in the OECD, and has built an international reputation based on our fantastic environment. But in achieving this, the OECD notes that we are starting to reach environmental limits. This is not news to us – we recognise our stewardship role as part of our purpose of Aotearoa New Zealand being the most liveable place in the world.

From the 50 recommendations in the report, two strong themes emphasise the need to continue:

- broadening how we harness market forces to better manage our natural resources
- evolving system-wide and collaborative approaches to our environmental and economic long-term strategies, such as addressing climate change and increasing the added value of our export products.

We are considering the review and looking at how to incorporate the recommendation into our advice.

Freshwater monitoring

An area for development is an effective monitoring and evaluation framework for fresh water. We will assess progress towards the medium- and long-term goals of the freshwater reforms. This will enable us to evaluate the outcomes and the environmental, economic and social impacts of freshwater management. This will include evaluating interventions (eg, the National Policy Statement for Freshwater Management, water funds, and collaborative planning) as well as applying the water reform policy in council plans.

Waste monitoring

The Waste Disposal Levy component of the waste regulatory system is subject to three-yearly statutory reviews to assess its effectiveness. These reviews include:

- analysis of compliance levels
- progress against the purpose of the levy.

There is also a well-developed compliance assurance programme with levy operators and territorial authorities. This includes helping these parties comply with statutory obligations.

Monitoring the effectiveness of the levy and other areas of the waste regulatory system is challenging, due to the lack of access to data for most of New Zealand's landfills and waste

streams. The Ministry only has access to data from 11 per cent of all landfills, which represents 30 per cent of all waste disposed of. Limited resourcing and information are barriers to carrying out this work.

The Resource Efficiency and Innovation team's work programme, agreed to by the Associate Minister for the Environment in early 2018, will help address these issues. The Ministry will work on a national data collection and evaluation framework, and will explore options to expand the waste levy to other classes of landfill.

Implementation and compliance

We often take a high-level policy role, with detailed policy design, implementation and compliance with systems done by other national or local entities. These are mainly the EPA and local government.

Atmosphere and climate

The Environmental Protection Authority is responsible under the Climate Change Response Act 2002 for ensuring compliance with the New Zealand Emissions Trading Scheme (NZ ETS). The EPA encourages people involved in the NZ ETS to follow the rules, and responds when it seems that people are falling short of their obligations.

The EPA is also the enforcement agency for matters relating to ozone-depleting substances (under the Ozone Layer Protection Act 1996). Non-compliance can result in penalties, including fines and revocation of permits.

Marine

Responsibilities for the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act are largely split between the Ministry and the EPA. The Ministry generally administers the Act and its regulations and policies. The EPA considers applications for marine consents, monitors compliance with the Act and any conditions on marine consents, carries out enforcement, and promotes public awareness of the Act.

A range of government agencies manage the coastal environment under the RMA. The Ministry administers the RMA, develops national direction for coastal areas under the RMA (with the Department of Conservation in the case of the New Zealand Coastal Policy Statement) and responds to national priorities for managing the environment.

The Department of Conservation prepares and reviews the New Zealand Coastal Policy Statement, including supporting councils to implement it, and advising the Minister of Conservation on the approval of regional coastal plans.

Local authorities implement the RMA at regional and local levels. They prepare policy statements and plans that identify issues, and establish objectives and outcomes that policies, rules or other methods seek to achieve. They also grant resource consents for the use of natural and physical resources, and ensure activities comply with the RMA, plan rules, and resource consents.

Resource Management Act 1991

The Ministry's role in administering the RMA is to set a framework within which other parties set outcomes and design policies, or apply policies to specific cases. Although the number of national direction instruments under it is growing, the RMA devolves

decision-making to communities (through their elected councils) for what they want and how to achieve it.

RMA Enforcement Oversight Unit

Compliance is critical to ensuring the RMA is working effectively and achieving good outcomes. Poor compliance, monitoring and enforcement undermines the investment in the resource management system. While some councils are showing leadership in improving compliance, practice varies across the country.

Budget 2018 included new funding for a Compliance Oversight Unit (COU), particularly in relation to fresh water.

The purpose of the COU is to:

- improve compliance under the RMA, by councils and the public
- improve the consistency, effectiveness and transparency of council enforcement decisions.

The COU will proactively support implementation and compliance with the wider Ministry work programme. This will help to achieve key objectives.

The COU supplements the best practice guidelines on RMA compliance, monitoring and enforcement, published in July 2018.

Hazardous substances and new organisms

Enforcement relating to hazardous substances and new organisms under the Hazardous Substances and New Organisms Act 1996 is assigned to specific agencies. For example:

- new organisms – Ministry for Primary Industries
- hazardous substances in places of work – WorkSafe New Zealand
- hazardous substances in relation to travel and transport – New Zealand Transport Agency, New Zealand Police, Civil Aviation Authority of New Zealand, Maritime New Zealand
- hazardous substances at the border – New Zealand Customs Service
- hazardous substances in relation to public health – Ministry of Health.

Waste

The Ministry and territorial authorities have enforcement powers under the Waste Minimisation Act 2008 to ensure compliance. In practice we mostly guide and support territorial authorities and operators of levied fills. A strong compliance assurance programme is in place for operators of levied fills. The EPA is also the enforcement agency for hazardous waste, under the Import and Export (Restrictions) Amendment Act 2011.

5 General Acts and priorities for 2018–19

Acts not part of our regulatory systems

The following Acts are not part of the regulatory systems we have defined for the Ministry. They relate to obligations that bear only on us, or establish other institutions and their powers, rather than imposing direct obligations on regulated parties.

Environment Act 1986

The Environment Act 1986 established the Parliamentary Commissioner for the Environment and the Ministry for the Environment. The Act aims to ensure that, in managing natural and physical resources, full and balanced account is taken of:

- the intrinsic values of ecosystems
- all values that are placed by individuals and groups on the quality of the environment
- the principles of the Treaty of Waitangi
- the sustainability of natural and physical resources
- the needs of future generations.

Environment Canterbury (Transitional Governance Arrangements) Act 2016

The Environment Canterbury (Transitional Governance Arrangements) Act 2016 set up governance for Canterbury Regional Council during the 2016– 19 local authority election cycle, replacing the arrangements in place since 2010. It provides for:

- a majority of council members to be elected by the people of Canterbury
- some of the modified resource management processes that operated under the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 to remain available to the council for managing fresh water in Canterbury.

Environmental Protection Authority Act 2011

The purpose of the Environmental Protection Authority Act 2011 is to establish the EPA and provide for its functions and operation.

Environmental Reporting Act 2015

The purpose of the Environmental Reporting Act 2015 is to require regular reports on New Zealand's environment. This Act makes explicit the responsibilities for independent, fair and accurate environmental reporting, and sets the framework for the scope and timing of reporting. Regulations were made in 2016 to set topics to be covered when environmental reports are produced under the Act.

Fiordland (Te Moana o Atawhenua) Marine Management Act 2005

The Fiordland (Te Moana o Atawhenua) Marine Management Act 2005 establishes the Fiordland (Te Moana o Atawhenua) Marine Area and the Fiordland Marine Guardians to advise

on fisheries management, bio-security, and marine preservation in the Fiordland Marine Area. The Act implements measures to help preserve, protect and sustainably manage the marine environment. This Act also promotes co-operation between the Guardians and external stakeholders while acknowledging the importance of kaitiakitanga.

Priorities and reviews for 2018–19

The Ministry's purpose is for New Zealand to be the most liveable place in the world. That comes from understanding how we depend on nature to thrive, and from strengthening our stewardship role. Within this framework, our regulatory priorities for 2018–19 include:

- reforming the RMA to create:
  - better alignment and integration across the resource management system
  - proportional and adaptable processes
  - robust and durable decisions
- reviewing the current framework for resource management and planning
- developing policy on possible changes to the Climate Change Response Act 2002. These would increase durability and predictability, improve scheme flexibility for the Government, and help New Zealand meet its Paris Agreement target to reduce emissions by 30 per cent of 2005 levels by 2030
- the Zero Carbon Bill.

The legislative tools that sit under the RMA set a consistent direction on topics of national importance. The tools are national policy statements, national environmental standards, and regulations for administrative matters.

The national priorities are listed on our website.[5] The aim is to give communities, businesses and councils more certainty about what guidance is being progressed and when this might be completed. Each topic will go through a formal process, including public consultation and submissions.

[5] https://www.mfe.govt.nz/rma/rma-legislative-tools/priorities-national-direction.

6 Regulatory systems

To assess our regulatory systems,[6] we first had to define them in a consistent way. See Appendix B Ministry for the Environment regulatory systems map for how they connect with statutory frameworks, and the agencies and entities that manage them.

Assessment approach

In identifying whether our regulatory systems are fit for purpose, we have assessed them solely against their legislated purpose. Over time, we would also seek to assess their effectiveness in achieving our long-term outcomes. Below is a summary based on our own methodology, which draws on:

- monitoring and reviews of individual systems
- external assessment and reporting
- internal monitoring systems.

This work will:

- help us meet statutory obligations and reporting requirements against outcomes, frameworks and strategic plans
- address performance improvement framework reviews and Treasury and Productivity Commission recommendations on best practice regulation
- align agencies better in understanding the regulatory system and its performance
- support decisions on work programmes and allocation of resources.

See Appendix A Regulatory systems against common agency criteria for the four criteria common across agencies. Although the criteria are identical, each agency has used a methodology that reflects its own challenges and opportunities.

The criteria were informed by our set of 32 questions (see Appendix C – Ministry for the Environment assessment methodology – Questions grouped by common agency criteria, each of which has four possible answers:

best practice/excellent
acceptable
developing/needs improvement
unaware/needs significant improvement

[6] A **regulatory system** is a set of formal and informal rules, norms and sanctions, and designated actors, actions and practices that work together to shape people's behaviour or interactions in pursuit of a broad goal or outcome.

Assessment findings across systems

Main issues

Cross-domain impacts

One of the biggest challenges is growing awareness of cross-domain impacts (eg, through sediment, land uses affect fresh water and ultimately the marine environment). For action in one domain (eg, land) to support – or at least not hinder – outcomes in others, we need to anticipate the implications of change (including cumulative effects) and find solutions that benefit many domains at once.

Sustainable land use in particular is where climate, planning, urban and water issues come together. Local government has to integrate planning and consenting decisions, and land users have to make decisions that reflect the full set of drivers they face.

Science and data

Science and data are a key challenge for the Ministry and across the system. Collecting quality data once and using it well is critical in making the most of limited resources and driving integrated responses. Basic and applied science is vital for creating resilient, actionable policies.

Compliance

Poor compliance is a problem for many of the systems we administer. Issues include insufficient resources, training and guidance for agencies, and compliance, monitoring and enforcement (CME). We have committed to interventions to improve compliance, such as developing best practice guidelines under the RMA. We are also considering taking a whole-of-Ministry approach to providing greater leadership on CME, and improving compliance with all systems we administer.

Other issues

Our systems face other challenges, including:

- rising public expectations about the quality and effectiveness of local planning, and of monitoring and enforcement
- tensions over how resources are allocated, used and conserved, and conflicts between resource uses (particularly recreational, cultural and activities that extract resources or discharge into the environment)
- valuing natural capital and resources in a way that considers impacts and dependencies, without discounting what cannot be quantified. It must also allow for timeframes that can span decades, due to cumulative effects
- demand for national and local collaboration, and tensions between central and national direction on environmental issues and local decision-making
- varying political and public appetite for change (eg, genetically modified organisms, waste management)
- how to ensure New Zealanders feel the system encourages their participation and input
- how to address iwi rights and interests in a post-settlement era

- how to ensure New Zealand acts on decisions from international forums it is signatory to (eg, Montreal Protocol on Substances that Deplete the Ozone Layer) and appropriately responds to global trends and pressures (eg, climate change).

