



To Hon David Parker, Minister for the Environment			Tracking #: 2018-B-04343
<u>Security Level</u>	In confidence	Number of Attachments	1
Date Submitted:	20 March 2018	Response needed by:	29 March 2018
MfE Priority:	Non-Urgent	Action Sought:	Decision and discuss with officials

Options for making changes to the Resource Management Act 1991

Purpose

1. Officials met with you on 15 February 2018 to discuss the resource management work programme for 2018 and its fit alongside your other urban, freshwater and climate change priorities. Following this meeting, you requested further advice on options for progressing a narrowly scoped Resource Management Amendment Bill in 2018. This advice is outlined in this briefing.

Key Messages

2. As raised in previous advice (2018-B-04174), there is a broad consensus that the current resource management and planning system is underperforming in its management of environmental issues, and in meeting the growing demands on urban development. The problems vary from procedural 'grit' to more substantial and systemic problems, addressing them would require a range of different solutions.
3. We have identified two options for progressing changes to the Resource Management Act 1991 (RMA):
 - Option 1: Narrowly scoped amendments changing or reversing provisions introduced under the Resource Legislation Amendment Act 2017 (RLAA). These amendments could be progressed either as their own bill, or as part of a related omnibus bill, such as the legislation for establishing the Urban Development and Transport Agency.
 - Option 2: An integrated resource management programme that coordinates a suite of initiatives towards addressing near-term priorities while progressing policy work to inform decisions in 2019 about the future direction of the resource management system (as proposed in 2018-B-04174).
4. Option 1 compiles a list of proposed amendments, including suggestions from external stakeholders¹, to remove regulation making powers and restore public participation rights affected by RLAA. All proposed amendments have been assessed against criteria including alignment with Government objectives, cost implications for councils and resource users, and the degree of policy or technical complexity. While these amendments will address some of the immediate concerns created by RLAA, they will not resolve the more substantive 'grit' we have previously identified², or include new policy work for ensuring that the RMA remains fit for purpose.

¹ Including Sir Geoffrey Palmer, the Environmental Defence Society, Berry Simons, Ellis Gould, Environment Canterbury, Coal Action Network Aotearoa and HBC Design

² An example of 'grit' is the requirement under Schedule 4 for consent applicants to assess their application against Part 2 of the RMA and relevant provision of the planning documents

5. Our ability to effectively support a bill through the legislative process in 2018 relies on the scope remaining narrow. Any proposals to change the RMA are considered likely to draw the attention of a wide range of stakeholders with proposals for amendments. A narrow bill (either stand-alone or omnibus) also risks diverting the resources of both stakeholders and officials away from making tangible progress on your priority urban, water and climate change outcomes.
6. Option 2 would integrate recommendations for legislative changes to the resource management and planning system arising from the urban, water and climate change work programmes, as well as working on RMA processes.
7. As outlined in our previous briefing (2018-B-04174), Option 2 would enable you to make a decision in early 2019 on the scope and direction of RMA reform, informed by progress across these work areas and a deeper evidence base about how the system is currently working.
8. We would like to meet with you to discuss the options provided in this briefing.

Recommendations

9. We recommend that you:
 - a. **Note** that this paper provides advice on options for advancing a narrowly scoped Resource Management Amendment Bill requested from officials on 15 February 2018.

Yes/No
 - b. **Note** that while external stakeholders have provided input on possible amendments, officials have not consulted on the options set out in this paper.

Yes/No
 - c. **Agree** to meet with officials to discuss the advice in this briefing.

Yes/No
 - d. **Indicate** your preference for making changes to the RMA is:
 - a. Option 1 – narrowly scoped amendments to reverse or modify changes introduced by the Resource Legislation Amendment Act 2017, progressed as either a stand-alone bill or as part of an omnibus bill.

Yes/No
 - b. Option 2 – an integrated resource management programme that coordinates a suite of initiatives towards addressing near-term priorities while progressing policy work to inform decisions in 2019 about the scope and direction of RMA reform.

