



## PROACTIVE RELEASE COVERSHEET

<b>Minister</b>	Hon Chris Bishop	<b>Portfolio</b>	RMA Reform
<b>Title of paper</b>	Replacing the Resource Management Act 1991	<b>Date to be published</b>	22 October 2024

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
	<a href="#">Cabinet paper: Replacing the Resource Management Act 1991</a>	Office of the Minister Responsible for RMA Reform

**Information redacted**                      **NO**

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Office of the Minister Responsible for RMA Reform

Office of Parliamentary Under-Secretary to the Minister Responsible for RMA Reform

ECO - Cabinet Economic Policy Committee

## **Replacing the Resource Management Act 1991**

### **Proposal**

- 1 This paper seeks agreement to a work programme to replace the Resource Management Act 1991 (RMA).

### **Relation to government priorities**

- 2 This proposal advances the Coalition Government's commitment as part of the National Party and Act Party Coalition Agreement to replace the RMA with resource management laws premised on the enjoyment of property rights as a guiding principle. It also supports significant government work priorities in housing, infrastructure, primary industries, environment and climate change.

### **Executive Summary**

- 3 It is widely agreed that the resource management system is not fit for purpose. The RMA has delivered poor outcomes for housing, infrastructure, primary industries, energy and the environment.
- 4 The RMA integrates land use planning and the management of loosely defined environmental effects and then tasks plans and consents with responsibility for social, economic, and cultural outcomes that the system is poorly placed to manage. The scope of what are deemed "effects" has allowed too many objectors to frustrate and delay development. Poor implementation of the RMA from inception, including a lack of accountability mechanisms, has undermined the intent of the original RMA. System processes are often complex, slow, litigious and costly. This has stifled growth while environmental outcomes have declined in some areas.
- 5 The government has commenced a programme to improve the resource management system in three phases. Phase 1 of the reform (repealing the Natural and Built Environment Act 2023 and Spatial Planning Act 2023) is complete. Phase 2 is now underway and includes development of new fast-track consenting legislation and a raft of changes to the existing RMA and RMA National Direction instruments.
- 6 The changes in Phase 2 are important and will result in "quick wins" to remedy many problems. However, they will not resolve systemic issues with the RMA or deliver a system capable of addressing current or future challenges. Phase 3 of reform is about solving the underlying problems of the RMA that stifle growth and that have frustrated New Zealanders for decades.
- 7 I propose we now agree parameters to enable Phase 3 to proceed at pace, including the working arrangements for an Expert Advisory Group (EAG). Phase 3 must take resource management "back to basics". The replacement system must be based on the enjoyment of property rights and focus on managing material environmental effects.

- 8 I propose that the replacement resource management system should:
  - 8.1 narrow the scope of the resource management system and the effects it controls
  - 8.2 establish two Acts with clear and distinct purposes – one to manage environmental effects arising from activities, and another to enable urban development and infrastructure
  - 8.3 strengthen and clarify the role of environmental limits and how they are to be developed
  - 8.4 provide for greater use of national standards to reduce the need for resource consents and simplify council plans, such that standard-complying activity cannot be subjected to a consent requirement
  - 8.5 shift the system focus from ex ante consenting to strengthened ex post compliance monitoring and enforcement
  - 8.6 use spatial planning and a simplified designation process to lower the cost of future infrastructure
  - 8.7 realise efficiencies by requiring one regulatory plan per region jointly prepared by regional and district councils
  - 8.8 provide for rapid, low-cost resolution of disputes between neighbours and between property owners and councils, with a Planning Tribunal (or equivalent) providing an accountability mechanism
  - 8.9 uphold Treaty of Waitangi settlements and the Crown's obligations
  - 8.10 provide faster, cheaper and less litigious processes within shorter, less complex and more accessible legislation.
- 9 Taken together, these changes will result in a more enabling resource management system with more certainty, fewer consents that are approved faster, and that is less litigious.
- 10 A timely transition to the replacement system is essential. Reform proposals will build on and accelerate the momentum we are building through Phase 2. Some RMA settings will be retained for this work to be carried forward with minimal disruption, and to uphold Treaty settlements.
- 11 The proposed Phase 3 changes will be designed to be implemented as quickly, and with as little disruption to users of the resource management system, as possible. A major criticism of the last government's repeal and replacement of the RMA was the high cost and long lead-in time of their new regime. It is important that we avoid making the same mistake. Important elements of the existing system (e.g., plans, national direction, etc.) will transition into the new system, with a "switching off" of elements incompatible with the new system.
- 12 These proposals will not change the existing core resource management roles of councils, but rather how these roles are performed. By limiting scope and targeting council effort to more complex issues, the replacement system will deliver reduced

costs to both councils and ratepayers. However, significant changes to both the legislative architecture and existing plans will be needed to achieve our objectives.