Although we face major challenges, we are positioned, with our many partners, to address these effectively in the coming years. Several significant reviews are under way within our systems, including the NZ Emissions Trading Scheme. Also, major reforms are being implemented in other systems, such as fresh water, and will be for some years to come.

Condition and fitness for purpose

The table below summarises common messages from our individual system assessments against the agency criteria.

Condition and fitness for purpose against common agency criteria			
Effectiveness	**Efficiency**	**Durability and resilience**	**Fair and accountable**
To what extent do the systems deliver the intended outcomes and impacts?	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
System objectives The objectives of most of our regulatory systems are clear. However, in some cases there is no clear line of sight between the objectives and the outcomes. The extent to which we achieve those objectives also varies. *Touchpoints* We generally have an incomplete understanding of the interactions of our systems with each other, and with other regulatory systems. *Compliance* In many of our systems, compliance and enforcement require more attention and resources.	*Value-add* The balance between the benefits and costs of many systems is not fully understood, and needs greater examination. We need to confirm that the risks of hazardous substances are adequately managed, and to assess the efficiency of the land regulatory system. *Consistency of approach* Delegation to local government has in some cases led to inconsistent approaches. We need to ensure consistent outcomes in such cases. *Ease of use* Many systems are easy to use and administer. However, some communities report cost and resource burdens.	*Monitoring changes to operating context* Changes to the operating context are regularly reviewed in most of our systems. *Barriers to change* No major barriers have been reported. However, some communities report inflexible and time-consuming processes, which prevent more innovative or cost-effective ways of achieving outcomes. *Keeping pace with change* Many systems report only being able to make limited changes in reaction to changing contexts. National change can occur faster than councils and the community can adapt (eg, some aspects of water) or not fast enough (eg,urban).	*Agreement on objectives* Participants in most of our systems agree on the objectives. *Deliverables and timeframes* Central government agencies generally deliver on time. The variation in local government resources and priorities leads to some variation in delivery. *Regulated community* Communication with communities is mostly appropriate. Some smaller industries may need different forms of communication.

The table below lists systems where assessments have changed, and the direction of that change. The magnitude of change will vary, as only a small shift can move an assessment between categories. Ozone and Land were assessed for the first time this year, so no comparisons are available.

	Effectiveness	Efficiency	Durability and resilience	Fair and accountable
Air		Worsening		
Fresh water	Improving		Improving	
Resource management system		Improving	Improving	
Marine				Improving
Hazardous substances	Worsening	Worsening	Worsening	Improving
New organisms				
Waste Minimisation Act	Worsening			

There are several areas for improvement.

- Managing overlapping objectives well, within our systems and across systems. There is tension between supporting growth and other objectives, along with difficulties in defining urban goals.

  Resolving tensions between different statutory instruments and institutions often requires statutory change or significant resourcing. This is an issue for councils that have to manage a number of regimes within the RMA framework (air, coast, water) as well as integrate their RMA approaches with their Local Government Act and other obligations. The regulatory system for the marine domain is also complex and not well integrated across artificial boundaries.

  Progress has been made but this balance will remain a challenge because of complex goals, overlapping decisions and long timeframes.

- The planning system remains challenging to understand and improve.

  The new national planning standards will be an opportunity for greater standardisation to reduce complexity for regulators and regulated parties.

- Ensuring that reviews are strategic in timing and adequately resourced at design and implementation.

  The air quality regulatory system, for example, is highly effective within its current scope, and adds value to society by providing a consistent minimum standard for air quality across the country. However, it is outdated and needs to align better with international trends and science; hence it is under review.

- Risks are considered during review, but there are challenges in implementation capacity, and alignment with other systems. Regulation can also have unintended consequences, such as diverting waste to non-levied landfills to avoid the Waste Disposal Levy. Smaller businesses may not fully understand their obligations under the Emissions Trading Scheme. These challenges also apply to compliance, monitoring and enforcement. Understanding of the rules and the consequences can vary even at the council level, let alone with business and the public.

  Approaches to RMA enforcement remain variable but work is ongoing.

- Resources and priorities remain major challenges for local government in complying with our systems and other obligations. Skills are generally available across systems, and the Ministry has highly engaged staff, but the Ministry, EPA and councils struggle to maintain adequate workforces. Aligning all hazardous substances with global classifications and reviewing to ensure net benefits to society will require significant resourcing.

This set of challenges is a priority for Natural Resource Sector agencies to coordinate resources and identify future budget initiatives.

- Better communication is needed within central government and across levels of government. Government understanding of regulated communities is generally high, but engagement between the Ministry and local government could improve.

  Significant progress has been made in recent years, particularly in building links with councils, jointly developing guidance, and sharing best practice and training.

The bullets above and table below show areas of strength and weakness, suggesting where best to direct extra effort.

Stronger	Weaker/More opportunities
System purposes are clear and well aligned with government goals. We have a good understanding of the operating environment and regulated communities. We have generally been proactive in identifying the need or opportunity for improvements.	Need to better understand each system's value and how it contributes to the desired outcomes. Adequacy of resources varies within and across different levels of government, to effectively implement, monitor and achieve compliance. Need more consistent benchmarking, and a more strategic focus on when and how widely reviews are carried out across our systems and others. Improving these areas would help us identify opportunities for improvement.

We have a strategy for improving our own activities and the systems we oversee. This addresses the issues above, and the concerns about each system's condition and fitness for purpose.

The primary mechanisms are: improving our information systems; more consistent engagement with stakeholders; and focusing our efforts through clear priorities and well-signalled reviews that are scoped and delivered through partnerships.

- We have generated better information to support our systems, from the specifics of water-metering data to the National Monitoring System for the RMA, and the general cycle of environmental reporting which is now well established.
- We also manage a number of funds that can help with resourcing and capability (Waste Minimisation, Freshwater Improvement, and Community Environment) and provide programmes such as Making Good Decisions and RMA 101, along with workshops and exchanges for regional council staff to build capability.

Now that we have completed our initial reviews for all systems, we will be undertaking a rolling set of system assessments that takes into account the timing of likely major reviews and our capacity to undertake assessments.

Regulatory systems: Descriptions, assessments and planned activity

The following assessments follow a common format that complies with Treasury requirements:

- system description
- information on the fitness-for-purpose of the system
- forward plans.

Appendix B pulls together all the assessments of condition and fitness for purpose to allow easy comparison.

System – Atmosphere and Climate – Climate Change Response Act

System description

The Climate Change Response Act 2002 established the New Zealand Emissions Trading Scheme (NZ ETS), New Zealand's main domestic policy instrument for addressing climate change. Seven regulations and four orders sit under the Act, covering a broad range of technical regulations. The Act also put in place a legal framework that enabled New Zealand to ratify the Kyoto Protocol and to meet its obligations under the United Nations Framework Convention on Climate Change.

The NZ ETS was designed to put a price on greenhouse gas emissions and removals throughout the economy. The legislated purpose is to support global efforts to reduce greenhouse gas emissions by helping New Zealand meet its international obligations, and by reducing its own emissions.

Emissions are priced by requiring the surrender of 'emission units', the supply of units through allocations to eligible activities and growing forests, and by placing an import levy on some chemicals contained in goods. The NZ ETS regulatory system establishes detailed rules for participants to report emissions and removals, and surrender emission units or pay the levy, and for emission units to be allocated to eligible persons, including those performing removal activities.

The scope of this element of the Ministry's stewardship survey is limited to the NZ ETS. A separate evaluation covers atmosphere regulations (the Ozone Layer Protection Act 1996).

Climate portfolio	
Key statute	• Climate Change Response Act 2002
Other government agencies with substantial roles	• Environmental Protection Authority • Ministry for Primary Industries
Processes for collaboration between system agencies	• Multiple interagency meetings between MfE, MPI and the EPA charged with governance, risk management, and operational oversight and planning • System reviews involve other agencies, including MBIE and the Treasury, and reporting to a ministerial grouping
Main non-government stakeholders	• The cost of the NZ ETS is felt by almost all consumers, including through electricity, gas and transport fuels • Major energy users, including some of New Zealand's largest industrial firms • Sectors with obligations under the system include forestry, coal and gas miners, transport fuel refiners, landfill operators, and synthetic greenhouse gas importers • Industrial firms that compete internationally and are 'emissions intensive' include cement, steel, pulp and paper, methanol, and whey powder manufacturers
Date of this assessment	• November 2018
Date of next assessment	• November 2019
Stakeholders consulted for this assessment	• Environmental Protection Authority • Ministry for Primary Industries

Condition and fitness for purpose

Effectiveness	Efficiency	Durability and resilience	Fair and accountable
To what extent does the system deliver the intended outcomes and impacts?	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
The system delivers on the objectives, which are clearly described. Key risks and overlaps have been considered. The agencies have the resources to deliver. There are minor concerns over the lack of transparency and the degree of discretion, and consequent uncertainty, about compliance. We are considering improvements.	The system is regularly benchmarked against international systems. However, its value-add is not clearly understood. The available evidence is generally sector-specific, or indicates correlation rather than causation.	Changes to the operating context, vulnerabilities and opportunities for change are regularly assessed. Slight barriers to changing the system include regulatory uncertainty and a lack of alignment between policies. However, these have not prevented it from keeping pace with changes to the context.	MfE, the EPA and MPI agree on the objectives and their roles. All meet their deliverables and timeframes, and the community largely understands its obligations. Communication with the community is mostly appropriate.

Planned activity for 2018–19

The Ministry is considering changes to the NZ ETS to ensure the economy is well prepared in the context of a strengthening international response to climate change and potentially higher carbon prices in the 2020s.

Decisions on likely changes were announced in mid-2017, consultation on implementation was completed in mid-2018, and final policy decisions are under way.

Since the completion of the 2015/16 NZ ETS review, the Government has announced its intention to introduce a Zero Carbon Bill. This seeks to set a new emissions reduction target by 2050 and establish an independent Climate Change Commission.

The Government has also set up an Interim Climate Change Committee, which will consider including agriculture in the NZ ETS and a transition to 100 per cent renewable electricity by 2035. The Committee is expected to pass its findings to the Commission when it is established in May 2019. The Commission is then expected to make a recommendation to the Government on agriculture and renewable electricity.

If the Government makes policy decisions on agriculture and renewables, these could be included in the changes to the NZ ETS in 2019.

These changes will allow the NZ ETS to evolve, particularly with respect to the framework provided by the Paris Agreement after 2020 and the proposed Zero Carbon Bill. They may involve amending or creating legislation or regulations to reach New Zealand's targets under the Paris Agreement and the Zero Carbon Bill.

Improvements will be progressed as needed, including annual amendment regulations to address technical issues, and to update emissions factors and the price of the synthetic greenhouse gas levy.

Atmosphere and Climate – Ozone Layer Protection Act

System description

The Ozone Layer Protection Act 1996, implemented through the Ozone Layer Protection Regulations 1996, is New Zealand's policy instrument for addressing activities that modify the ozone layer. The Act put in place a legal framework for New Zealand to meet its obligations under the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer.

The purpose of the Act is to:

- help protect human health and the environment from adverse effects resulting, or likely to result, from human activities which modify, or are likely to modify, the ozone layer
- phase out ozone-depleting substances as soon as possible, except for essential uses
- give effect to New Zealand's obligations under the Vienna Convention for the Protection of the Ozone Layer and the subsequent Montreal Protocol on Substances that Deplete the Ozone Layer (the Protocol).