Yes/No

Signature



Katherine Wilson
Director, Resource Management System



Date

Hon David Parker
Minister for the Environment

Date

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Options for making changes to the Resource Management Act 1991

Supporting material

Context

10. Following a meeting with officials discussing the resource management work programme for 2018, you asked for more information on what could be included in a narrowly scoped Resource Management Amendment Bill. This briefing responds to that request.
11. Several stakeholders have sent you suggestions for proposed RMA amendments covering a wide range of matters. We have also considered amendment opportunities identified through our ongoing policy work.
12. As an example, the Resource Reform Coalition, comprised of RM professionals and stakeholders, is a group with the aim to build consensus for RMA change. When this group discussed an RM Amendment Bill at their most recent Symposium on 26 February 2018, there was broad agreement that the focus should be on wider reform. The Resource Reform Coalition recommended the establishment of a working group to build a constituency for change and contribute to a developing evidence base, preferably working with Ministry input.
13. Engagement with the Resource Reform Coalition and others provides an opportunity to align stakeholder engagement with the ongoing monitoring and evaluation of the RMA, as well as testing and advising on future reforms.

Analysis and advice

14. The Ministry has identified two options for progressing changes to the RMA:
 - Option 1: Narrowly scoped amendments changing or reversing provisions introduced under RLAA. These amendments could be progressed as either a stand-alone bill, or as part of a related omnibus bill such as the legislation for establishing the Urban Development and Transport Agency.
 - Option 2: An integrated resource management programme that coordinates a suite of initiatives towards addressing near-term priorities while progressing policy work to inform decisions in 2019 about the future direction of the resource management system.
15. Each option has timing, resourcing and engagement implications.

Option 1 – narrowly scoped amendments progressed during 2018

Criteria for assessing the scope of a narrow Bill

16. You have requested advice on the content of a narrowly scoped resource management bill to amend some of the provisions that were introduced under RLAA. In addition to our own policy work, several stakeholders have also provided suggestions on potential amendments to the RMA.
17. We have assessed all suggested changes for suitability with a narrow bill by using the criteria below:
 - 17.1 Will not undermine the ability to deliver the Government's objectives in relation to improving urban, water and climate change outcomes.
 - 17.2 Has limited cost implications for councils and other users of the system.
 - 17.3 Can be progressed quickly with limited implications to the wider RMA and other related legislation.
18. Potential amendments that meet some or all of these criteria are outlined below and in the table at Appendix 1. This table also identifies the potential risk, benefits and policy impact associated with progressing each of these changes.

Provisions which meet criteria for a narrowly scoped Bill

19. The following proposals to remove regulation making powers and restore some public participation rights reduced through RLAA meet the criteria for a narrowly scoped bill:
 - 19.1 Section 360D regulation powers relating to the ability to remove rules from plans that may duplicate or overlap with other legislation.
 - 19.2 Section 360G regulation powers relating to fast track applications.
 - 19.3 Section 360F regulation powers relating to administrative charges.
 - 19.4 Section 360H regulation powers relating to notification of consent applications.
 - 19.5 Amending section 95A to reinstate the ability to publicly notify any consent application for subdivision of land or residential activities.
 - 19.6 Amending section 120 to reinstate appeal rights to any consent decision for subdivision of land and residential activities.
 - 19.7 Removing Schedule 1, Part 4, the Collaborative Planning Process.
 - 19.8 Amending section 360(hn) regulation powers relating to stock exclusion.

20. The repeal of section 360 regulation making powers is considered low risk, as these provisions only relate to the making of an Order in Council by the Executive Council. These powers are yet to be used, and we are not aware of any intent for this to occur. We recommend that these provisions can be removed with minimal implications to councils or users of the system.
21. The amendments relating to public notification of consent applications and appeal rights raise issues of public participation and the role of the Environment Court in RMA processes. These changes will have cost implications for councils to amend processing systems, though we are unsure of the scale of this cost as there have been no opportunities to test these suggested changes with stakeholders and users.
22. We note that the length of time the consenting changes have been in place is limited (since October 2017) and consequentially the evidence available to support these amendments is limited.

Suggested changes which are out of scope of a narrow Bill

23. There are other matters put forward by stakeholders and procedural 'grit', which we consider out of scope for a narrow bill. These matters include but are not limited to:
 - 23.1 deemed permitted activities
 - 23.2 the proposals of national significance process
 - 23.3 amending plan making processes
 - 23.4 amending provisions relating to protected trees
 - 23.5 Environment Court matters
 - 23.6 changes to other legislation.
24. All of these changes are likely to have significant cost implications for users of the system and / or require complex policy development, which would not be achievable within short timeframes. Policy analysis is underway to address the level of merit in these suggestions for inclusion in a wider reform over longer timeframes (Option 2).