- 13 I intend to establish an EAG to test and refine the workability of proposals in this paper, supported by a cross-government team of senior officials. The Parliamentary Under-Secretary to the Minister Responsible for RMA Reform will be closely involved in this work. Following the EAG process, I will seek Cabinet's agreement to begin drafting the replacement system at the beginning of 2025, so it can pass before the next election.

## **Background**

- 14 The RMA is the principal statute for managing New Zealand's built and natural environments, including the coastal marine area out to the 12 nautical mile limit. It sets the framework for central and local government to sustainably manage natural and physical resources.
- 15 It is widely agreed that the resource management system is not fit for purpose. The RMA has delivered poor outcomes for housing, infrastructure, primary industries, energy and the environment.
- 16 The RMA integrates land use planning and the management of loosely defined environmental effects and then tasks plans and consents with responsibility for social, economic, and cultural outcomes that the system is poorly placed to manage. The scope of what are deemed "effects" has allowed too many objectors to frustrate and delay development. Poor implementation of the RMA from inception, including a lack of accountability mechanisms, has undermined the intent of the original RMA. System processes are often complex, slow, litigious and costly. This has stifled growth while environmental outcomes have declined in some areas.
- 17 Despite its original intent, application of the RMA has increasingly treated land use as a privilege rather than a right. The time and cost of resource consents for major projects have substantially increased over the past decade, directly contributing to the housing crisis. Infrastructure consents cost \$1.3 billion per year, contributing to the infrastructure deficit. The costs and delays of the RMA threaten the Coalition Government's renewable energy and emissions reduction objectives.
- 18 National direction intended to guide the system, totalling 29 instruments, has been poorly focused, produced numerous conflicting obligations, lacks coherence, and has been hamstrung by a precautionary approach which limits the use of practical and repeatable solutions to manage effects.
- 19 Prolonged plan and consent processes and the high cost of dispute resolution has led to deep and persistent shortages of developable land. Widespread use of resource consents to manage effects on a case-by-case basis has led to poor management of cumulative environmental effects. A different approach is needed.

## **Three-phased approach to reform**

- 20 Cabinet has agreed to an extensive work programme to improve the resource management system [CAB-23-MIN-0473 refers]. Resource Management Act Reform Ministers are meeting regularly to oversee this work programme.<sup>1</sup> I have divided

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<sup>1</sup> The Ministerial portfolios included in this group are RMA Reform, Housing, Infrastructure, Energy,

reforms into three phases:

- 20.1 phase one: repeal the Natural and Built Environment Act 2023 (NBA) and Spatial Planning Act 2023 (SPA) (complete)
  - 20.2 phase two: introduce a fast-track consenting regime, make targeted legislative changes to the RMA in 2024, develop new, or amend existing, national direction under the RMA, and implement the Going for Housing Growth work package (now underway)
  - 20.3 phase three: replace the current RMA with new resource management legislation (subject of this paper).
- 21 Our Phase 2 reform programme will reduce unnecessary regulation and unlock investment in infrastructure, housing, and primary industries. However, these changes will not resolve systemic problems with the RMA or deliver a resource management system capable of addressing our current and future challenges. I propose to commence a work programme to replace the RMA, based on the enjoyment of property rights, that builds on these Phase 2 reforms.

### **Advancing Phase 3 of Resource Management Reform**

- 22 I propose we now agree parameters to enable Phase 3 to proceed at pace, including the working arrangements for an Expert Advisory Group.

### **Objectives**

- 23 Phase 3 should be based on the enjoyment of property rights and guided by the objectives for the three-year RM reform work programme that Cabinet has already agreed.<sup>2</sup> This will help maintain alignment with Phase 2 work already underway. These objectives are:

23.1 making it easier to get things done by:

- unlocking development capacity for housing and business growth
- enabling delivery of high-quality infrastructure for the future, including doubling renewable energy
- enabling primary sector growth and development (including aquaculture, forestry, pastoral farming, horticulture, and mining)

23.2 while also:

- safeguarding the environment and human health
- adapting to the effects of climate change and reducing the risks from natural hazards
- improving regulatory quality in the resource management system

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Local Government, Transport, Conservation, Māori Crown Relations, Climate Change, Oceans and Fisheries, Regional Development, Resources, Environment, Forestry, and Hunting and Fishing.