The Ministry for the Environment administers the Act and the Ozone Layer Protection Regulations 1996 (the Regulations). The EPA enforces the Act and implements the permit system for imports and exports under the Regulations. The New Zealand Customs Service enforces the import and export controls of controlled substances at our borders.

New Zealand is meeting its obligations under the Protocol. New Zealand successfully phased out the use of hydrochlorofluorocarbons in 2015, which is ahead of the international phase-out date of 2020.

Environment portfolio	
Key statute	• Ozone Layer Protection Act 1996
Other government agencies with substantial roles	• Environmental Protection Authority • New Zealand Customs Service
Processes for collaboration between system agencies	• Regular meetings between MfE, MFAT, MPI, EPA and Customs, as part of an interagency group on chemical and waste multilateral environmental agreements • This group regularly reviews domestic policy settings, and amends to meet the requirements of the Montreal Protocol
Main non-government stakeholders	• Hydrochlorofluorocarbons phase-down committee • The Institute of Refrigeration Heating & Air Conditioning Engineers of New Zealand Incorporated • Climate Control Companies Association New Zealand • Refrigerant License New Zealand • The Recovery Trust
Date of this assessment	• November 2018
Date of next assessment	• November 2019
Stakeholders consulted for this assessment	• Environmental Protection Authority

Condition and fitness for purpose

Effectiveness	Efficiency	Durability and resilience	Fair and accountable
To what extent does the system deliver the intended outcomes and impacts?	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
The system has achieved its objectives. Touch points with other systems are understood, as are the costs. Its success means that risks have not been assessed for a long period. This may need attention in the future.	The system is regularly benchmarked internationally, and is easy to use and administer. It has successfully reduced changes to the ozone layer, but there has been no assessment of the costs of doing this.	The system is regularly reviewed as part of international commitments. Necessary changes to the use of methyl bromide have been identified. The system is in the process of changing to include relevant greenhouse gases.	The objectives are clear and align with MfE and ministerial priorities. Compliance rates and the long-term success of the system indicate that the community understands its obligations.

Planned activity for 2018–19

In October 2016, New Zealand was among 197 parties that adopted the Kigali Amendment to the Montreal Protocol, a protocol to the Vienna Convention for the Protection of the Ozone Layer. The Amendment phases down hydrofluorocarbons (HFCs), which have significantly increased as substitutes for ozone-depleting substances, and will come into force internationally on 1 January 2019.

The Amendment requires developed countries such as New Zealand to begin phasing down HFCs once they have ratified (starting in January 2019 for those who have ratified before that

date). Most developing countries will follow with a freeze of HFC consumption levels in 2024, and some in 2028. The phase-down will see developed countries reduce HFC use by 85 per cent of their calculated baseline by 2036, with developing countries achieving this by 2047.

It is proposed that New Zealand ratify the Amendment in October 2019, and that it enter into force for New Zealand on 1 January 2020. In the lead-up to ratification we will continue working with businesses and other government agencies to implement the rules for New Zealand to ratify and meet the requirements. This will include amending the Ozone Layer Protection Regulations 1996 to implement a proposed import and export permitting system and other required controls.

The global phase-down of HFCs will mean an increase in alternatives, which can pose health and safety risks due to their flammability, toxicity or higher operating pressure, and therefore require careful management. MBIE and WorkSafe plan to support industry to transition from HFCs through regulatory and non-regulatory approaches.

System – Air Quality

System description

The air quality regulatory system aims to manage air quality to provide a guaranteed level of health protection for New Zealanders. It was designed to restrict and control the release of environmental and health-damaging pollutants into the atmosphere. The regulatory system includes:

- the Resource Management Act 1991, which manages specific air discharges, through the consenting process
- the National Environmental Standards (NES) for Air Quality, which aims to manage outdoor air quality by setting minimum standards that each local authority must observe and enforce within their airsheds.[7]

Environment portfolio	
Key statute and national direction	• Resource Management Act 1991 • NES for Air Quality
Other government agencies with substantial roles	• Ministry of Transport, Ministry of Business, Innovation and Employment, Ministry of Health • Local authorities (regional councils and territorial authorities) • District health boards
Processes for collaboration between system agencies	• Regular agency meetings • Joint policy development sessions
Main non-government stakeholders	• Medical professionals • Home Heating Association • Wood burner testing laboratories
Date of this assessment	• November 2018
Date of next assessment	• November 2019
Stakeholders consulted for this assessment	• Local government – National Air Quality Working Group, 5–6 April 2018

[7] Airsheds are areas where air quality is monitored because the area is likely, or known, to exceed the standards.

Condition and fitness for purpose

Effectiveness	Efficiency	Durability and resilience	Fair and accountable
To what extent does the system deliver the intended outcomes and impacts?	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
New Zealand's air quality has significantly improved. The key regulation is the NES for Air Quality, in place since 2004. MfE is reviewing how to amend these regulations, to keep up with international trends and better science.	The NES for Air Quality sets national standards that the regions need to meet. They can apply their own rules to meet these. However, each region has drawn up their own plans, with inconsistent approaches throughout New Zealand.	The system has been reviewed every 5 years – the main mechanism to deal with variation and change. These regular reviews help to detect vulnerabilities and to avoid significant system failure. MfE has engaged with the Ministry of Health, Ministry of Transport, Ministry for Business, Innovation and Employment, the Energy Efficiency Conservation Authority and others on the NES for Air Quality. There are opportunities to improve the way agencies work together to manage home heating, outdoor air quality, and warm homes. These are being explored.	The system respects the rights of regions and allows them to develop more stringent rules as they see fit. The community understands its obligations. MfE and local government generally agree on the objectives and their roles. The high rate of non-compliance suggests that processes could be improved. MfE is reviewing the system to address these points.

Planned activity for 2018–19

The NES for Air Quality is the Government's main domestic policy instrument for addressing air quality. The Ministry is reviewing how it can be amended to address gaps. We will consult on proposed changes in 2019. This will take into account new scientific understanding of the health impacts of particulate matter pollution, as well as the economic, social and environmental costs of home heating and air quality.

System – Fresh Water

System description

The freshwater regulatory system is designed to ensure that enforceable quality and quantity limits are set for all New Zealand's freshwater resources. Primary regulatory direction is from the National Policy Statement for Freshwater Management (Freshwater NPS), a national policy statement issued under the RMA.

The Freshwater NPS requires regional councils to limit resource use to ensure that freshwater quality and quantity limits are met. Regional councils are primarily responsible for regulating the use of fresh water. The Ministry also allocates substantial funding for freshwater clean-up projects and supports implementation by councils, iwi/hapū, and water users.

Regulations under the RMA include:

- Resource Management (Measurement and Reporting of Water Takes) Regulations 2010
- Resource Management (National Environmental Standard for Sources of Human Drinking Water) Regulations 2007
- dissolution of the Waitaki Water Allocation Board.

Environment portfolio	
Key statute and national direction	• Resource Management Act 1991 • National Policy Statement for Freshwater Management 2014 (Amended 2017)
Other government agencies with substantial roles	• Ministry for Primary Industries, Department of Conservation, Department of Internal Affairs, Ministry for Business, Innovation and Employment, Te Puni Kōkiri, Department of the Prime Minister, and Cabinet • Local government organisations (all councils and Local Government New Zealand)
Processes for collaboration between system agencies	• Regular cross-departmental meetings (including agencies listed above) at all levels • Staff from system agencies have placements in the MfE Water Directorate
Main non-government stakeholders	• Primary industries sector groups • Environmental non-governmental organisations • Iwi • Land and Water Forum
Date of this assessment	• November 2018
Date of next assessment	• November 2019
Stakeholders consulted for this assessment	• Taranaki Regional Council • Bay of Plenty Regional Council

Condition and fitness for purpose

Effectiveness	Efficiency	Durability and resilience	Fair and accountable
To what extent does the system deliver the intended outcomes and impacts?	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
Regional councils are implementing the Freshwater NPS. However, their progress varies. Given the timeframes, environmental outcomes will not be clear for many years. Interactions and boundaries with other systems are unclear and will need attention.	Councils, iwi and stakeholders report significant costs and resource burdens from implementing the Freshwater NPS and developing policy.	MfE and MPI assess the operating environment, and proactively make changes. However, the speed of change in national direction has outpaced the ability of councils and the community to address new requirements. The community believes RMA processes are inflexible and time-consuming. This affects the durability of	The objectives are mostly clear. There is debate over how best to achieve some of them. The community has reported resource constraints which may impede full compliance. MfE and MPI work closely with the community to manage such risks. However, there are no clear ways

Effectiveness	Efficiency	Durability and resilience	Fair and accountable
		the system. Councils and sectors report that the inflexibility prevents more innovative or cost-effective approaches.	to resolve resource issues. The system tends to prioritise the interests of existing users over new entrants.

Planned activity for 2018–19

On 8 October Environment Minister David Parker and Agriculture Minister Damien O'Connor released the Government's blueprint to improve freshwater quality. It also sets out a new approach to the Māori/Crown relationship that will acknowledge Māori interests in fair access to water to develop their land. The work programme will deliver a number of measures.

- Targeted action and investment in at-risk catchments, including speeding up the use of Good Farming Practice Principles and identifying options for tree planting through the One Billion Trees programme.
- A new National Policy Statement for Freshwater Management by 2020, to ensure all aspects of ecosystem health are managed, and to address risks, for example through stronger direction on limiting resource use, and better protection of wetlands and estuaries.
- A new National Environmental Standard for Freshwater Management, in force by 2020, to regulate activities that put water quality at risk, such as intensive winter grazing, hill country cropping, and feedlots.
- Amendments to the Resource Management Act within the next 12 months to review consents to more quickly implement water quality and quantity related limits; and to strengthen tools to improve compliance.
- Decisions on how to manage allocation of nutrient discharges, informed by discussion and engagement with interested parties.
- Involvement of interested parties in testing and advising on policy options through a network of advisory groups: Kahui Wai Māori, the Science and Technical Advisory Group, and the Freshwater Leaders Group.

The Ministry is continuing to work with regional councils on implementing the existing Freshwater NPS. At the same time the Government is moving to ensure safe drinking water for all, in response to the Havelock Inquiry, and is looking at broader issues through the Three Waters Review.

System – Resource Management

System description

The resource management system is intended to promote the sustainable management of natural and physical resources. The key statutory instrument is the Resource Management Act, which attempts to manage competing interests for natural and built resources, including infrastructure in the context of existing ownership and property rights.

The RMA is the principal legislation through which New Zealand's land and coastal environment is managed. It sets out the framework for the management of air, water, soil, biodiversity, the coastal environment, noise, subdivision and land use. The Ministry administers the RMA, with most decision-making devolved to local authorities or

boards of inquiry appointed by the Minister for the Environment for nationally significant proposals (supported through the EPA).

Thirteen regulations sit under the RMA and cover activities including:

- requiring authority approvals
- heritage protection authority approvals
- forms, fees and procedure
- marine pollution
- metering of water takes
- pest control.

There are five national policy statements:

- National Policy Statement for Freshwater Management
- National Policy Statement for Renewable Electricity Generation
- National Policy Statement on Electricity Transmission
- National Policy Statement on Urban Development Capacity
- New Zealand Coastal Policy Statement.

There are six national environmental standards:

- National Environmental Standards for Air Quality
- National Environmental Standard for Sources of Drinking Water
- National Environmental Standard for Telecommunications Facilities
- National Environmental Standards for Electricity Transmission Activities
- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
- National Environmental Standards for Plantation Forestry.