Pathways for progressing Option 1

25. Option 1 could be progressed as a stand-alone bill, with a relatively short timeframe for development and progression through the House. Alternatively it could be introduced as part of an omnibus bill alongside other legislative reform with similar scope. An option for this approach would be the bill currently being developed to establish the Urban Development and Transport Authority (UDATA). We are not aware of any other tidy-up bills being progressed at this stage that would serve as a suitable vehicle for the changes proposed.
26. Whether this amendment can be progressed as an omnibus bill will be dependent on the timing and scope of the vehicle bill being progressed. Where the bills are developed simultaneously, scope could be extended to include resource management amendments. In order to join an existing bill process that has already been introduced to the house, any Resource Management Amendment Bill would need to fit within the existing scope of that bill.

Option 2 - Coordinated reform of the resource management and planning system

27. The Government's wider work programme to address climate change, facilitate urban development and improve water quality outcomes interact with, and potentially require change to, the resource management system.
28. Option 2 is our previously proposed work programme to consider RMA amendments as part of an integrated resource management programme that progresses near-term priorities alongside policy work to inform decisions in 2019 about future reform.

29. While this option will take longer, it allows for a wider scope to develop policy and engage stakeholders needed to ensure the resource management and planning system is fit for purpose. Background policy work and findings from recent amendments (including those in Appendix 1) would allow us to better understand the scale and scope of change that could be needed to address issues that may be holding back system performance.
30. The kind of policy changes which require substantial analysis and engagement as a part of Option 2 are outlined below.

Public participation and decision making - Plan making processes

31. This could consider changes to plan-making processes to improve public participation and the speed and quality of decision making. Changes to the plan making process were raised by several stakeholders, but are considered too significant to fall within the scope of a narrow bill.
32. In order to ascertain the most efficient and effective process for plan-making we have an opportunity to evaluate recent and current alternatives to the RMA Schedule 1 process. Evaluation would include analysis of the Independent Hearing Panel (IHP) processes for Auckland, Christchurch and Environment Canterbury which utilised Environment Court expertise. In these cases, reduced appeal rights were considered appropriate due to the rigorous inquisitive approach of the panels. The two current Streamlined Planning Processes (Hastings Iona Rezoning, and Bay of Plenty Plan Change 4), will likely be completed by the end of 2018 and will provide opportunity to evaluate this process also.
33. Evaluation has already been undertaken for some of these processes, for example, we provided you advice on lesson learnt from the Housing Accords and Special Housing Areas Act 2013 on 23 January 2018 (2017-B-04129). This noted that the Housing Accords and Special Housing Areas Act 2013 improved planning responsiveness in comparison to the traditional RMA planning process. However, it also noted that Special Housing Areas led to instances of ad-hoc development, and had mixed results in terms of delivering affordable housing.
34. Additionally, the UDATA legislation will be introduced in 2019 and will likely incorporate a process similar to the IHP. Any reform of the plan-making process could draw on the successes and failures of these alternatives to inform a best-practice approach to plan-making and any potential changes to Schedule 1.

Innovative tools and frameworks - Compliance, monitoring and enforcement

35. We are exploring the use of new tools and frameworks, including greater use of economic instruments, to better protect environmental bottom lines. An area that would benefit from this development is compliance, monitoring and enforcement (CME).
36. There are a number of possible changes to the RMA which would ensure councils can carry out CME more effectively. These include extending the six month limitation period for filing charges (for prosecutions) and increasing the fines that can be levied. A robust policy process will be needed before such tools can achieve their intended purpose.

Fitting the initiatives together - Climate Change and the RMA

37. Initiatives across the work programme, including the urban growth agenda, the freshwater program, and climate change work can be integrated resource management programme to advise future reform. For example, we are currently undertaking policy work on initiatives to provide for councils to address climate change through land-use decisions under the RMA.
38. The Resource Management (Energy and Climate Change) Amendment Act 2004 removed the ability for councils to control emissions of greenhouse gases. The objective of the Act was to:
 - Address the lack of clarity and certainty about the roles of local government and the RMA in dealing with discharges to air of greenhouse gases.