<sup>2</sup> ECO-24-MIN-0022 refers.

- upholding Treaty of Waitangi settlements and other related arrangements.

### **Principles to guide the development of legislative proposals**

- 24 To achieve these objectives, we need to refocus the regulatory system, improve processes, and simplify national direction, plans and consents through significantly refining the meaning of “effects” to an interpretation based on materiality.
- 25 The resource management system should protect the natural environment and provide property owners with assurance against unreasonable activities next door. However, resource management decisions should not shelter businesses from competitors, allow councils to restrict land use to manage financial pressures from infrastructure, or require developers and infrastructure providers to “gold plate” projects.
- 26 I recommend Cabinet agrees the principles below to ensure this vision is adhered to during the next phase of policy development.

### *Narrow the scope of the resource management system and the effects it controls*

- 27 The starting point for the replacement system should be the enjoyment of property rights and respect for the rule of law. Resource management should focus on management of material adverse effects on rights (including rights held collectively) and only manage issues it is best suited to over other alternatives.
- 28 The resource management system should not attempt to specify or direct development outcomes that are better determined by landowners and developers themselves in response to demand. The RMA began as an effects-based regime. However, through its implementation the scope of the RMA has expanded to cover virtually any aspect of land use. I do not believe that councils should be able to use resource management to require balconies and private open spaces for houses, dictate the colour of houses, apply blanket “special character” protection in urban areas, regulate internal aspects of buildings, or manage greenhouse gas emissions, among other things.
- 29 Infrastructure asset owners should not be able to use the system to refuse connections or object to development on the grounds that new residents might want to use an existing road. There are other tools available in the infrastructure funding and financing system to address those matters.
- 30 I consider management of historic heritage would be better served through development of dedicated policy interventions, rather than as part resource management planning and consenting processes.<sup>3</sup> Greenhouse gas emissions are already managed by other policy interventions. Subsequent policy work will explore the full set of issues that might be better addressed outside the resource management system, and the tools needed to manage them. It will also clarify how regulation to protect important aspects of the environment such as outstanding natural landscapes and significant natural areas can be developed in a way that respects private property rights.

### *Establish two Acts with clear and distinct purposes*

- 31 There should be a “double-bottom line” commitment to provide for access to housing

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<sup>3</sup> I note the significance to Māori of recognising Māori culture and heritage under the RMA and will ensure these matters are appropriately considered in the policy process.

and other essentials of life within environmental limits.

- 32 To this effect, the replacement system should establish two Acts with clear and distinct purposes to separately manage the environmental effects arising from activities and enable urban development and infrastructure. The current purpose and principles of the RMA do not sufficiently recognise the importance of providing for housing or infrastructure.

*Strengthen and clarify the role of environmental limits and how they are to be developed*

- 33 Environmental protections should be set in a way that protects what matters and is clear about what cannot be done. Regional councils should set limits in plans for each environmental domain (e.g. air, water, soils, biodiversity, coastal environment), and control discharges and manage activities so that they can be met. Place-based tools should be used to protect significant natural areas, outstanding natural landscapes and natural features, with adequate consideration for how any affected property rights will be upheld. These limits and tools should be subject to legislated principles to avoid overly prescriptive use and be based on quantitative data.
- 34 This approach, alongside increased use of standards, will provide flexibility and efficiency that enables the highest value activities to occur within limits by those best placed to perform them, including through enabling trading and offsets.

*Provide for greater use of national standards to reduce the need for resource consents*

- 35 Resource management can enable development, protect the natural environment and protect the amenity of existing homes by using clear rules in national standards and plans to control the use of land and natural resources.
- 36 Resource consents have become the default management tool under the RMA, but they are not always the best tool. People should reliably know in advance what they can do with their properties as much as possible.
- 37 National standards are already a tool under the RMA but have been underused to date. Greater use of standards has the potential to simplify plans, reduce the need for resource consents, and accelerate processes by codifying effects management for common activities. The Infrastructure Commission has recognised this need and has identified a prioritised programme of work to this effect.
- 38 A new Planning Tribunal – outlined below – will provide an accountability mechanism to ensure these standards are honoured through the ability to strike out council demands for resource consents for standard-complying activities.
- 39 I envisage a significant reduction in the approximately 40,000 resource consents issued each year. This will not occur immediately but will become possible as national standards are developed for a greater range of activities over time.