Community well-being depends on how effectively the use and conservation of natural and built resources is combined and coordinated. Implementation of the RMA is based on a hierarchy of planning documents at national, regional and district levels. Unless national or relevant regional policy or standards have been adopted, it is up to each local authority to set out what it sees as the key issues within its jurisdiction, and how it will address these through plans, policies, the consenting system and other non-regulatory mechanisms.

Environment portfolio	
Key statute	• Resource Management Act 1991
Other government agencies with substantial roles	• Ministry for Primary Industries, Department of Conservation, Te Puni Kōkiri, Ministry for Business, Innovation and Employment, Ministry of Transport, Department of Internal Affairs, Treasury • Local authorities and Local Government New Zealand
Processes for collaboration between system agencies	• Cross-agency projects • Regular meetings/information-sharing forums • Inter-agency governance groups – eg Natural Resources Sector, Housing and Infrastructure Deputy Chief Executives, National Direction Governance Group
Main non-government stakeholders	• Iwi/Māori • Sector groups – eg, Environmental Defence Society, Infrastructure NZ • Professional bodies – eg, NZ Planning Institute, Resource Management Law Association
Date of this assessment	• November 2018
Date of next assessment	• November 2019
Stakeholders consulted for this assessment	• Horowhenua District Council

Condition and fitness for purpose

Effectiveness	Efficiency	Durability and resilience	Fair and accountable
To what extent does the system deliver the intended outcomes and impacts?	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
The objectives are clear but there is still limited understanding of how the system helps to achieve them. There is evidence that the system is not reaching some objectives. MfE has mitigated some risks to the effectiveness of the system. Human and financial resourcing is a barrier, and compliance and enforcement are of concern. MfE is putting more resources into this area.	The value-add of the system is partially understood. Some processes, eg, resource consents, are highly efficient. Central government's has amended legislation to speed up plan-making. However, uncertainty remains over the interpretation of some components, and the touch points and tensions with other systems are only partially understood. This has led to inconsistencies, complexity and potential inefficiencies. These issues will need ongoing attention.	There is evidence that the system is not keeping pace with changes in several domains (eg, urban growth). Monitoring and evaluating has been limited, and process and structural barriers limit the ability to change the system. Central government has recently given greater national direction and standardisation through National Planning Standards, to address structure and format issues.	Local authorities have discretion to implement the RMA according to their needs. Most deliverables and timeframes are being met. Some processes (eg, plan-making) are transparent and participatory but some are inflexible and time-consuming. Recent amendments to the RMA aim to improve this.

Planned activity for 2018–19

The Ministry has a number of focus areas in the resource management system in 2018–19. We will continue to support the implementation of the Resource Legislation Amendment Act 2017 where necessary, including the streamlined planning process and Mana Whakahono ā Rohe: Iwi Participation Arrangements.

The National Planning Standards were created as a new national direction tool in 2017. The focus for 2018–19 will be on notifying the draft first set of standards for public consultation in June 2018, working towards the gazettal of the first set of standards by April 2019.

As well as implementing the last set of reforms, the Ministry continues its stewardship role to consider any further changes to the RMA that may be needed.

The Ministry is working with other central government agencies to advance the Government's priorities on housing and urban development. This includes progressing the Urban Growth Agenda to change the system settings to:

- create the conditions for the market to respond to growth
- bring down the high cost of urban land to improve housing affordability
- support thriving communities.

The Ministry will develop and amend national direction, and explore potential solutions. The major focus is on fresh water and urban development. Indigenous biodiversity, aquaculture and the outdoor storage of tyres are also priorities, along with versatile and high-class soils, air quality, and resilience in land-use management (natural hazards and climate change adaptation).

The Ministry will also support the resource management system in the effective implementation and monitoring of national direction instruments. This includes applying a systems view to national direction instruments and developing new ways to support implementation.

The Ministry published best practice guidelines for councils on compliance, monitoring and enforcement (CME) under the RMA in July 2018. We will also provide more proactive leadership to ensure councils are effectively carrying out their CME functions.

The National Monitoring System (NMS) will report on the 2016/17 and 2017/18 data set. The 2018/19 NMS data requirements recognise changes to the RMA associated with the Resource Legislation Amendment Act. We will also be seeking feedback on the data requirements, including where we can improve collection and use, and how the NMS could better connect to environmental outcomes data. We will also be developing data products on key themes and making these publicly available.

System – Land

System description

Land is both a place where activities take place and a resource. The way we use our land will have both positive and negative effects on the well-being of people, flora, fauna and the long-term sustainability of our air, water and soil.

> Whatungarongaro te tangata, toitū te whenua
>
> *People disappear, the land remains.*

The history of land use and allocation in New Zealand means that the system is complex and controlled through overlapping legislative and regulatory instruments (such as the Conservation Act, the Land Transfer Act, the Maori Land Act, the Reserves Act, the Land Transport Act), as well as common law and practice spanning government agencies and decision-makers at all levels of government.

The RMA is one of the core pieces of legislation that govern resource use and land management: it sets out how we should manage our environment. It devolves responsibility for land management to local authorities who are empowered to control any actual or potential effects of the use, development, or protection of land to promote the sustainable management of natural and physical resources. Councils do this by applying regional and district plans that outline issues, objectives, policies and rules. Decision-making is split, with district councils mainly controlling land and regional councils controlling water. However, both have specific functions in relation to land, and regional councils control the use of land for soil conservation, as well as identifying and monitoring contaminated land.

The legislative tools that sit under the Resource Management Act set a consistent direction on topics of national importance. They are national policy statements, national environmental standards, and regulations for administrative matters. The Government has developed national direction for several activities that occur on land (see below). A Forward Agenda for National Direction was published in 2015 and updated in 2016, with a third version expected in 2018.

Environment portfolio	Environment
Key statute and national direction	• Resource Management Act 1991 • National Environmental Standards for Electricity Transmission • National Environmental Standards for Telecommunications Facilities • National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health • National Environmental Standards for Plantation Forestry • National Policy Statement for Renewable Electricity Generation • National Policy Statement on Electricity Transmission • Resource Management (Exemption) Regulations 2017 (commonly known as Pest Control Regulations) • (Under development) National Policy Statement for Indigenous Biodiversity is being developed through a stakeholder-led collaborative process. • (Under development) National Policy Statement for Versatile Land and High Class Soils has been announced and scoping is underway.
Other government agencies with a substantial role in national direction instruments	• Local authorities (both regional councils and territorial authorities) • Ministry of Business, Innovation and Employment, Ministry of Primary Industries, Department of Conservation
Processes for collaboration between system agencies	• Cross-agency projects • Regular meetings/information-sharing forums • Inter-agency governance groups – eg, Natural Resources Sector, Housing and Infrastructure Deputy Chief Executives, National Direction Governance Group
Main non-government stakeholders	• Iwi/Māori • Sector groups – eg, Environmental Defence Society, Infrastructure NZ • Professional bodies – eg, NZ Planning Institute, Resource Management Law Association

Environment portfolio	Environment
Date of this assessment	• November 2018
Date of next assessment	• November 2019
Stakeholders consulted for this assessment	• Environmental Protection Authority • Ministry for Primary Industries

Effectiveness	Efficiency	Durability and resilience	Fair and accountable
To what extent does the system deliver the intended outcomes and impacts?	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
The RMA has some flexibility to reach better outcomes. National direction instruments vary in achieving the objectives. In some cases, there is no clear line of sight between these instruments and the desired outcomes. While individual instruments have created more certainty in the system, their effectiveness in working together to achieve the outcomes is contested.	The efficiency is questionable given the many statutes, levels of decision-making, and complexity of the system. The ease and costs of carrying out the RMA and national direction instruments vary. Changing plans is costly and there is evidence that councils struggle to apply the many requirements. The new National Planning Standards are designed to help councils do this more efficiently.	Reviews of national direction instruments do occur, but not regularly, and adapting them is complex. The agenda for national direction includes new proposed instruments. These will encourage councils to consider a broader range of policies that better reflect the complex nature of land management. Future work should aim to simplify the system and improve how instruments work together.	The RMA maintains the general approach in law to uphold private property rights, and seeks to balance these against the public good where appropriate. Steps are being taken to better include Treaty responsibilities and iwi. Engagement and delivery are focused more on the needs of the community, including Treaty and iwi engagement obligations, and the checks and balances ensure accountability, transparency and opportunities for participation. Territorial authorities deliver the national direction, so there is some variation in process, delivery and level of implementation.

Planned activity for 2018–19

There are strong interconnections between land, air and water and activities on urban, rural and conservation land. There is no clear outline of actions and programmes covering the entire land system.

As outlined in the Forward Agenda for National Direction, the following issues are being considered and could lead to some form of regulation.

- High-class soils and versatile land: *Exploring options for integrating policy between urban and land outcomes*.
- Indigenous biodiversity: *Objectives and policies (and potentially other complementary measures) to maintain indigenous biodiversity, as part of broader initiatives to foster biodiversity*.

- Resilience in land-use management (natural hazards and climate change adaptation): *Package of proposals to improve resilience to natural hazard risks and the effects of climate change*.
- Outdoor storage of tyres: *A proposal for nationally-consistent rules for the responsible outdoor storage of tyres was consulted on in 2017; decisions are expected in 2018*.

Including these issues indicates a wider potential scope of regulation. There is also potential for instruments that are not land-related (such as the National Policy Statement for Freshwater Management) to influence the way land is managed.

There may also be changes to the following instruments, which sit within the land system:

- NES for Contaminated Land: *Improve guidance and implementation of contaminated land management, including emerging soil contaminants*.
- NPS (2008) and NES (2009) for Electricity Transmission: *Assess the NPS to better understand its impacts, and determine whether it is on track to meet its objectives*.
- NES for Plantation Forestry: *Came into effect on 1 May 2018, and will have a one-year review*.

Other work in the land system includes testing ecosystem service models to guide councils on using them for integrated land-use planning and management; and investigating the best ways to address soil erosion, particularly on pastoral land, which accounts for 44 per cent of accelerated erosion.

The Ministry also recognises the need for an integrated approach, so the land system is responsive and flexible enough to improve outcomes in all domains.

System – Urban

System description

The resource management system is intended to promote the sustainable management of natural and physical resources. The key statutory instrument is the RMA, which attempts to manage competing interests for natural and built resources, including infrastructure in the context of existing ownership and property rights.

The RMA is the principal legislation through which New Zealand's land and coastal environment is managed. It sets out the framework for managing air, water, soil, biodiversity, the coastal environment, noise, subdivision and land use. The Ministry administers the RMA, with most decision-making devolved to local authorities, or to boards of inquiry appointed by the Minister for nationally significant proposals (supported through the EPA).

One national policy statement focuses only on the urban domain: the National Policy Statement on Urban Development Capacity (NPS-UDC). For this reason, the 2018 assessment of the urban domain mainly addresses this. The scope may widen to include other urban regulations that may be introduced.

Note: For this assessment, the 'system' refers to the NPS-UDC policy and the wider Ministry context of policy development and implementation support for the NPS-UDC.