- Avoid putting emitters of greenhouse gases in the position where they could be required under the RMA to mitigate effects for which they also have obligations under government's climate change policies outside the RMA framework.

While the RMA does allow for the issue to be addressed via an National Environmental Standard, any changes to the way greenhouse gas emissions are dealt with under the RMA creates complex questions of consistency and subsidiarity and are also tied to other parts of the Government's climate policy such as the Emissions Trading Scheme. More information on opportunities for addressing climate change in urban areas are provided in a further briefing (2018-B-04322 refers).

Timeframes

39. Table 1 below sets out indicative timeframes for progressing each option. These timeframes will be dependent on Parliamentary Counsel Office availability and house time.
40. Option 2 is dependent on decisions around the scope and depth of potential reform. However, given the additional consultation and evidence requirements associated with more substantive changes, it is unlikely that legislation could be introduced before 2020.

Table 1: Timing of potential legislative options for making changes to the RMA

	Introduction to the House
Option 1: Narrow bill	Stand-alone bill: July <ul style="list-style-type: none"> • Dependent on Parliamentary Counsel Office availability and house time. Omnibus narrow bill: September <ul style="list-style-type: none"> • Dependent on progress with other parts of an omnibus bill.
Option 2: Co-ordinated RMA reform	2020 (earliest) <ul style="list-style-type: none"> • Timeframes and approach dependent on coordinated decisions in early 2019 on the scope and depth of changes to the resource management and planning system.

Risks and mitigations

41. All options relating to amending the RMA involve a number of risks. There is the potential perception that the Government is making changes to the RMA too quickly with limited evidence and no stakeholder engagement. This is at a time when many stakeholders are lobbying for wider reform of the resource planning system, which would be better addressed by Option 2.
42. RMA amendments have tended to create significant transaction costs, particularly for local government and practitioners, as they interpret and apply the changes into their existing systems and practice. Any short-term proposal to amend the RMA should consider both the costs and benefits of change, including establishing the direct costs to councils of implementation, and regulatory impact assessment process. A stand-alone bill that includes only removing regulation making powers may not be considered an efficient exercise.
43. An amendment of this type could divert resources from progressing tangible policy outcomes due to ongoing change to the legislative system. It could also impact on the

quality of the RMA monitoring and evaluation programme by introducing further legislative change.

Legal issues

44. No legal issues have been identified with the issues raised in the briefing note.

Financial, regulatory and legislative implications

45. Any proposal to amend the RMA would have resourcing implications for central government in terms of:
- policy development
 - support to legislation through House
 - support to implementation.
46. Financial implications would vary depending on the options and the scope of proposed changes. Once options are considered, we will need to advise you further on the financial and legislative implications.

Next Steps

47. We will continue our current work programme of monitoring and evaluating the changes made through RLAA, which particular attention to the provisions of concern relating to plan making and consenting. This will include tangible policy work and the Option 2 work stream.
48. We would like to meet with you to discuss the options and next steps.

Appendices

Appendix 1: Provisions for possible inclusions in a narrowly scoped Resource Management Amendment Bill

Provisions are identified in the table below as potentially being suitable for inclusion in a narrowly scoped resource management amendment bill.

Criteria:

- Does not interfere with meeting Government objectives relating to climate change, water and the urban environment.
- Has limited cost implications for councils and other users of the system.
- Is achievable within short timeframes based on limited implications to the wider RMA and other related legislation.

Rating of level of complexity of change:

Green = lower risk policy change and meets all criteria

Blue = higher risk policy change, does not meet all criteria

#	Provision	Sections requiring consequential amendments if amended / repealed	Suggested change to provision	Benefits/implications/impact of suggested change	Criteria met/which criteria not met
1	Section 360D Regulations that prohibit or remove certain rules - Enables regulations to remove rules from plans that would duplicate, overlap or deal with the same subject matter that is	Repeal section 360E - Procedures for making rules under section 360D	Repeal sections 360D	<u>Benefit of repeal</u> <ul style="list-style-type: none"> • Removes risk of planning provisions being overridden, where these were originally implemented through the Schedule 1 plan-making process. • It is likely that the making of section 360D regulations would be controversial and contested. • The regulation has not been implemented and therefore can be removed without the need for 	Criteria met