*Shift the system focus from ex ante consenting to strengthened ex post compliance monitoring and enforcement*

- 40 The new system should embed a general principle of avoiding unnecessary disturbances and an expectation of cleaning up after development is completed to restore any resulting degradation, as determined by relevant consenting authorities.

- 41 Moving to a system in which more activities are permitted, subject to meeting specified standards, will require an increased focus in the system on monitoring and heavier penalties to deter non-compliance. The new system will need to invest more in compliance, monitoring and enforcement functions for this to be successful, and with the anticipated reduction in consents, new mechanisms will be needed to collect revenue to fund these functions.

*Use spatial planning and a simplified designation process to lower the cost of future infrastructure*

- 42 Long-term (30-50 year) spatial planning for urban development and infrastructure is critical for enabling development capacity for housing and business land. This includes constraints mapping (e.g. natural hazard risks, public open space) and protection of infrastructure corridors. Current long-term spatial planning tools lack legal weight in the resource management system, and this should be provided for in a future system.
- 43 Protecting land for infrastructure a decade or more in the future will substantially lower infrastructure costs by allowing land to be secured at a lower cost.

*Realise efficiencies by requiring one regulatory plan per region jointly prepared by regional and district councils*

- 44 Regional and district councils should continue to plan, apply standards and set rules for their regions, albeit within the context of more standardisation at the national level. I do not propose changing the existing core resource management roles of councils, but rather how these roles are performed, with greater focus and targeted effort, and therefore reduced costs to councils and ratepayers.
- 45 Regional and district councils should jointly prepare one plan for each region. Plan and plan change processes should be made more efficient, with reduced appeal rights, reducing litigation for councils. National planning standards could be used to provide standardised zones for plans, to further simplify the system.
- 46 Property owners should have access to a simplified regulatory process to change underlying zoning to enable development.

*Provide for rapid, low-cost resolution of disputes between neighbours and between property owners and councils*

- 47 The RM system should provide for rapid, low-cost resolution of disputes. Work will explore how best to achieve this, including the potential for a new Planning Tribunal, similar to the Disputes Tribunal, to resolve disputes between neighbours and between councils and property owners (e.g., about plans, consents, etc.) quickly and affordably. This could provide an important accountability mechanism that drives effective implementation of the new system.
- 48 The role of the Environment Court would then be clarified on the basis that many of the issues which are litigated between property owners, and between property owners and councils could instead be dealt with through the Planning Tribunal. Officials will engage with the judiciary on these matters.

*Uphold Treaty of Waitangi settlements and the Crown's obligations*

- 49 The replacement system will respect Treaty settlements and existing RMA settlement



mechanisms will be transferred into the new system on an equivalent basis, not read up or down. Work on RMA reform will be aligned with the cross-government work programme led by the Minister of Justice to review legislation including reference to the principles of the Treaty of Waitangi and work underway on addressing Māori rights and interests in freshwater.

*Provide faster, cheaper, and less litigious processes within shorter, less complex and more accessible legislation*

- 50 Decisions for plans, resource consents and other resource management instruments should be made faster, cheaper and less litigious. I expect current processes under the RMA to be significantly reformed.
- 51 We need to take forward the principles above in a way that simplifies the system and results in more concise and accessible legislation. There are a range of ways resource management legislation could be structured and I intend to seek the views of the EAG on this matter (see below).
- 52 **Appendix 1** includes an overview of key aspects of reform that will be considered and further developed by the EAG.

## **Overall approach to reform and transition**

*Targeted and staged approach*

- 53 We need to reset the resource management system in a way that targets the most significant issues first and is pragmatic. While extensive and ambitious reform is required, we do not need to revisit every aspect of policy in the RMA to achieve our objectives, nor would this be possible in the time available in this term of government.