Environment portfolio	
Key statute	• Resource Management Act 1991
Other government agencies with substantial roles	• Urban Development Capacity – Ministry for Business, Innovation and Employment • Local authorities • Local Government New Zealand, Society of Local Government Managers
Processes for collaboration between system agencies	• Between MBIE–MfE: Signed programme plan. • Councils and MfE/MBIE: Regular meetings, workshops, symposiums, phone catch-ups • Between councils: Collaboration is strongly encouraged in the NPS-UDC (policy PD1).
Main non-government stakeholders	• Resource Management Law Association • Infrastructure NZ • Iwi/Māori • Property Council and other developers • Landlords
Date of this assessment	• November 2018
Date of next assessment	• November 2019
Stakeholders consulted for this assessment	• Local government – NPS-UDC Symposium, 28 March 2018

Effectiveness	Efficiency	Durability and resilience	Fair and accountable
To what extent does the system deliver the intended outcomes and impacts?	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
There is a line of sight between the regulation and the desired outcomes. Key risks have been identified, and there is some understanding of the touch points with other systems. At this early stage the effectiveness is not clear.	At this stage it is difficult to determine efficiency. Early signs are that compliance can be difficult for the regulators.	Regular reviews are planned. Local authorities monitor changes to the operating environment (housing, business and infrastructure markets). Improvements are identified, but how to prioritise them is not yet clear.	The objectives are clear and align with MfE and government objectives. However, some interpretation differs between policy agencies and the regulators. Councils have expressed concerns about timeframes and resourcing.

Planned activity for 2018–19

Extensive support is planned for 2018–2019 (and beyond) with support for local authorities to achieve the NPS-UDC deliverables like housing and business development capacity assessments and future development strategies on time and of good quality. It includes regular face-to-face meetings and purposeful communication and engagement with councils.

The statutory NPS-UDC deliverables for 2018–2019 are:

Councils in high-growth urban areas:

- Setting minimum targets for housing capacity by 31 December 2018
- Future development strategy by 31 December 2018

Councils in newly defined high-growth urban areas:

- Housing and business development capacity assessment due by 30 June 2018
- Set minimum targets for housing capacity due by 31 December 2018
- Future development strategy due by 31 December 2018

Councils in medium-growth urban areas:

- Housing and business development capacity assessment due by 31 December 2018

Councils in newly defined medium-growth urban areas:

- Monitor market indicators due by 31 March 2018
- Use price efficiency indicators due by 31 March 2018
- Housing and business development capacity assessment due by 31 December 2018

The 'urban areas' definition under the NPS-UDC will be reviewed to ensure they stay relevant and capture growing urban areas. It was a transitional definition, as Stats NZ intended to change their definitions in 2017. Pending the Stats NZ review, a decision on amending the NPS-UDC will be made by the end of the year.

Two policy processes currently underway could boost the implementation of the NPS-UDC.

- Developing the Urban Growth Agenda, which addresses constraints on development capacity and well-functioning urban land markets. It promotes opportunities to better understand and, where feasible, reflect (internalise) the full costs of infrastructure and location decisions, and to support thriving communities.
- Putting in place the National Urban Development Authority Legislation to facilitate large and complex projects, with broader enabling powers.

(Note that there is a risk that these could compete for resources with NPS-UDC at Ministry and local government level.)

System – Marine and Coast

System description

The marine regulatory system establishes and influences how the marine domain[8] is adequately managed, used and protected. The marine domain is governed by a broad set of regulatory programmes and instruments administered by a variety of government agencies.

The Ministry has a key role, administering two important pieces of legislation for the sustainable management of activities in the marine environment: the RMA and the EEZ Act. It also administers the Fiordland (Te Moana o Atawhenua) Marine Management Act 2005, which establishes the Fiordland (Te Moana o Atawhenua) Marine Area, including eight marine reserves, and establishes the Fiordland Marine Guardians. However, the assessment will focus

[8] The marine domain encompasses the near-shore coastal marine area from the Mean High Water Springs up to 12 nautical miles, and the offshore area extending 12–200 nautical miles.

on the two key statutes, including regulations and other instruments that sit under them, such as the New Zealand Coastal Policy Statement 2010 (NZCPS).

The EEZ Act aims to protect New Zealand's oceans from the risks of activities like petroleum exploration, seabed mining, marine energy generation, and carbon capture developments. The EPA is responsible for marine consent decisions under the Act. Five regulations sit under this Act, covering:

- classification of activities as permitted
- classification of discretionary activities as non-notified
- fees and charges
- discharges and dumping
- burial at sea.

Environment portfolio	
Key statutes	• Resource Management Act 1991 • Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
Other government agencies with substantial roles	• Department of Conservation, Ministry for Primary Industries, Ministry of Business, Innovation and Employment, Ministry of Transport, Ministry of Justice • Environmental Protection Authority, WorkSafe NZ, Maritime NZ • Regional councils
Processes for collaboration between system agencies	**Marine – Coast** • Department of Conservation (DOC) review of the effect of the NZCPS 2010 on RMA decision-making. The review involved a range of government and non-government agencies • Department of Conservation project on improved monitoring and reporting under NZCPS • Council development and revision of regional coastal plans to give effect to the NZCPS • Development of DOC guidance on implementation of the NZCPS • Development of national direction instruments under the RMA[9] – for effective implementation, all national direction instruments need to align with each other; ideally other instruments would align with the NZCPS – an example of alignment with the NZCPS is the National Policy Statement on Indigenous Biodiversity – policy development for national direction that involves the NZCPS, such as the aquaculture National Environment Standard • Crown submissions on council review of plans • Crown participation in court proceedings referring to the NZCPS • Treaty settlement negotiations and agreements involving conservation in the coastal marine area **Marine – EEZ (Exclusive Economic Zone)** • Letter of Expectations from the Minister for the Environment to the Environmental Protection Authority • Marine hub – this is an inter-agency group that meets on a regular basis • Business as usual agency collaboration on matters of shared interest

[9] National direction instruments are legislative tools – national policy statements, national environmental standards, and regulations for administrative matters.

Environment portfolio	
	• Ad hoc working groups that address emerging issues. For example: – joint working group for decommissioning offshore oil and gas installations – joint working group for regulating jettisoned material from space vehicle launches
Main non-government stakeholders	**Marine – Coast** • Coastal users – recreational fishers – surf break protection society • Aquaculture industry • Fishing industry • Federated Farmers of New Zealand • Property developers in the coastal area • Planning and legal profession, including New Zealand Planning Institute, Resource Management Law Association, and New Zealand Insurance Law Association • Infrastructure providers, including telcos, ports and roading • Environmental non-governmental organisations: – Forest and Bird – Environmental Defence Society – coastal care groups, eg, dune protection – Landcare Trust • Walking Access Commission (Crown entity) • We also work with iwi as Treaty partners, and local government. **Marine – EEZ** • Industry representatives for oil and gas, and seabed mining. This includes industry associations: – Petroleum Exploration and Production New Zealand – Straterra • Marine scientific researchers including the National Institute of Water and Atmospheric Research (Crown research institute) • Non-governmental organisations and interest groups: – Climate Justice Taranaki – Kiwis Against Seabed Mining • We also work with iwi as Treaty partners, and local government.
Date of this assessment	• November 2018
Date of next assessment	• November 2019
Stakeholders consulted for this assessment	• Waikato Regional Council (Marine Coast) • Environmental Protection Authority (Marine EEZ)

Condition and fitness for purpose

	Effectiveness	Efficiency	Durability and resilience	Fair and accountable
	To what extent does the system deliver the intended outcomes and impacts?	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
Coast	The objectives are clear, but recent work suggests that the system is only achieving some outcomes. A weak understanding of interactions with other regulatory systems has led to some inconsistent implementation and unanticipated outcomes. The extent of non-compliance is poorly understood and inconsistently addressed.	There is limited understanding of the system's value-add and its consequences. Only limited assessment of costs and burdens has been made. Councils have found aspects of the system difficult to administer.	The system has been able to make limited adaptations. However, it has not successfully responded to some issues. Reviews are irregular, and opportunities for change are identified in response to external factors. It may be necessary to identify and overcome the barriers to change.	The objectives are clear and align with MfE, ministerial and wider goals. Central government agencies generally meet their deliverables. Varied resources are available to government agencies.
EEZ	The EEZ regime has delivered most of its outcomes. The system has clear goals and requirements, as evidenced by strong compliance. The EEZ Act was created as a gap-filling regime and does not duplicate existing legislation. It aims to ensure sustainable management of natural resources in the EEZ. The EPA is seen as a capable overseer and enforcer of EEZ regulations. The EPA has a robust system for compliance, and non-compliance is appropriately addressed.	Policy-makers and the regulator commonly consider opportunities to enhance efficiencies. The EPA regularly seeks feedback from the community on improving delivery. Issues are often identified and dealt with ad hoc, and the Act could address minor and technical matters if there is an appropriate legislative vehicle. These are mostly operational issues that the EPA has flagged to us. Aspects of the EEZ regime are bedding in, particularly amendments to the Act (ie, board of inquiry process) as a result of the Resource Legislation Amendment Act 2017. We have yet to see the full effect of these changes.	The EEZ Act aims to address gaps in the management of the marine environment and only regulates the effects of activities that were not already covered by existing legislation. The Act is a prescriptive framework that can limit the ability of regulators to use discretion and flexibility in interpreting the requirements. In general, the system has adapted to changes in the operating context, largely relying on legislative mechanisms. The Act requires periodic reviews for aspects of the regime; however, regular monitoring and evaluation may be beneficial.	MfE and the EPA largely agree on their interpretation of the objectives. Risks to good process are addressed as needed. A more systematic approach may be necessary. The purpose of sustainable management differs between the RMA and EEZ Act, which does not consider cultural well-being. Iwi have expressed concern about the lack of recognition of the impact on cultural values for applications under the EEZ Act. There has been some inconsistency about how decision-makers should address cultural considerations.

Planned activity for 2018–19

The Ministry's vision is to support New Zealand as a leader in the sustainable use and management of its marine environment. This work includes:

- reviewing the current regulatory regime and taking a holistic approach to development based on systems thinking and long-term outcomes
- improving evidence, data and information to improve environmental reporting
- administering the EEZ Act, developing regulations for decommissioning offshore petroleum facilities under the Act, and updating the permitted activity regulations.

System – Hazardous Substances and New Organisms

System description

The Hazardous Substances and New Organisms (HSNO) Act aims to prevent or manage the adverse effects of hazardous substances and new organisms, including genetically modified organisms within New Zealand. This is a complex system to administer: the Ministry is responsible for the Act and regulations, while the EPA is responsible for enforcement and engagement. The Ministry for Primary Industries, WorkSafe New Zealand, Institutional Biological Safety Committees, and local government also play a role.

The HSNO system was designed to make environmental and human protection paramount, with the benefits of using hazardous substances one factor to consider. The purpose is to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances (HS) and new organisms (NO). The HSNO regulatory system establishes a consistent process for assessing the risks posed by HS and NO. It also sets national controls to manage their environmental effects and risks.

Portfolio	Environment
Key statute	• Hazardous Substances and New Organisms Act 1996
Other government agencies with substantial roles	• Environmental Protection Authority • WorkSafe (hazardous substances in workplaces) • Local government (hazardous substances outside the workplace, mainly territorial authorities) • MPI (new organisms) • Institutional Biological Safety Committees (new organisms)
Processes for collaboration between system agencies	• Memorandum of Understanding between MfE and EPA • Regular interagency meetings between MfE, EPA and MPI
Main non-government stakeholders	• Interest groups in chemical hazard management and biotechnology, including the OECD
Date of this assessment	• November 2018
Date of next assessment	• November 2019
Stakeholders consulted for this assessment	Hazardous Substances • Environmental Protection Authority • Ministry for Business, Innovation and Employment • WorkSafe New Organisms • Environmental Protection Authority • Ministry for Primary Industries

Condition and fitness for purpose

	Effectiveness	Efficiency	Durability and resilience	Fair and accountable
	To what extent does the system deliver the intended outcomes and impacts?	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
HS	The system delivers the outcomes and impacts. New HS regulations were set in 2017 and there is yet to be an assessment of its effectiveness. Further reviews will consider any issues and seek to clarify responsibilities and impacts on the system.	There is not enough evidence to confirm that the HS regime is adequately managing the long-term risks of HS use. This creates uncertainty about the risks. MfE and the EPA are gathering evidence on the environmental effects of HS use.	It is important to ensure the system keeps up with changes. The EPA and MfE are modernising how they implement HS regulation to ensure effective chemical regulation protects the environment and people from harm.	The evidence suggests that many small and medium enterprises struggle to understand and comply with HS controls. This makes it more difficult to meet the objectives. The EPA is communicating with enforcement agencies to better understand the challenges of enforcement.
NO	The system delivers the objectives, and the key risks and overlaps have been identified.	The system focuses on the risks of using NOs, although New Zealand may not be getting the maximum benefits of using them. NOs that meet the statutory criteria, and applicants for whom they are the most appropriate pathway, are made 'not new' to minimise the cost and burden to the scientific community.	MfE, the EPA and MPI have identified the potential for regulatory and legislative changes. The objectives are being achieved, but the system may not be keeping pace with technological advances.	MfE, the EPA and MPI agree on the objectives and all achieve their deliverables. Communication with the community is appropriate.