#	Provision	Sections requiring consequential amendments if amended / repealed	Suggested change to provision	Benefits/implications/impact of suggested change	Criteria met/which criteria not met
	included in other regulation			<p>transitional provisions.</p> <p><u>Implication of repeal</u></p> <ul style="list-style-type: none"> Removing the regulation would potentially limit future options to address regulatory duplication under the RMA. <p><u>Policy impact</u></p> <ul style="list-style-type: none"> Low risk, as this section only relates to the making of an Order in Council in Executive Council and has not been implemented. 	
2	<p>Section 360G</p> <p>Regulations relating to fast-track applications - Enables regulations to prescribe particular activities or classes of activities as fast-track or to prescribe information requirements for applications for fast-track activities</p>	<p>Repeal sections 87AAC(1)(a)(ii) and 88(2)(b)</p>	<p>Repeal section 360G</p>	<p><u>Benefit of repeal</u></p> <ul style="list-style-type: none"> It is likely that the making of section 360G regulations would be controversial and contested. The regulation has not been implemented and therefore can be removed without the need for transitional provisions. <p><u>Implication of repeal</u></p> <ul style="list-style-type: none"> Removing the ability to create regulations under 360G takes away the ability to provide for new activities to be processed in ten working days (in addition to controlled activities). This regulation could potentially be used for housing-related consents as part of the Urban Growth Agenda. <p><u>Dependencies</u></p>	Criteria met

#	Provision	Sections requiring consequential amendments if amended / repealed	Suggested change to provision	Benefits/implications/impact of suggested change	Criteria met/which criteria not met
3	Section 360F Regulations relating to administrative charges and other amounts - Enables regulations to specify the charges that a local authority is required to fix (but does not enable the amount to be charged to be fixed)		Repeal section 360F	<ul style="list-style-type: none"> Activities prescribed as fast-track under 360G are able to be precluded from public or limited notification under 360H, this was a crucial aspect of the workability of the additions to the fast-track process, because it reduced the section 95 assessment and reporting requirements for councils, thereby increasing the viability of issuing a consent in ten working days. <p><u>Policy impact</u></p> <ul style="list-style-type: none"> Low risk, as this section only relates to the making of an Order in Council in Executive Council and have not been implemented. <p><u>Benefit of repeal</u></p> <ul style="list-style-type: none"> Removes the risk to councils that regulations override their ability to recover actual and reasonable costs of resource consent processing and plan changes. The regulation has not been implemented and therefore can be removed without the need for transitional provisions. <p><u>Implications of repeal</u></p> <ul style="list-style-type: none"> Limits options to address consenting costs by Central Government. <p><u>Policy impact</u></p>	Criteria met

#	Provision	Sections requiring consequential amendments if amended / repealed	Suggested change to provision	Benefits/implications/impact of suggested change	Criteria met/which criteria not met
4	<p>Section 95A(5)(b)(ii) precludes public notification of consent applications for subdivision of land or residential activities that are classified as 'restricted discretionary' or 'discretionary' activities.</p> <p>Section 95A(6) - defines a 'residential activity'</p> <p>Section 95A(5)(b)(iv) - precludes public notification of consent applications for activities prescribed in regulations under section 360H (see provision #5 below for consideration of impacts of repeal)</p>	<p>If changes are made to the notification preclusions, it is recommended that similar changes be made to appeal preclusions in section 120(1A) (see provision #6 in this table)</p>	<p>Amend section 95A by removing 95A(5)(b)(ii), 95A(5)(b)(iv) and 95A(6)</p> <p>Preclusions on controlled activities and boundary activities have not been included in this scope due to their connectedness to other processes (fast-track consent process and deemed permitted boundary activities).</p>	<ul style="list-style-type: none"> Low risk, as this section only relates to the making of an Order in Council in Executive Council and has not been implemented. <p><u>Benefits of amendment</u></p> <ul style="list-style-type: none"> Reinstates public participation rights for these types of consents. Reduces an area of potential complexity for Councils undertaking notification decisions, such as what constitutes a 'residential activity'. Would return to the previous effects-based test for determining notification for these activities, and therefore, better align with the basis on which the particular activity status was determined in the plan-making process. Would remove the potential incentive for Councils to increase the use of non-complying activity status for subdivision and residential activities so that they can be publicly notified (given the length of the plan-making cycle and the time since these provisions were introduced there is no evidence of this issue occurring yet). National Monitoring System Data shows that a low number of consents were publicly notified in advance of these preclusions being introduced, so removal would be unlikely to have a large impact (noting that no NMS data is yet available to determine what impact 	<p>Not considered to meet all criteria due to uncertainty over the cost to councils associated with implementing changes</p>