*Building on Phase 2*

- 54 The government has an extensive work programme underway to improve the resource management system in Phase 2, including developing a significant new body of national direction under the RMA.
- 55 Under the RMA, most national direction proposals would have to rely on implementation through regional and district plans to have an impact on the ground. This would likely require regional and district plan changes to implement housing growth targets, enable renewable energy generation and other infrastructure, map highly productive land, reduce risks from natural hazards and reduce the compliance costs of freshwater management, among other things.
- 56 Under current processes, implementation of these changes will stretch local councils and could take 5-10 years, although timeframes are yet to be set. A key focus for Phase 3 should be on the tools and processes needed to implement our national direction changes efficiently and quickly at the regional and local level.
- 57 National direction in the replacement system will move to progressively codify acceptable methods to manage the effects of common activities, which if adhered to, will avoid the need to update plans or obtain consents. This builds on the work currently underway.
- 58 These Phase 2 instruments, and other important elements of the existing system such

as plans, will therefore transition across into the new system, with a “switching off” of elements incompatible with the new system. This is critical to accelerate and smooth the transition, while minimising disruption and avoiding long implementation timeframes.

#### *Minimising uncertainty and economic disruption*

- 59 We are advancing reform to improve the clarity and effectiveness of the resource management system and reduce costs for participants. Reform proposals must be developed in a way that avoids creating unnecessary uncertainty and compliance costs for business and local government in the meantime. One way it can achieve this is by retaining settled case law and terminology where appropriate.

#### *Rapid transition*

- 60 We need to design reform proposals in a way that enables a rapid transition to the new system. The previous government’s Natural and Built Environment Act 2023 would have required 10 years for plans to be updated around the country to align with the new planning framework. I consider this far too long.
- 61 The RMA is framework legislation, and most detailed regulatory requirements sit in regional and local plans. It is these requirements that are the most significant constraints on property rights, and so we need to ensure our proposals achieve improvements at this level as soon as possible to make a difference to users.
- 62 The proposed Phase 3 changes will be designed to be implemented as quickly, and with as little disruption to users of the resource management system, as possible, to avoid repeating the previous government’s mistake.
- 63 Once we have a fully developed reform proposal, I intend to begin work on the supporting measures needed to enable rapid implementation (for example, investment in environmental data and building the new institutional capability needed to operate the system). I may seek funding for this in future budgets (see financial implications below).

#### **Reform process and timing**

- 64 I will lead development of reform proposals as Minister Responsible for RMA Reform. I will provide regular updates on progress to the RMA Reform Ministerial Group, whose membership includes:
- 64.1 Minister Responsible for RMA Reform
  - 64.2 Minister of Housing
  - 64.3 Minister for Infrastructure
  - 64.4 Minister for the Environment
  - 64.5 Minister for Energy
  - 64.6 Minister of Local Government
  - 64.7 Minister of Transport
  - 64.8 Minister of Agriculture
  - 64.9 Minister of Forestry
  - 64.10 Minister of Hunting and Fishing
  - 64.11 Minister of Conservation
  - 64.12 Minister for Māori Crown Relations: Te Arawhiti
  - 64.13 Minister for Oceans and Fisheries

- 64.14 Minister for Regional Development  
64.15 Minister for Resources  
64.16 Minister of Climate Change  
64.17 Associate Minister for the Environment  
64.18 Associate Minister for Agriculture  
64.19 Parliamentary Under-Secretary for RMA Reform  
64.20 Parliamentary Under-Secretary for Infrastructure
- 65 I will engage with other Ministers on specific matters relevant to their portfolios including the Minister for Arts, Culture and Heritage in relation to heritage protection in the resource management system, the Minister of Justice and the Minister for Courts in relation to proposals for a Planning Tribunal, and the Minister of Health in relation to environmental limits.
- 66 The Ministry for the Environment will establish an EAG with relevant technical knowledge to test and refine the workability of proposals in this paper prior to them being considered by Ministers. The EAG will also advise on possible implementation challenges that could undermine the ability to achieve a timely transition to the replacement system. A cross-government team of senior officials will support this group and Ministers, and the Parliamentary Under-Secretary to the Minister Responsible for RMA Reform will be closely involved in this work.
- 67 I will instruct officials to undertake targeted engagement on the proposals in this paper with key groups, including infrastructure providers and Māori. This will take place in parallel with the EAG process and I will report back to Cabinet on the output of this engagement alongside the advice to be provided by the EAG.
- 68 I will seek Cabinet agreement to key aspects of the replacement at the beginning of 2025. This will be followed by detailed policy work and legislative drafting. It is intended replacement legislation will be introduced by mid-2025 and passed by mid-2026.
- 69 In order to deliver a Bill addressing the most significant issues in an effective way, the Parliamentary Counsel Office advise me that complete policy decisions and instructions are required by early 2025, followed by a clear six months for drafting after decisions have been made (with Ministerial consultation about the introduction of the Bill occurring after that). Six months is the minimum time required to ensure that the reform's key changes are coherent and workable, with quality assurance to minimise the risk of errors and unintended consequences.
- 70 Public consultation on the proposals will occur primarily through the Select Committee process, unless otherwise required by statute as is the case in respect of some Treaty of Waitangi settlements. Officials will develop an engagement plan to ensure these statutory obligations are met.
- 71 Officials will work to ensure that RMA Reform in Phase 3 is aligned with related work programmes across government including on local government system improvements, Māori rights and interests in freshwater, work to review legislation that refers to the principles of the Treaty of Waitangi, Freshwater Farm Plans and climate change adaptation.

