



## PROACTIVE RELEASE COVERSHEET

<b>Minister</b>	Hon Penny Simmonds Hon Chris Bishop	<b>Portfolio</b>	Environment RMA Reform
<b>Name of package</b>	Environment Act 1986 settings	<b>Date to be published</b>	15/05/2026

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
25 November 2025	<a href="#">BRF-6647 Briefing: Environment Act 1986 settings</a>	Ministry for the Environment

#### Information redacted **YES**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

#### Summary of reasons for redaction

Some information has been withheld from *Briefing: Environment Act 1986 settings* under Sections 9(2)(f)(iv), 9(2)(g)(i), and 9(2)(h) of the Official Information Act.



## Briefing: Environment Act 1986 settings

**Date submitted:** 25 November

**Tracking number:** BRF-6647

**Sub Security level:** Classification

**MfE priority:** Urgent

Actions sought from Ministers		
Name and position	Action sought	Response by
To Hon Penny SIMMONDS <b>Minister for the Environment</b>	<b>Agree</b> the policy intent for amending the Environment Act 1986, to help give effect to a proposed machinery of government (MOG) change affecting the Ministry for the Environment.	5 December
CC Hon Chris BISHOP <b>Minister Responsible for RMA Reform</b>	<b>Note</b> the proposed approach for changing the Environment Act 1986, which is reflected by your Cabinet paper seeking decisions on the MOG change.	

Actions for Minister's office staff
<b>Return</b> the signed briefing to the Ministry for the Environment ( <a href="mailto:advice@mfe.govt.nz">advice@mfe.govt.nz</a> ).

Appendices and attachments
1. Relevant sections of the Environment Act 1986.

Key contacts at Ministry for the Environment			
Position	Name	Cell phone	First contact
Principal Author	Simon King, Chief Advisor Office of the Chief Executive	022 047 5541	✓

Minister's comments

# Environment Act 1986 settings

## Key messages

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1. We understand that the Minister Responsible for RMA Reform and the Minister for the Public Service will shortly be taking a paper to Cabinet that recommends consolidating the Ministry for the Environment (MfE), the Ministry of Housing and Urban Development, the Ministry of Transport and the local government functions from the Department of Internal Affairs into a new Ministry of Cities, Regions and the Environment (MCRE) by 1 July 2026.
2. MfE is the only Ministry affected by the MCRE proposal that is created by statute. Section 28 of the Environment Act 1986 establishes MfE and must be amended before the proposed machinery of government (MOG) changes to create MCRE could be finalised.
3. If MCRE is to be stood up by 1 July 2026, we recommend narrowly scoping Environment Act amendments to what is needed to enable the MOG change only. 9(2)(f)(iv) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
4. While there are likely other changes that could be made to update the Environment Act, these would be best undertaken following a comprehensive review of the Act as a whole. Such a review is neither necessary nor related to the MOG change proposed now.
5. We support seeking Cabinet authorisation for you to issue drafting instructions to the Parliamentary Counsel Office (PCO) to amend the Environment Act at the same time as Cabinet considers whether to make the MOG change.
6. There are options to pass the Bill by 1 July 2026, using a more 'standard' parliamentary process or one of urgency. These options are outlined in more detail by the advice. Aiming to pass the Bill earlier than 1 July will reduce implementation risk.
7. A legislative bid for these changes has not been submitted yet and a process for adding it to the legislative agenda will need to be agreed with the Leader of the House if a decision is made to proceed with the MOG change.