Planned activity for 2018–19

Hazardous Substances:

We will continue to look at possible amendments to the HSNO Act. Any proposals will be in response to gaps or weaknesses identified in the system. Proposals may include:

- examining the response to and funding the clean-up of significant hazardous substance incidents
- looking at ways to improve the reassessment process
- increasing the efficiency of reassessing HS approvals
- exploring ways to ensure the EPA is funded to meet its HSNO responsibilities

- new technological developments including nanotechnology and biopesticides. There are potential unknown environmental concerns with these technologies and they blur the line of whether or not these are adequately managed by HSNO
- identifying and pursuing opportunities for international agreement on hazardous substances policy.

New Organisms:

- We are aware of rapid developments in genetic technology, and of new techniques in fields such as agriculture, conservation and health. We are staying aware of international developments in regulatory and policy responses.
- Several non-genetically modified organisms have been identified as appropriate for 'denewing'[10] in 2018/19.

System – Resource Efficiency

System description

The waste regulatory system is designed to reduce the harmful effects of waste and use resources more efficiently. The key statutory instrument, the Waste Minimisation Act (WMA), encourages waste minimisation and reduction of waste disposal through:

- a levy on all waste sent to landfills that accept household waste
- a requirement on territorial authorities to encourage waste management and minimisation and prepare plans
- distributing half the levy funds to territorial authorities for promoting or achieving waste minimisation
- distributing the remaining half of the levy funds to projects that reduce waste to landfill through the Waste Minimisation Fund
- government accreditation of product stewardship schemes including mandatory schemes for priority products
- regulations to control the disposal of products, materials or waste, require take-back services, deposit fees, or labelling of products
- establishing the Waste Advisory Board to advise the Minister.

This Act also aims to benefit the New Zealand economy by encouraging better use of materials throughout the product life cycle, promoting domestic reprocessing of recovered materials, and providing more jobs. One set of regulations under the Act covers the calculation and payment of the Waste Disposal Levy.

[10] Denewing is the process of removing an organism's 'new' status under the Hazardous Substances and New Organisms Act.

Environment portfolio	
Key statutes	• Waste Minimisation Act 2008 • Local Government Act 2002 • Resource Management Act 1991 • Litter Act 1979[11]
Other government agencies with substantial roles	• Territorial authorities • Treasury • Environmental Protection Authority
Processes for collaboration between system agencies	• Provincial Growth Fund. MfE advises on environmental aspects for the fund, which is a Ministry of Business, Innovation and Employment initiative • Partnering with agencies across government to make progress towards initiatives like the circular economy (MBIE, Treasury)
Main non-government stakeholders	• WasteMINZ • Waste Advisory Board • Resource recovery industry
Date of this assessment	• November 2018
Date of next assessment	• November 2019
Stakeholders consulted for this assessment	• Kāpiti District Council • Marlborough District Council • Invercargill City Council • Manawatu District Council • Auckland City Council

Condition and fitness for purpose

Effectiveness	Efficiency	Durability and resilience	Fair and accountable
To what extent does the system deliver the intended outcomes and impacts?	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
The objectives of the system are clear; however, the most recent levy review has recommended focusing on a clear strategy and direction; investing in a national dataset and evaluation framework; and a staged approach to expanding the levy to other classes of landfill. Waste to landfill has increased by 20% since the 2014 review. This	A lack of information makes it difficult to understand the system's contribution. There have been unintended consequences (such as diversion from levied fills). Significant changes are needed to better deliver the purpose of the WMA.	The system is perhaps not as flexible as it could be. Any changes to the levy, and applying it to more landfill classes, must be approved by Cabinet as an Act of Parliament. Therefore the system needs adequate resourcing and time to make change. The Waste Minimisation Fund allows	Deliverables and timeframes are being met. Waste disposed of at levied landfill is accurately recorded and reported. Facility operators are also paying their levies. The community receives enough communication and guidance from the Ministry to ensure they

[11] This Act was moved to the administration of the Ministry for the Environment in April 2016. It empowers public and territorial authorities to make bylaws and appoint enforcement officers for litter. It also appoints Keep New Zealand Beautiful Incorporated as the body mainly responsible for promoting litter control. Due to the short time this Act has been a Ministry responsibility, we did not include it in our assessment of the waste and resources regulatory system this year.

Effectiveness	Efficiency	Durability and resilience	Fair and accountable
does not align with the purposes of the Waste Minimisation Act (WMA). Compatibility between the system and the RMA is still of concern as the RMA controls and manages disposal of waste rather than its reduction to landfill as in the WMA. However, compliance is high and the community has a good understanding of its obligations.		for some rounds of funding for particular pressures, but targeting is reactive rather than proactive due to the lack of data. There is also room for a better understanding of the community, particularly iwi and industry.	include all requirements in their waste minimisation and management plans. Some obligations are difficult for territorial authorities to meet or resource. Smaller authorities may need more support.

Planned activity for 2018–19

- **Providing direction** – the Ministry will be focusing on how it can transition to a circular economy. The Waste Minimisation Fund will continue to fund rounds with more outcome-focused projects, including high-harm waste streams and projects that will significantly minimise waste. The 2018 funding round had a key focus on circular economy projects.
- **Improving access to data and information** – the Ministry will be working on a national waste data collection and evaluation framework. This will improve understanding of waste streams to prioritise issues and measure the effectiveness of the levy.
- **Maximising the effectiveness of the levy** – the Ministry is looking at ways to expand the levy across more classes of landfill. This will provide a consistent approach across the country, while more effectively encouraging the reduction of waste to landfill and ensuring a fairer and more transparent system.

Appendix A – Regulatory systems against common agency criteria

This table brings together the condition and fitness for purpose assessments for all the Ministry for the Environment's regulatory systems. Each assessment has four possible results:

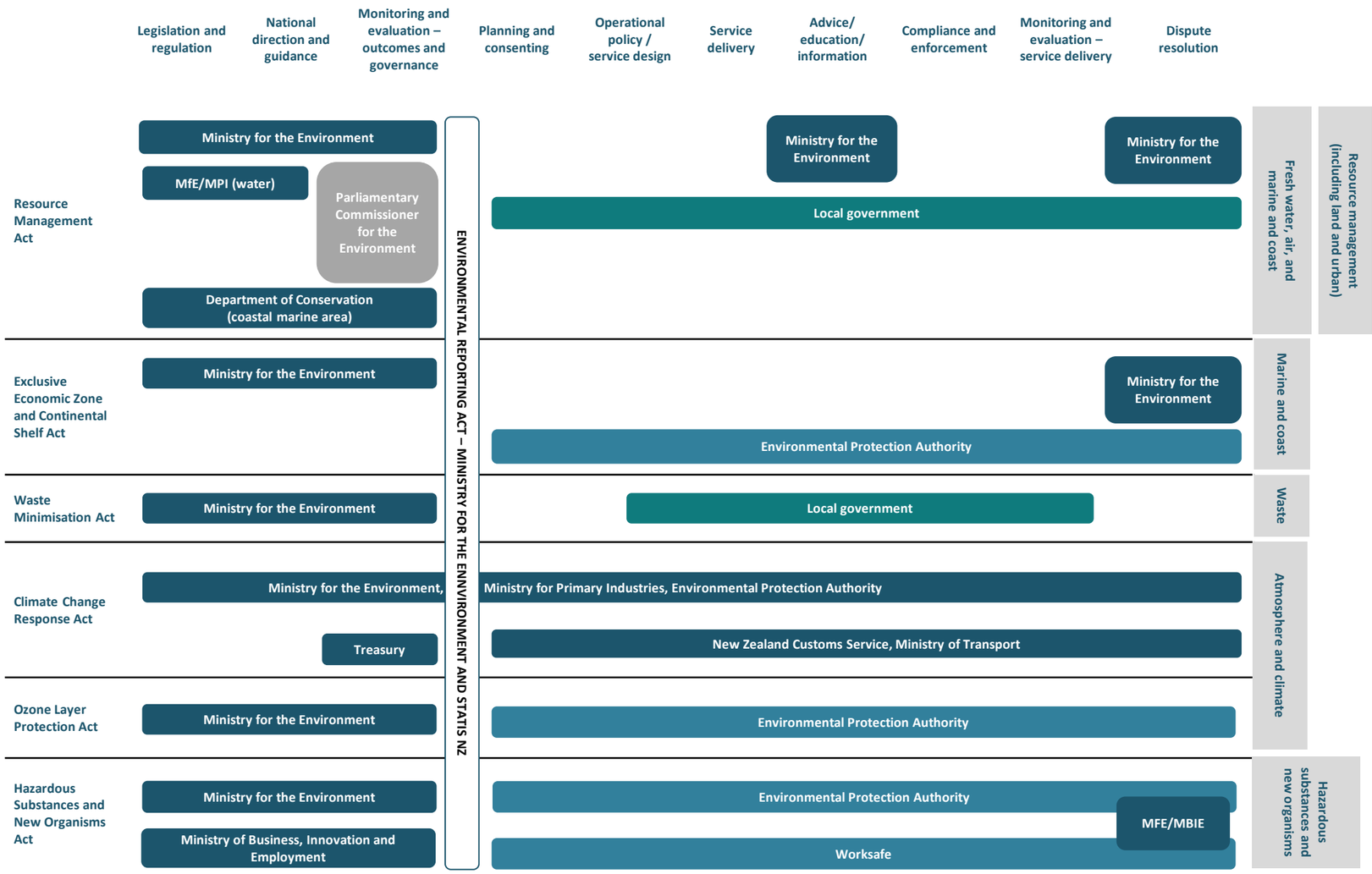
best practice/excellent	acceptable	developing/needs improvement	unaware/needs significant improvement