### **Cost-of-living Implications**

- 72 An objective of reforming the resource management system is to streamline the need for resource consents and consent processes to avoid unnecessary cost being passed

on to system users. These benefits may flow through to reduced costs for families and households.

## Financial Implications

- 73 Previous resource management funding of \$301 million over four years was withdrawn in the 2023 mini-Budget. Budget 24 provided \$92 million over four years to deliver the Government's resource management reforms, including RMA replacement legislation, with \$2 million of that allocated to the Environmental Protection Authority for fast-track work. This initiative:
- 73.1 was funded at a scaled level to provide core capabilities to operate and maintain the RM system, noting that this level of funding would likely require more choices around the scope of work that was able to be delivered within the coalition agreements
  - 73.2 specifically did not include any funding for implementation of any specific measures that may result from changes to legislation and national direction, with these funding decisions deferred to Budget 25 or later.
- 74 To achieve its aims, Phase 3 RMA reform is likely to require significant investment in implementation, including to support the development of new national standards and environmental limits, administer the proposed new planning tribunal, and develop new heritage protection mechanisms outside the resource management system. I may seek funding for this in future budgets.

## Legislative Implications

- 75 Legislation will be required to implement the work programme. Replacement legislation for the RMA has category 7, to ensure it is passed by the end of the current parliamentary term.

## Impact Analysis

### *Regulatory Impact Statement*

- 76 Cabinet's impact analysis requirements apply to this proposal to seek agreement to a work programme to replace the RMA. However, there is no accompanying Regulatory Impact Statement. Therefore, it does not meet Cabinet's requirements for regulatory proposals.
- 77 The Ministry for Regulation and Ministry for the Environment have agreed that supplementary analysis will be provided to Cabinet alongside the report back of the Expert Advisory Group in early 2025.

### *Climate Implications of Policy Assessment*

- 78 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that a CIPA assessment is not yet required for this proposal, as the work programme is in its initial stages. As the work programme progresses and proposals are finalised, the CIPA team will be consulted to perform a CIPA assessment at a later stage.

## Population Implications

- 79 A more efficient and effective resource management system should benefit all New Zealanders. Implementation of this work programme will need to closely consider its potential impact on populations and communities, including on Māori.
- 80 A perceived erosion of the Māori rights and interests recognised and provided for in the RMA could create significant challenges for the Māori-Crown relationship.

## Human Rights

- 81 Consistency with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 will be assessed as the work programme is implemented and through further Cabinet decisions.

## Use of external resources

- 82 No external resources were used to prepare this paper.

## Consultation

- 83 The following agencies were consulted on this paper: the Treasury; Ministry of Housing and Urban Development; Department of Internal Affairs; Ministry of Transport; Department of Conservation; Office for Māori Crown Relations - Te Arawhiti; Ministry for Primary Industries; Ministry for Culture and Heritage; Ministry of Health; Ministry of Business, Innovation and Employment; Ministry of Foreign Affairs and Trade; and New Zealand Infrastructure Commission - Te Waihanga. The Department of Prime Minister and Cabinet was also informed.

## Communications

- 84 I intend to announce our proposed approach to replacing the RMA alongside release of this paper, and to involve the Parliamentary Under-Secretary to the Minister Responsible for RMA Reform in this.

## Proactive Release

- 85 As soon as practicable after decisions being confirmed by Cabinet and public announcements made, I intend to proactively release this paper, subject to redactions as appropriate under the Official Information Act 1982.