## Recommendations


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We recommend that you:

- a. **note** that the Ministry for the Environment is established in statute and the Environment Act 1986 must be amended before a machinery of government change to create the proposed Ministry of Cities, Regions and the Environment could be finalised

- b. **note** that the draft Cabinet paper seeking decisions to establish the new Ministry also seeks approval to change the Environment Act to implement the machinery of government change and invite you to issue drafting instructions to the Parliamentary Counsel Office on these amendments
- c. **agree, subject to the machinery of government change being agreed by Cabinet,** to issue drafting instructions to reflect the following policy intent:

9(2)(f)(iv)



9(2)(f)(iv)

- d. **note** that while other changes could be made to modernise the Environment Act, we recommend narrowly scoping changes to only what is needed to implement the proposed machinery of government changes
- e. **discuss** your preferred process for passing the legislation before 1 July 2026 with the Leader of the House, noting that passing it earlier will reduce implementation risk.

## Signatures

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Simon King  
Chief Advisor  
**Office of the Chief Executive**  
**25 November**

Hon Penny SIMMONDS  
**Minister for the Environment**

**Date**

# Sensitive – Environment Act 1986 settings

## Purpose

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1. This briefing provides you with advice on changing the Environment Act 1986 to help implement a potential machinery of government (MOG) change affecting the Ministry for the Environment.
2. While Cabinet has not yet agreed to make this MOG change, seeking your in-principle agreement to the policy intent for potential Environment Act amendments now will enable us to issue drafting instructions to the Parliamentary Counsel Office (PCO) quickly if a Cabinet decision is made.

## Background

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3. The Government has a significant reform agenda underway already. We understand that the Minister Responsible for RMA Reform and the Minister for the Public Service will shortly be seeking Cabinet decisions on complementary MOG changes to ensure the Public Service can implement reform with less friction, lower transaction costs, and better alignment.
4. The proposal under consideration comprises the following agencies and functions with responsibilities for exercising planning and infrastructure functions:
  - The Ministry for the Environment (MfE)
  - The Ministry of Housing and Urban Development (MHUD)
  - The Ministry of Transport (MoT)
  - The local government functions of the Department of Internal Affairs (DIA).
5. This would create a new Ministry of Cities, Regions and the Environment (MCRE), intended to be stood up by 1 July 2026.
6. MfE is the only agency affected by the MCRE proposal that is created by statute. Section 28 of the Environment Act 1986 establishes MfE and must be amended before the proposed MOG change could be finalised. Once disestablished, MfE can then be reorganised into MCRE using the standard processes outlined in the Public Service Act 2020 (PSA) alongside the other departments.
7. As Minister for the Environment, you are responsible for the Environment Act 1986. Given this Act must be changed to implement the MOG change, we recommend that Cabinet is asked to authorise you to issue drafting instructions to PCO to disestablish MfE (and related amendments) when it considers whether to create MCRE.