#	Provision	Sections requiring consequential amendments if amended / repealed	Suggested change to provision	Benefits/implications/impact of suggested change	Criteria met/which criteria not met
				<p>the preclusions have had).</p> <ul style="list-style-type: none"> During the Select Committee process for RLAA, a large number of submitters largely opposed these preclusions. <p><u>Implications of amendment</u></p> <ul style="list-style-type: none"> Potential for increased cost to applicants, through broadening the pool of potential submitters. Cost to councils to change their new processes and templates. Less certainty for applicants around the notification process. <p><u>Policy impact</u></p> <ul style="list-style-type: none"> Potentially seen to be re-introducing public participation rights for consenting which may impact on housing-related projects. Uncertain cost to councils to amend systems, as there has been no opportunity to test the amendment with stakeholders and users. 	
5	<p>Section 360H and consequential amendments</p> <p>Regulations relating to notification of consent applications - Enables regulations to prescribe particular activities or</p>	<p>Repeal the following sections as they all cross-refer to the regulations under section 360H:</p> <ul style="list-style-type: none"> - Precludes public notification of 	<p>Repeal section 360H</p>	<p>Any changes to section 360H should reflect changes to 95A(5)(b)(iv) and 95B(6)(b)(ii) and (7)(b).</p> <p><u>Benefits of repeal</u></p> <ul style="list-style-type: none"> Reinforces the devolution of resource consenting notification decisions to local authorities through removing the ability for regulations to override notification provisions in plans and / or decisions on 	Criteria met

#	Provision	Sections requiring consequential amendments if amended / repealed	Suggested change to provision	Benefits/implications/impact of suggested change	Criteria met/which criteria not met
	<p>classes of activities that are precluded from notification or to prescribe persons eligible to be considered 'affected persons' for the purposes of limited notification</p>	<p>consent applications for an activity prescribed under regulations in section 360H</p> <p>95B(6)(b)(ii) - Excludes limited notification of consent applications for an activity prescribed under regulations in section 360H</p> <p>95B(7)(b)- prescribing who may be considered as affected persons</p>		<p>individual consent applications.</p> <ul style="list-style-type: none"> The making of such regulations would be controversial and contested. <p><u>Implications of repeal</u></p> <ul style="list-style-type: none"> Increased cost of consenting where there are affected parties. Cost to councils to change their new processes and templates, but less potential impact on processes than for changes relating to public notification of subdivision and residential activities due to no activities or classes of person currently being prescribed. <p><u>Policy impact</u></p> <ul style="list-style-type: none"> Potentially seen to be removing an avenue for speeding up the consenting process relating to housing. 	
6	<p>Section 120(1A)(b) and (c)</p> <p>Preclusions on the right to appeal decisions or conditions on resource consents relating to the subdivision of land and residential activities</p>	<p>Section 358(1A)(a) – Appeals against certain decisions on objections</p>	<p>Amend section 120(1A), with consequential amendments.</p> <p>Remove the restrictions on appealing against decisions regarding</p>	<p><u>Benefits of amendment</u></p> <ul style="list-style-type: none"> Reinstates public participation rights for these types of consents. Provides for applicants / consent holders to appeal decisions on their application and on conditions of their consent, where these are considered onerous, inappropriate or unsupported by evidence. 	<p>Does not meet criterion due to uncertainty over the cost to councils associated with implementing</p>

#	Provision	Sections requiring consequential amendments if amended / repealed	Suggested change to provision	Benefits/implications/impact of suggested change	Criteria met/which criteria not met
			<p>subdivision and residential activities.</p> <p>Change would not extend to boundary activities to be consistent with 95A.</p>	<ul style="list-style-type: none"> Changes were not supported by empirical evidence, given the overall decline in the number of appeals and the alternative dispute resolution approach being adopted by the Environment Court. The amendment was not supported by many submitters during the Select Committee process for RLAA from a broad range of sectors, so we anticipate that reversal of these preclusions would consequently have broad support. Merit appeals of consent decisions and conditions would help ensure independent oversight of the substance and quality of decisions. Would remove incentive for consenting strategies that 'manufacture' a non-complying element of an application as a means of preserving the right to appeal. However, we have no evidence to verify this is occurring or how widespread it may be. <p><u>Implication of change</u></p> <ul style="list-style-type: none"> Potential increased cost and time of consenting process due to increased ability to appeal. Risk of submitters not presenting their best case at a first instance hearing. New consenting process steps of precluded notification and appeals for residential activities could contribute to broader Government work around housing supply. 	change