## Recommendations

- 86 The Minister Responsible for RMA Reform recommends that the Committee:

### *Three-phased approach to improving the resource management system*

- 1 **note** that I am taking a three-phased approach to reform the resource management system in New Zealand [CAB-23-MIN-0473 refers]:
- 1.1 phase one: repeal the Natural and Built Environment Act (NBA) and Spatial Planning Act (SPA) (now complete)
- 1.2 phase two: introduce a fast-track consenting regime within the first 100 days,

make targeted legislative changes to the RMA in 2024, develop new, or amend existing, national direction under the RMA, and implement the Going for Housing Growth work package (now underway)

- 1.3 phase three: replace the current RMA with new resource management legislation based on the enjoyment of property rights, while ensuring good environmental outcomes

#### *Advancing Phase 3 of Resource Management Reform*

- 2 **note** that Cabinet has previously agreed objectives that will be used to guide work to replace the Resource Management Act 1991:<sup>4</sup>

- 2.1 making it easier to get things done by:

- 2.1.1 unlocking development capacity for housing and business growth

- 2.1.2 enabling delivery of high-quality infrastructure for the future, including doubling renewable energy

- 2.1.3 enabling primary sector growth and development (including aquaculture, forestry, pastoral, horticulture, and mining)

- 2.2 while also:

- 2.2.1 safeguarding the environment and human health

- 2.2.2 adapting to the effects of climate change and reducing the risks from natural hazards

- 2.2.3 improving regulatory quality in the resource management system

- 2.2.4 upholding Treaty of Waitangi settlements and other related arrangements

- 3 **agree** that the following principles will be used to guide the development of proposals to replace the Resource Management Act 1991:

- 3.1 narrow the scope of the resource management system and the effects it controls

- 3.2 establish two Acts with clear and distinct purposes – one to manage environment effects arising from activities, and another to enable urban development and infrastructure

- 3.3 strengthen and clarify the role of environmental limits and how they are to be developed

- 3.4 provide for greater use of national standards to reduce the need for resource consents and simplify council plans, such that standard-complying activity cannot be subjected to a consent requirement

- 3.5 shift the system focus from ex ante consenting to strengthen ex post compliance

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<sup>4</sup> ECO-24-MIN-0022 refers.

- monitoring and enforcement
- 3.6 use spatial planning and a simplified designation process to lower the cost of future infrastructure
- 3.7 realise efficiencies by requiring councils to jointly prepare one regulatory plan for their region
- 3.8 provide for rapid, low-cost resolution of disputes between neighbours and between property owners and councils, with a Planning Tribunal (or equivalent) providing an accountability mechanism
- 3.9 uphold Treaty of Waitangi settlements and the Crown's obligations
- 3.10 provide faster, cheaper and less litigious processes within shorter, less complex and more accessible legislation
- 4 **note** I have included an overview of some key components of reform in **Appendix 1** to be further considered by the Expert Advisory Group among other options
- 5 **note** there are a range of options for the structure of resource management legislation and I intend to seek the views of the Expert Advisory Group on this issue

#### *Overall approach to reform*

- 6 **agree** that reform proposals will be developed in a way that:
  - 6.1 takes a targeted and staged approach that prioritises proposals with the greatest impact, retains the existing architecture of the RMA where it is working well, and makes use of the extensive policy work on RMA reform already undertaken over the last decade
  - 6.2 builds on our Phase 2 work programme
  - 6.3 minimises uncertainty and economic disruption
  - 6.4 enables a rapid transition to the new system

#### *Reform process and timing*

- 7 **note** the Minister Responsible for RMA Reform will lead these reforms, and work with the Parliamentary Under-Secretary in delivering Phase 3
- 8 **note** the Ministry for the Environment will establish an Expert Advisory Group with relevant technical knowledge to test and further develop the proposals in this paper
- 9 **note** the Parliamentary Under-Secretary to the Minister Responsible for RMA Reform will be closely involved in the work of the Expert Advisory Group
- 10 **note** that a cross-government team of senior officials will support the Expert Advisory Group in line with the direction in this paper
- 11 **note** that officials will undertake targeted engagement on the proposals in this paper alongside the Expert Advisory Group process with key groups including infrastructure providers and Māori