		Effectiveness	Efficiency	Durability and resilience	Fair and accountable
Regulatory system	**Act**	**To what extent does the system deliver the intended outcomes and impacts?**	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
Atmosphere and climate – Climate change	**Climate Change Response Act 2002**	The system delivers the objectives, which are clearly described. Key risks and overlaps have been considered. Relevant agencies have the resources to deliver. There are minor concerns with the lack of transparency, and the degree of discretion and uncertainty with compliance. We are considering improvements.	The system is regularly benchmarked internationally. However, its value-add is not clearly understood. The available evidence is generally sector-specific, or only indicates correlation rather than causation.	Changes to the operating context, vulnerabilities and opportunities for changes are regularly assessed. Slight barriers to changing the system include regulatory uncertainty and a lack of alignment between policies. However, these have not prevented the system from keeping pace with overall changes to the context.	MfE, the EPA and MPI agree on the objectives and their roles. All meet their deliverables and timeframes, and the regulated community largely understands its obligations. Communication with the community is mostly appropriate.
Atmosphere and climate – Ozone	**Ozone Layer Protection Act 1996**	The system has achieved its objectives. Touch points with other systems are understood, as are the costs. Its success means that risks have not been assessed for a long time. This may need attention in the future.	The system is regularly benchmarked Internationally, and is easy to use and administer. It has successfully reduced changes to the ozone layer, but there has been no assessment of the costs of doing this	The system is regularly reviewed as part of international commitments. Necessary changes to the use of methyl bromide have been identified in the past. The system is changing to include relevant greenhouse gases.	The objectives are clear, and align with MfE and ministerial priorities. Compliance rates and the long-term success of the system indicate that the community understands its obligations.
Air	**Resource Management Act 1991**	New Zealand's air quality has significantly improved. The key regulation is the National Environmental Standard (NES) for Air Quality, in place since 2004. MfE is reviewing how to amend the NES, to keep up with international trends and better science.	The NES for air quality sets standards that the regions must meet. Regions can set their own rules to meet the standards. However, each region devises their own plans, with inconsistent management throughout New Zealand.	The system has been reviewed every 5 years – the main mechanism to deal with variation and change. These regular reviews help to detect vulnerabilities and to avoid significant system failure. MfE has engaged with Ministry of Health, Ministry of Transport, Ministry for Business, Innovation and Employment, Energy Efficiency and Conservation Authority and others on the NES for Air Quality. There are opportunities to improve the way agencies work together to manage home heating, outdoor air quality, and warm homes. These are being explored.	The system respects the rights of regions and allows them to develop more stringent rules as they see fit. The community understands its obligations. MfE and local government generally agree on the objectives, and their roles. The high rate of non-compliance suggests that processes could be improved. MfE is reviewing the system to address these points.
Fresh water		Regional councils are implementing the Freshwater NPS. However, their progress varies. Given the timeframes, environmental outcomes will not be clear for many years. Interactions and boundaries with other systems are unclear and will need attention.	Councils, iwi and stakeholders report significant costs and resource burdens from implementing the Freshwater NPS and developing policy.	MfE and MPI assess the operating environment, and proactively make changes. However, the speed of change in national direction has outpaced the ability of councils and the community to address new requirements. The community believes RMA processes are inflexible and time-consuming. This affects the durability of the system. Councils and sectors report that it prevents more innovative or cost-effective approaches	The objectives are mostly clear. There is debate over how best to achieve some of them. The community has reported resource constraints which may impede full compliance. MfE and MPI work closely with the community to manage such risks. However, there are no clear ways to resolve resource issues. The system tends to prioritise the interests of existing users over new entrants.
Resource management system		The objectives are clear, but there is still limited understanding of how the system contributes to achieving them. There is evidence that the system is not achieving some objectives. MfE has mitigated some key risks to the effectiveness of the system. Human and financial resourcing is a barrier, and compliance and enforcement are of concern. MfE is putting more resources into this area.	The value-add is partially understood. Some processes, eg, resource consents, are highly efficient. Central government has amended legislation to speed up plan-making. However, uncertainty remains over the interpretation of some components, and the touch points and tensions with other systems are only partially understood. This has resulted in inconsistencies, complexity and potential inefficiencies. These issues will need ongoing attention.	There is evidence that the system is not keeping pace with changes in several domains (eg, urban growth). Monitoring and evaluation has been limited, and process and structural barriers limit necessary changes. Central government has recently given greater national direction and standardisation through National Planning Standards to address structure and format issues.	Local authorities have discretion to implement the RMA according to their needs. Most deliverables and timeframes are being met. Some processes (eg, plan-making) are transparent and participatory but can also be inflexible and time-consuming. Recent amendments to the RMA aim to improve this.

		Effectiveness	Efficiency	Durability and resilience	Fair and accountable
Regulatory system	**Act**	**To what extent does the system deliver the intended outcomes and impacts?**	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
Resource management – Land	**Resource Management Act 1991**	The RMA has some flexibility to achieve better outcomes. National direction instruments vary in achieving the objectives. In some cases, there is no clear line of sight between these instruments and the desired outcomes. While individual instruments have created more certainty in the system, their effectiveness in working together to achieve the outcomes is contested.	The efficiency is questionable given the multiple statutes, levels of decision-making, and complexity of the system. The ease and the costs of carrying out the RMA and national direction instruments vary. Changing plans is costly and there is evidence that councils struggle to apply the many requirements. The new National Planning Standards are designed to help councils to do this more efficiently.	Reviews of national direction instruments do occur, but not regularly, and adapting instruments to a changing context is complex. The agenda for national direction includes new proposed instruments. These will encourage councils to consider a broader range of policies that better reflect the complex nature of land management. Future work should aim to simplify the system and how instruments work together.	The RMA maintains the general approach in law to uphold private property rights, and seeks to balance these against the public good where appropriate. Improvements are being made to include Treaty responsibilities and iwi. Engagement and delivery are focused more on the needs of the community, including Treaty and iwi engagement obligations, and the checks and balances ensure accountability, transparency and opportunities for public participation. Territorial authorities deliver the national direction, so there is some variation in process, delivery and level of implementation.
Resource management – Urban		There is a line of sight between the regulation and the desired outcomes. Key areas of risk have been identified, and there is some understanding of the touch points with other systems. At this early stage, the effectiveness is not clear.	At this stage it is difficult to determine efficiency. Early signs are that compliance can be difficult for the regulators.	Regular reviews are planned. Local authorities monitor changes to the operating environment (housing, business and infrastructure markets). Improvements are identified, but how to prioritise them is not yet clear.	The objectives are clear and align with MfE and government objectives. However, some interpretation differs between policy agencies and the regulators. Councils have expressed concerns about timeframes and resourcing.
Marine – Coast		The objectives are clear, but recent work suggests that the system is only achieving some outcomes. A weak understanding of interactions with other systems has led to some inconsistent implementation and unanticipated outcomes. The extent of non-compliance is poorly understood and inconsistently addressed.	There is limited understanding of the system's value-add and its consequences. Only limited assessment of costs and burdens has been made. Councils have found aspects of the system difficult to administer.	The system has been able to make limited adaptions. However, it has not successfully responded to some issues. Reviews are irregular, and opportunities for change are identified in response to external factors. It may be necessary to identify and overcome the barriers to change.	The objectives are clear and align with MfE, ministerial and wider goals. Central government agencies generally meet their deliverables. Varied resources are available to government agencies.
Marine – EEZ	**Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012**	The EEZ regime has delivered most of its outcomes. The system has clear goals and requirements, as evidenced by strong compliance. The EEZ Act was created as a gap-filling regime and does not duplicate existing legislation. It aims to ensure the sustainable management of natural resources in the EEZ. The EPA is seen as a capable overseer and enforcer of the EEZ regulations. The EPA has a robust system for compliance, and non-compliance is appropriately addressed.	Policy-makers and the regulator commonly consider opportunities to enhance efficiencies. The EPA regularly seeks feedback from the community on improving delivery. Issues are often identified and dealt with ad hoc, and the Act could address minor or technical matters if there is an appropriate legislative vehicle. These are mostly operational issues that the EPA has flagged to us. Aspects of the EEZ regime are bedding in, particularly amendments to the Act (ie, board of inquiry process) as a result of the Resource Legislation Amendment Act 2017. We have yet to see the full effect of these changes.	The EEZ Act aims to address gaps in the management of the marine environment, and only regulates the effects of activities that were not already covered by existing legislation. The Act is a prescriptive framework that can limit the ability of regulators to use discretion and flexibility in interpreting the requirements. In general, the system has adapted to changes in the operating context, largely relying on legislative mechanisms. The Act requires periodic reviews for certain aspects of the regime; however, regular monitoring and evaluation may be beneficial.	MfE and the EPA largely agree on their interpretation of the objectives. Risks to good process are addressed as needed. A more systematic approach may be necessary. The purpose of sustainable management differs between the RMA and EEZ Act, which does not consider cultural well-being. Iwi have expressed concern about the lack of recognition of the impact on cultural values for applications under the EEZ Act. There has been some inconsistency in how decision-makers should address cultural considerations.
Hazardous substances (HS)	**Hazardous Substances and New Organisms Act 1996**	The system delivers the outcomes and impacts. New hazardous substances (HS) regulations were set in 2017 and there is yet to be an assessment of its effectiveness. Further reviews will consider any issues and seek to clarify responsibilities and impacts to the system.	There is not enough evidence to confirm that the HS regime is adequately managing the long-term risks of HS use. This creates uncertainty about the risks. MfE and the EPA are gathering evidence on the environmental effects of HS use.	It is important to ensure the system keeps up with changes. The EPA and MfE are modernising how they implement HS regulation to ensure effective chemical regulation protects the environment and people from harm.	The evidence suggests that many small and medium enterprises struggle to understand and comply with HS controls. This makes it more difficult to meet the objectives. The EPA is communicating with enforcement agencies to better understand the challenges of enforcement.
New organisms		The system delivers the objectives, and the key risks and regulatory overlaps have been identified.	The system focuses on the risks of using new organisms (NOs), although New Zealand may not be getting the maximum benefits of using them. NOs that meet the statutory criteria, and applicants for whom it is the most appropriate pathway, are made "not new" to minimise the cost and burden to the scientific community.	MfE, the EPA and MPI have identified the potential for regulatory and legislative changes. While the objectives are being achieved, the system may not be keeping pace with technological advances.	MfE, the EPA and MPI agree on the objectives and all meet their deliverables. Communication with the community is appropriate.

		Effectiveness	Efficiency	Durability and resilience	Fair and accountable
Regulatory system	**Act**	**To what extent does the system deliver the intended outcomes and impacts?**	**To what extent does the system minimise unintended consequences and undue costs and burdens?**	**How well does the system cope with variation, change and pressures?**	**How well does the system respect rights and deliver good process?**
Resource efficiency	**Waste Minimisation Act 2008**	The objectives of the system are clear; however, the most recent levy review has recommended focusing on a clear strategy and direction; investing in a national dataset and evaluation framework; and a staged approach to expanding the levy to other classes of landfill. Waste to landfill has increased by 20% since the 2014 review. This does not align with the purposes of the Waste Minimisation Act (WMA). Compatibility between the system and the RMA is still of concern as the RMA controls and manages disposal of waste rather than its reduction to landfill as in the WMA. However, compliance is high and the community has a good understanding of its obligations.	A lack of information makes it difficult to understand the system's contribution. There have been unintended consequences (such as diversion from levied fills). Significant changes are needed to better deliver the purpose of the WMA.	The system is perhaps not as flexible as it could be. Any changes to the levy, and applying it to more landfill classes, must be approved by Cabinet as an Act of Parliament. Therefore the system needs adequate resourcing and time to make change. The WMF allows for some rounds of funding for particular pressures, but targeting is reactive rather than proactive due to the lack of data. There is also room for a better understanding of the community, particularly iwi and industry.	Deliverables and timeframes are being met. Waste disposed of at levied landfill is accurately recorded and reported. Facility operators are also paying their levies. The community receives enough communication and guidance from the Ministry to ensure they include all requirements in their waste minimisation and management plans. Some obligations are difficult for territorial authorities to meet or resource. Smaller authorities may need more support.