#	Provision	Sections requiring consequential amendments if amended / repealed	Suggested change to provision	Benefits/implications/impact of suggested change	Criteria met/which criteria not met
				<p><u>Policy impact</u></p> <ul style="list-style-type: none"> Potentially seen to be slowing down the consenting process, particularly for residential activities. 	
	<p>Section 120(1B)</p> <p>Appeals may only relate to matters raised in submissions</p>		<p>Repeal section 120(1B), with consequential amendments.</p>	<p><u>Benefits of repeal</u></p> <ul style="list-style-type: none"> Repealing this section would allow appeals on matters based on new evidence that was not apparent when submissions were first lodged, and on consent conditions. Would remove the incentive for submitters to make broad, non-specific submissions in order to circumvent the limitation on appeal rights. <p><u>Implications of repeal</u></p> <ul style="list-style-type: none"> Could increase the length of appeals as the scope of appeals would be widened. Risk of submitters not presenting their best case at a first instance hearing. <p><u>Policy impact</u></p> <ul style="list-style-type: none"> Potentially seen to be slowing down the consenting process. 	<p>Does not meet criterion due to uncertainty over the cost to councils associated with implementing change</p>
7	<p>Sections 80A and Parts 4, Schedule 1</p>		<p>Remove the Collaborative Planning Process (CPP)</p>	<p><u>Benefits of repeal</u></p> <ul style="list-style-type: none"> Reinstates public participation rights and checks and balances in the plan making process, including appeal rights. 	<p>Does not meet criterion due to uncertainty over the cost to councils associated</p>

#	Provision	Sections requiring consequential amendments if amended / repealed	Suggested change to provision	Benefits/implications/impact of suggested change	Criteria met/which criteria not met
				<ul style="list-style-type: none"> Avoids unnecessary complexity and duplication of processes within the RMA (reverts to standard Schedule 1 process). There have been no indications that Councils wish to undertake CPP, so it may not be used for some time. <p><u>Implication of repeal</u></p> <ul style="list-style-type: none"> CPP was aimed to encourage greater collaboration and reduce litigation costs. These benefits would be removed if CPP was repealed. <p><u>Policy impact</u></p> <ul style="list-style-type: none"> There has been no opportunity to test the removal of this change with councils. 	with implementing change
8	Section 360(hn)		<p>Amend s360(hn) to enable stock exclusion regulations to deliver on the government's commitments to exclude stock</p> <p>This includes applying stock exclusion to drains.</p> <p>[Note decision are yet to be made on stock exclusion</p>	<p><u>Benefits of the amendment</u></p> <ul style="list-style-type: none"> Would expand the possible scope of stock exclusion regulations to include exclude stock from drains. This would assist in stopping further degradation of freshwater. It was intended that the stock exclusion regulations would apply to drains (i.e. two rounds of consultation proposed drains would be included, and this was supported by industry groups/the Land and Water Forum). The current limitation was unintended. <p><u>Implication of the amendment</u></p> <ul style="list-style-type: none"> Regulations could be developed that required stock to be kept out of drains. 	Further policy advice is required in relation to stock exclusion regulation

#	Provision	Sections requiring consequential amendments if amended / repeated	Suggested change to provision	Benefits/implications/impact of suggested change	Criteria met/which criteria not met
			<p>which will determine how broad the regulation will need to be. Officials will brief you shortly]</p>	<ul style="list-style-type: none"> The definition of 'drain' will require careful consideration to assist with implementation. May lead to a definition of drains that is inconsistent with council plans and with other definitions in the RMA. <p><u>Policy impact</u></p> <ul style="list-style-type: none"> Consultation through RLAA supported drains being included in the regulation. However the definition of drain could result in a lack of clarity and certainty around what constitutes a drain, and who is applying the regulation. 	