- 12 **note** the Minister Responsible for RMA Reform will provide regular updates on progress to the Resource Management Act Reform Ministerial Group
- 13 **note** the Minister Responsible for RMA Reform will engage with other Ministers on specific matters relevant to their portfolios including the Minister for Arts, Culture and Heritage in relation to heritage protection in the resource management system, the Minister of Justice and the Minister for Courts in relation to proposals for a Planning Tribunal, and the Minister of Health in relation to environmental limits
- 14 **note** the Minister Responsible for RMA Reform will seek Cabinet agreement to key aspects of the replacement system at the beginning of 2025
- 15 **note** the intention that replacement legislation will be introduced by mid-2025 and passed by mid-2026
- 16 **agree** that public consultation on the proposals will occur primarily through the parliamentary process, unless otherwise required by statute as is the case in respect of some Treaty of Waitangi settlements
- 17 **note** officials will develop an engagement plan to ensure relevant statutory obligations for engagement with Māori are met
- 18 **note** officials will assess Treaty of Waitangi impacts through the work programme and any impacts on Treaty Settlements and other legislative arrangements will need to be addressed appropriately

*Financial implications*

- 19 **note** the costs of progressing further work on an RMA replacement will be met from within current agency baselines.

authorised for lodgement

Hon Chris Bishop  
Minister Responsible for RMA Reform

Simon Court MP  
Parliamentary Under-Secretary to the Minister Responsible for RMA Reform



## Appendix 1: Proposed system architecture for testing and refining

*Note: Aspects of the system architecture already exist under the RMA and reform options will consider how elements of the existing system can be utilised.*

- **Legislative structure** – Two Acts, with clear and distinct purposes – one to manage environmental effects arising from activities, and another to enable urban development and infrastructure, resulting in shorter, less complex and more accessible legislation.
- **Double-bottom line** - Requiring councils to provide for essential human needs such as housing, food production, drinking water and sanitation within environmental limits.
- **National standards** – Building on the existing approach in the RMA, national standards will set the effects management approach for activities associated with infrastructure (e.g. electricity transmission and distribution; water pipes and treatment; road construction and maintenance; ports, airports, etc) and land and resource use and development (e.g. earthworks and sediment control; temporary traffic management; dust; noise and vibration). This will reduce the need for resource consents.
- **Environmental limits** - Regional councils should set environmental limits, manage activities and control discharges for each environmental domain (e.g. air, water, soil, biodiversity, coastal environment). There will also be place-based tools available for protection of significant natural areas, outstanding natural landscapes and natural features, with adequate consideration for how any affected property rights will be upheld. The system will enable innovative methods for water and nutrient allocations to manage over-cap catchments back within environmental limits. Environmental offsets will be recognised in the new system.
- **Long-term spatial planning** - Long-term (30-50 year) spatial planning for urban development and infrastructure should map constraints (e.g. natural hazards, public open space), identify future infrastructure corridors and enable infrastructure coordination.
- **One plan per region** - Regional and district councils will jointly prepare one regulatory plan for each region using a standardised zoning framework. The planning process will be made more efficient, with reduced appeal rights, to simplify and shorten planning cycles.
- **Corridor protection** - Councils and other infrastructure operators will be able to designate the location of current and future infrastructure.
- **Local zoning flexibility** - Proposals will consider how to enable neighbours to increase development potential through upzoning based on supermajorities, as well as how to enable property owners to opt out of upzoning by councils while remaining liable for the obligation to pay for infrastructure services.
- **Fewer and faster consents** - Public participation will generally be limited to people who are directly affected by developments, although major projects will be publicly notified. To avoid the situation where a single objector can hold up a development for years, objectors will bear some costs. There will be a permanent fast-track regime.
- **Compliance and enforcement** - The new system should embed a principle of avoiding unnecessary disturbances and an expectation of restoring any degradation after a development is completed, as determined by relevant consenting bodies. Stronger environmental protections would be supported by increased monitoring and heavier penalties for non-compliance, including for councils.
- **Low-cost dispute resolution** – The new system will create a Planning Tribunal to provide a low-cost way to resolve disputes between neighbours, and property owners and councils about plans and consents quickly and affordably. I envisage a model similar to the Disputes Tribunal.

- **Upholding Treaty settlements and the Crown's obligations** – The new system will respect Treaty settlements and existing RMA settlement mechanisms will be transferred into the new system on an equivalent basis, not read up or down. Work on RMA reform will be aligned with the cross-government work programme led by the Minister of Justice to review legislation including reference to the principles of the Treaty of Waitangi and work underway on addressing Māori rights and interests in freshwater.