Appendix B – Ministry for the Environment regulatory systems map



	Legislation and regulation	National direction and guidance	Monitoring and evaluation (outcomes and governance)	Planning and consenting	Operational policy / service design	Standard setting	Service delivery	Advice/education/ information	Compliance and enforcement	Monitoring and evaluation (service delivery)	Dispute resolution
Resource Management Act	Ministry for the Environment Ministry for the Environment and Ministry for Primary Industries (water) Department of Conservation (coast)		Ministry for the Environment Parliamentary Commissioner for the Environment Department of Conservation (coast)	Councils				Ministry for the Environment, Councils	Councils	Ministry for the Environment, Councils	Councils
Exclusive Economic Zone and Continental Shelf Act	Ministry for the Environment			Environmental Protection Authority						Ministry for the Environment, Environmental Protection Authority	Environmental Protection Authority
Waste Minimisation Act	Ministry for the Environment			Councils						Ministry for the Environment, Councils	Councils
Climate Change Response Act	Ministry for the Environment, Ministry for Primary Industries, Environmental Protection Authority	Ministry for the Environment, Ministry for Primary Industries, Environmental Protection Authority	Ministry for Primary Industries	Ministry for the Environment, Ministry for Primary Industries, Environmental Protection Authority	Ministry for the Environment, Ministry for Primary Industries, Environmental Protection Authority, New Zealand Customs Service, Ministry of Transport						
Ozone Layer Protection Act	Ministry for the Environment			Environmental Protection Authority						Ministry for the Environment	Environmental Protection Authority
Hazardous Substances and New Organisms Act	Ministry for the Environment, Ministry of Business, Innovation and Employment			Ministry for the Environment	Environmental Protection Authority			Ministry of Business, Innovation and Employment, Environmental Protection Authority (hazardous substances), Ministry for Primary Industries (new organisms)		Ministry for the Environment, Ministry for Primary Industries, Environmental Protection Authority, Ministry of Business, Innovation and Employment	Ministry for Primary Industries, Environmental Protection Authority, Ministry of Business, Innovation and Employment

Appendix C – Ministry for the Environment assessment methodology – Questions grouped by common agency criteria

Overall assessment	Lines of inquiry	(Treasury) Addressing this criterion would likely include looking at elements such as:
Effectiveness: To what extent does the system deliver the intended outcomes and impacts?		The nature, incidence and significance of the impacts, intended and otherwise (who it impacts, how, and to what extent). The extent of compliance/non-compliance with the system (overall and for different groups). The internal coherence and completeness of the system. Gaps, overlaps or inconsistencies that impact effectiveness. How the system intersects with related regulatory systems and how this impacts on effectiveness.
Do we provide adequate systems settings, risk assessment and communication?	4. Is there an intervention logic (or similar) available showing line of sight between the policy/regulation and desired outcomes? 5. Have the key areas of risk to the effectiveness of the regulation been clearly identified? 20. What actions are taken to mitigate key risks to the effectiveness of regulation? 14. How effectively does the regulator communicate with other agencies with regulatory roles and other interested stakeholders 26. Is there evidence of the system achieving the desired policy outcomes/intent??	
Is there a consistent understanding of the 'touch points'/interactions with other regulation and systems when interpreting the regulation to deliver the desired outputs and outcomes? Could they be better harmonised?	6. Is there evidence of a good understanding of the 'touch points' with other legislation, regulation and between agencies in the system design? 17. Are the boundaries and interactions with other systems or parts of existing systems creating problems with regulatory effectiveness, and are there problems for those being regulated caused by mismatch between parts of the regulatory system?	
Is the regulated community complying with the regulation requirements?	21. How well is the level of compliance understood by the agency, the regulator and the regulated community? 22. What is the rate of non-compliance? 23. Is non-compliance acted upon?	
Efficiency: To what extent does the system minimise unintended consequences and undue costs and burdens?		The proportionality of the system (ie, how well the burden of rules and their enforcement matches the risks to be mitigated/benefits expected). Burden includes restrictions on rights and freedoms, resource and capability requirements, and ease of administration/use/compliance. How easy or difficult the regulators and the regulated parties find the system to administer/use/comply with. The extent to which the system provides predictability and certainty for regulated parties. The degree to which actual outcomes justify the economic, administrative and legislative (rights) costs, including unintended consequences.
Are the costs of the regulatory system proportional to the benefits?	27. Do the benefits of the regulatory system outweigh the costs? 31. How easy or difficult do regulators and regulated parties find the system to administer/use/comply with?	
Are there more effective/efficient ways of achieving the same outcome?	28. Do we benchmark progress against similar international and national regulatory systems to evaluate if we could achieve the same outcomes more effectively or efficiently? (including consideration of feasible non-regulatory alternatives)	
Durability and resilience: How well does the system cope with variation, change and pressures?		The responsiveness of the system to changing context and circumstances (eg, changes in the regulated community/technology/wider society, changes in demand (increase or decrease)). How well the system enables innovation/takes account of different circumstances where appropriate. The continued relevance of the system objectives, the regulatory or market failure, whether it is still the best way to address the failure/opportunity. How the system supports public and/or stakeholder participation in system design and improvements.
Is there sufficient resource to deliver the desired system?	7. Is there a good understanding of the costs and processes (financial and non-financial) required to deliver the desired system? 8. Does the system have appropriate financial resourcing to deliver the desired outcome (eg, Crown funding, third party, cost-recovered funding)? 9. Does the system have the necessary human resource to deliver the desired outcome?	
What impact does the operational environment have on likelihood of success?	10. Do the policy maker(s) and regulator(s) understand the communities being regulated? 11. Are changes to the operating environment regularly assessed and understood? Science and technological change? Environmental change? Economic change? Political change (including policy focus)? Social change? Cultural change? International practice and context? 12. How well has the system kept pace with the changing context?	
Is the regime regularly evaluated and reviewed?	24. Are the regulatory system/settings reviewed or evaluated on a regular basis to ensure the desired outcomes are being achieved (including identifying positive and negative outcomes, intended and unintended outcomes)? 25. Do we regularly review the system to detect vulnerabilities?	
Are regulatory improvements identified and acted upon?	29. How proactive is the agency in identifying and flagging the need (ie, gaps) or opportunity for regulatory changes? 30. How does the agency prioritise and progress identified opportunities for regulatory improvement?	
Fair and accountable: How well does the system respect rights and deliver good process?		How the system respects and delivers on the principles of natural justice, ie, accountability, fair and impartial decision-making, opportunities for those affected by decisions to be heard, and opportunities for review or appeal.
Is the method of delivery effective? Could this method include greater flexibilities for the	1. Are the purpose, objectives (principles) and rules of the system clearly articulated in statute or in accessible non-statutory sources?	

Overall assessment	Lines of inquiry	(Treasury) Addressing this criterion would likely include looking at elements such as:
regulated community to encourage innovative thinking and identify the least costly methods for compliance?	13. What is the level of agreement between the policy agency(s) and regulator(s) on how the regulation has been/should be interpreted (including roles and responsibilities)? 15. Does the regulated community understand its obligations? 16. Does the method of engagement and delivery take into account the culture, infrastructure and resourcing available to the regulated community?	The clarity and certainty of the regulatory instruments that underpin the system, and the accessibility and transparency of the requirements.
Is the regulator(s) meeting its obligations?	18. Are statutory deliverables and timeframes being met? 19. Are non-statutory deliverables and timeframes being met?	
Do the system objectives align with broader priorities and goals?	2. Do the objectives of the system align with the agency's Outcomes Framework (ie, is there a clear line of sight for contribution towards long term and intermediate outcomes and targets)? 3. Do the objectives of the system align with the ministerial priorities and wide sector goals (ie, relevant NRS, BGA and [if appropriate] EPA outcomes)?	

Appendix D – Government expectations for good regulatory practice: Part B: Expectations for regulatory stewardship by government agencies

The Government expects regulatory agencies to adopt a whole-of-system view, and a proactive, collaborative approach to the care of the regulatory system(s) within which they work. This regulatory stewardship role includes responsibilities for:

- monitoring, review and reporting on existing regulatory systems
- robust analysis and implementation support for changes to regulatory systems
- good regulatory practice.

Monitoring, review and reporting on regulatory systems

The Government expects regulatory agencies to work collaboratively to:

- monitor the ongoing performance and condition of a regulatory system and the regulatory environment in which it operates
- review the system at appropriate intervals to determine whether it is still fit for purpose, and likely to remain so in the medium to longer term
- test existing operating assumptions, and consider the perspective and experience of regulated parties and others directly affected by the regulatory system's rules and practices, when undertaking their monitoring and review work
- periodically look at other similar regulatory systems, in New Zealand and other jurisdictions, for possible trends, threats, linkages, opportunities for alignment, economies of scale and scope, and examples of innovation and good practice
- use available monitoring and review information to proactively identify and assess, and then report or address, problems, vulnerabilities, and opportunities for improvement in the design and operation of that regulatory system
- pay particular attention to requirements that appear unnecessary, duplicative, ineffective or excessively costly.

Robust analysis and implementation support for changes to regulatory systems

Before a substantive regulatory change is formally **proposed**, the Government expects regulatory agencies to provide advice or assurance on the robustness of the proposed change, including by:

- assessing the importance of the issue in relation to the overall performance and condition of the relevant regulatory system(s), and how it might fit with plans, priorities or opportunities for system improvement already identified
- clearly identifying the nature and underlying cause of the policy or operational problem it needs to address, drawing on operational intelligence and available monitoring or review information

- undertaking systematic impact and risk analysis, including assessing alternative legislative and non-legislative policy options, and how the proposed change might interact or align with existing domestic and international requirements within this or related regulatory systems
- making a genuine effort to identify, understand, and estimate the various categories of cost and benefit associated with the options for change
- identifying and addressing practical design, resourcing and timing issues required for effective implementation and operation, in conjunction with the regulator(s) who will be expected to deliver and administer the changes
- providing affected and interested parties with appropriate opportunities to comment throughout the process and, in the right circumstances, to participate directly in the regulatory design process (co-design)
- use of 'open-book' exercises to allow potential fee or levy paying parties to scrutinise the case for, and structure and level of, proposed statutory charges.

Before a substantive regulatory change is formally **made**, the Government expects regulatory agencies to:

- allow regulated parties reasonable time to get familiar with new requirements before the change comes into force (unless this would compromise the outcome sought)
- test key operational processes required to implement the change
- anticipate and plan for the possibility of unintended consequences or the potential need for contingency measures
- provide for any appropriate changes to system monitoring arrangements.

Good regulator practice

Where appropriate to their role, the Government expects regulatory agencies to:

- maintain a transparent compliance and enforcement strategy that is evidence-informed, risk-based, responsive, and proportionate to the risks or harms being managed
- provide accessible, timely information and support to help regulated parties understand and meet their regulatory obligations
- provide simple and straightforward ways to engage with regulated parties and hear and respond to their views
- maintain and publish up-to-date information about their regulatory decision-making processes, including timelines and the information or principles that inform their regulatory decisions
- develop working relationships with other regulatory agencies within the same or related regulatory systems to share intelligence and co-ordinate activities to help manage regulatory gaps or overlaps, minimise the regulatory burden on regulated parties, and maximise the effective use of scarce regulator resources
- provide their frontline regulatory workforce with the necessary knowledge, skills, tools and support to be able to discharge their responsibilities with integrity, review and improve their professional practice, and report back on issues they may encounter in the course of their work
- contribute to wider regulator capability-building initiatives within the state sector where there are common interests and benefits from collective action and leadership

- alert relevant Ministers and monitoring agencies to organisational capability or resourcing issues, or problems with legislation, that may be significantly compromising the agency's ability to discharge its responsibilities to a reasonable or expected standard
- at the time of the alert, provide advice on the nature of the resulting system performance risks and proposed or possible mitigating strategies.