## Analysis and advice

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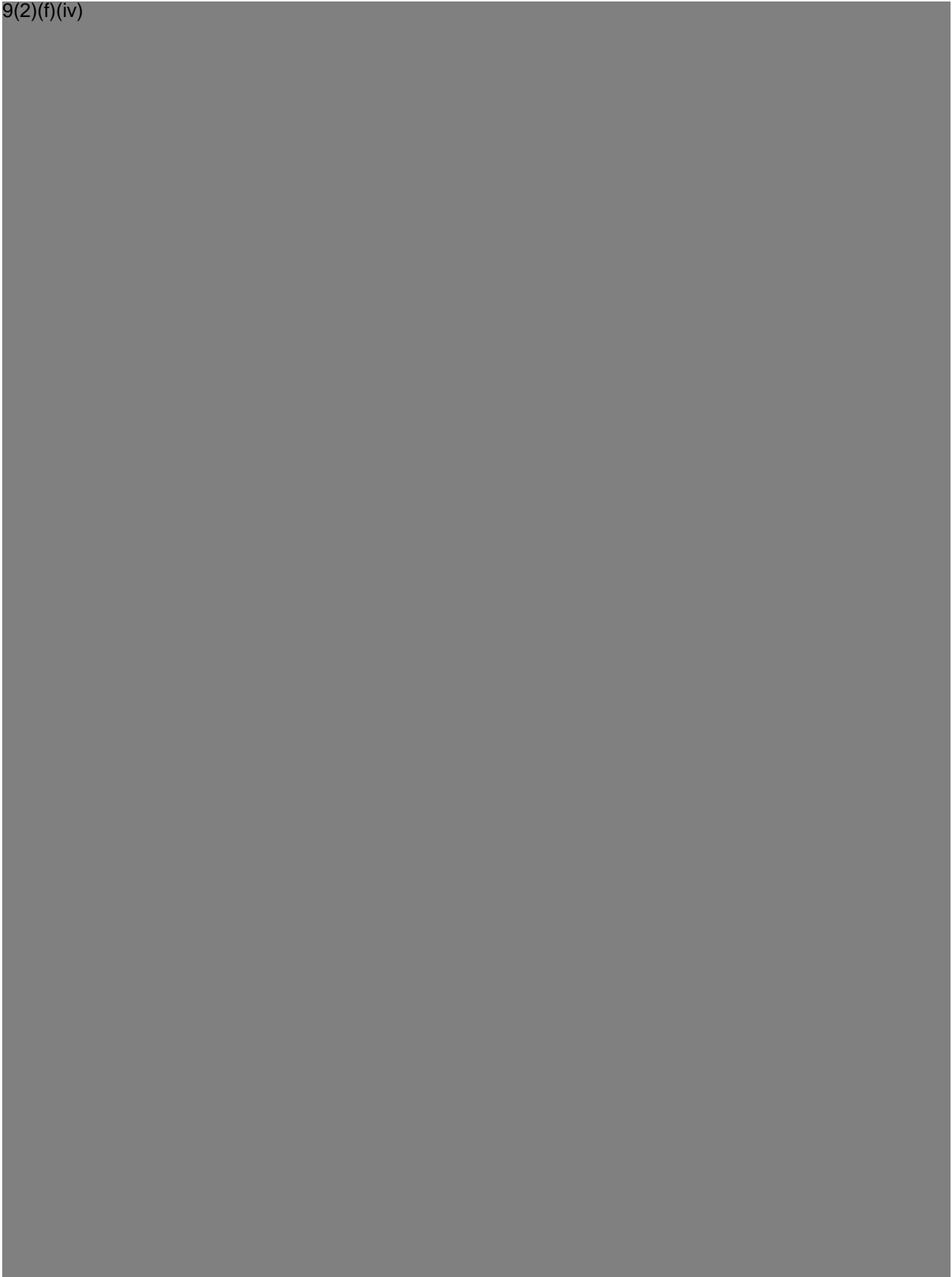
8. The Environment Act 1986 establishes both the Parliamentary Commissioner for the Environment (PCE) and the Ministry for the Environment and specifies various environmental values and considerations to be taken into account when advising on managing our natural and physical resources. It implements proposals developed following significant public consultation in the 1980s, during a period of wider reform.
9. The Environment Act predates much of our current institutional arrangements but remains largely unchanged since it was first enacted. 9(2)(g)(i)  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]
10. To help ensure the new Ministry can be stood up by 1 July 2026, we recommend narrowly scoping Environment Act amendments to only what is needed to enable the MOG change. These amendments should seek to better align the Environment Act with standard arrangements of other departments wherever possible.
11. The Environment Act sections referenced by this briefing are collated in **Appendix 1**.

## Specific changes to the Environment Act

9(2)(f)(iv)



9(2)(f)(iv)



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<sup>1</sup> <https://www.legislation.govt.nz/act/public/2002/0084/latest/DLM171825.html>

<sup>2</sup> <https://www.legislation.govt.nz/act/public/2020/0040/latest/whole.html#LMS356992>

## Options of passing the amendment Bill by 1 July 2026

25. Introducing the Bill this year would have given it the strongest chance of passing before 1 July next year. However, there is now insufficient time for the Bill to be drafted and introduced before Christmas.
26. PCO have indicated that this is a small Bill that could be resourced and drafted quickly if based on high quality drafting instructions. We have started this work already and are seeking these decisions early to ensure PCO can be instructed quickly if Cabinet agrees to proceed for the MOG change.

### The biggest constraint is likely to be House time

27. There is a large volume of legislative reform already underway across Government. We understand House time is likely to be at a premium.
28. The default select committee reporting period is 6 months (Standing Order 303(1)). However, the House can issue an instruction to a select committee to report by a different time (under Standing Order 298). A period of at least 4 months and 1 day would not trigger a debateable motion and could be an option for you to consider in early 2025. While tight, it should still provide time for the Bill to pass by 1 July 2026.
29. If the period for reporting is 4 months or shorter, the instruction becomes debateable (Standing Order 298(2)). That debate is not time-limited under Standing Orders. The debate concludes when the Speaker accepts a closure motion, which typically occurs when no new material is being raised, or members are no longer being relevant to the scope of the debate. You could also consider a shorter reporting period to ensure the Bill is passed by 1 July, but it could come at the expense of House time.
30. Lastly, you could consider using urgency to truncate some or all of the usual parliamentary steps. Given the efficiency savings that could be realised by the merger, you could also wish to consider whether it might be appropriate to progress the Bill under urgency as part of budget night legislation.
31. Given this Bill is not currently on the legislative agenda, we strongly recommend talking to the Leader of the House as soon possible.

## Te Tiriti analysis

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32. No Tiriti issues are associated with the proposals in this briefing.

## Other considerations

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### Consultation and engagement

33. The Public Service Commission has been consulted on this briefing and agrees that making these changes will enable the MOG change to be implemented, if required.
34. Some stakeholders are likely to view disestablishing MfE in statute as an erosion of environmental protection. They are also likely to view the MOG change unfavourably, as

environmental considerations are integrated with advice intended to encourage the use of resources and put pressure on the natural environment.

35. While this risk cannot be fully mitigated, narrowly scoping the amendments and visibly retaining a way for MfE's current functions to be carried over via the Secretary for the Environment, should help show that the intention is not to water down environmental advice.
36. As noted above, the timing to pass the Bill by 1 July 2026 is likely to be tight. We recommend discussing options with the Leader of the House as soon as possible.

9(2)(h)



## **Financial, regulatory and legislative implications**

39. This Bill is not currently on our work programme with will need to be resourced and implemented through internal reprioritisation.
40. Despite disestablishing MfE, the proposed changes have tried to retain aspects of the existing architecture that will minimise the consequential impacts on other Acts.

## **Next steps**

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41. Officials are available to meet with you to discuss this advice, either as part of our regularly weekly meeting with you or can schedule another time with your office.
42. We understand that Ministers currently intend to take their paper seeking agreement to the MOG change straight to Cabinet on 8 December. We have put up this advice in advance of Cabinet to be able to instruct PCO quickly, if required. This maximises the options available to you for passing the Bill by 1 July 2026.

## **Appendix 1 – Relevant sections of the Environment Act 1986**

### Long title

#### **An Act to—**

- (a) provide for the establishment of the office of Parliamentary Commissioner for the Environment;**
- (b) provide for the establishment of the Ministry for the Environment;**
- (c) ensure that, in the management of natural and physical resources, full and balanced account is taken of—**
  - (i) the intrinsic values of ecosystems; and**
  - (ii) all values which are placed by individuals and groups on the quality of the environment; and**
  - (iii) the principles of the Treaty of Waitangi; and**
  - (iv) the sustainability of natural and physical resources; and**
  - (v) the needs of future generations**

### Definition of Ministry

**Ministry** means the Ministry for the Environment established under this Act

### Definition of Secretary

**Secretary** means the Secretary for the Environment appointed in accordance with section 29

### Section 17 - Matters to which regard to be given

In the performance of the Commissioner's functions the Commissioner, where the Commissioner considers it appropriate, shall have regard, in particular but not exclusively, to—

- (a) the maintenance and restoration of ecosystems of importance, especially those supporting habitats or rare, threatened, or endangered species of flora or fauna:**
- (b) areas, landscapes, and structures of aesthetic, archaeological, cultural, historical, recreational, scenic, and scientific value:**
- (c) any land, water, sites, fishing grounds, or physical or cultural resources, or interests associated with such areas, which are part of the heritage of the tangata whenua and which contribute to their well-being:**
- (d) the effects on communities of people of—**
  - (i) actual or proposed changes to natural and physical resources:**
  - (ii) the establishment or proposed establishment of new communities:**

(e) whether any proposals, policies, or other matters, the consideration of which is within the Commissioner's functions, are likely to—

(i) result in or increase pollution; or

(ii) result in the occurrence, or increase the chances of occurrence, of natural hazards or hazardous substances; or

(iii) result in the introduction of species or genotypes not previously present within New Zealand (including the territorial sea); or

(iv) have features, the environmental effects of which are not certain, and the potential impact of which is such as to warrant further investigation in order to determine the environmental impact of the proposal, policy, or other matter; or

(v) result in the allocation or depletion of any natural and physical resources in a way or at a rate that will prevent the renewal by natural processes of the resources or will not enable an orderly transition to other materials:

(f) all reasonably foreseeable effects of any such proposal, policy, or other matter on the environment, whether adverse or beneficial, short term or long term, direct or indirect, or cumulative:

(g) alternative means or methods of implementing or providing for any such proposal, policy, or matter in all or any of its aspects, including the consideration, where appropriate, of alternative sites.

#### Section 28 - Ministry for the Environment

(1) There is hereby established a department of State to be called the Ministry for the Environment.

(2) The Ministry shall be under the control of the Minister.

#### Section 29 - Secretary for the Environment

There shall from time to time be appointed, under the Public Service Act 2020, a Secretary for the Environment who shall be the administrative head of the Ministry and who shall advise and assist the Minister in the performance of the Minister's functions.

#### Section 30 - Other officers and employees of Ministry

There shall from time to time be appointed, under the Public Service Act 2020, such other officers and employees of the Ministry as may be necessary for the efficient carrying out of the functions of the Ministry.

Section 31 - Functions of Ministry

The Ministry shall have the following functions:

- (a) to advise the Minister on all aspects of environmental administration, including—
  - (i) policies for influencing the management of natural and physical resources and ecosystems so as to achieve the objectives of this Act:
  - (ii) significant environmental impacts of public or private sector proposals, particularly those that are not adequately covered by legislative or other environmental assessment requirements currently in force:
  - (iii) ways of ensuring that effective provision is made for public participation in environmental planning and policy formulation processes in order to assist decision making, particularly at the regional and local level:
- (b) to solicit and obtain information from any source, and to conduct and supervise research, so far as it is necessary for the formulation of advice to the Government on environmental policies:
- (c) to provide the Government, its agencies, and other public authorities with advice on—
  - (i) the application, operation, and effectiveness of the Acts specified in the Schedule in relation to the achievement of the objectives of this Act:
  - (ii) procedures for the assessment and monitoring of environmental impacts:
  - (iii) pollution control and the co-ordination of the management of pollutants in the environment:
  - (iv) the identification and likelihood of natural hazards and the reduction of the effects of natural hazards:
  - (v) the control of hazardous substances, including the management of the manufacture, storage, transport, and disposal of hazardous substances:
- (d) to facilitate and encourage the resolution of conflict in relation to policies and proposals which may affect the environment:
- (e) to provide and disseminate information and services to promote environmental policies, including environmental education and mechanisms for promoting effective public participation in environmental planning:
- (f) generally to provide advice on matters relating to the environment:
- (g) to carry out any other functions that may be conferred on the Ministry by any enactment.

Section 32 - Matters to which regard to be given

In carrying out the Ministry's functions, every officer and employee of the Ministry, so far as is practicable, shall have regard to the matters set out in section 17(a) to (g).