

In confidence

Office of the Minister for the Environment
Chair, Cabinet Legislation Committee

Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2020

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2020 (the 'amendment regulations').

Policy

- 2 The Resource Management (Forms, Fees and Procedure) Regulations 2003 (the 'regulations') contain prescribed forms for specific plan-making, resource consenting and enforcement functions under the Resource Management Act 1991 (RMA). Consequential updates to these forms are needed to reflect changes made by the Resource Management Amendment Act 2020 (RMAA).
- 3 The RMAA received Royal assent on 30 June 2020. Of particular relevance to the amendment regulations, Cabinet agreed to:
 - 3.1 a new freshwater planning process [CAB-19-MIN-0337.01 refers]
 - 3.2 removal of the collaborative planning process [CAB-19-MIN-0337.01 refers]
 - 3.3 enabling the review of conditions of multiple resource consents concurrently [CAB-18-MIN-0485.01 refers]
 - 3.4 repealing restrictions on the scope of appeals [CAB-18-MIN-0485.01 refers]
 - 3.5 ability for changes to regional policy statements to be called in by the Minister and directed to a board of inquiry or the Environment Court for a decision [CAB-20-MIN-0051.01 refers]
 - 3.6 making permanent some recent temporary changes to the RMA relating to the availability of documents during COVID-19 response [CAB-20-MIN-0264 refers].
- 4 On 23 September 2019, the Cabinet Legislation Committee (with Power to Act) authorised me to issue drafting instructions to the Parliamentary Counsel

Office to prepare consequential amendments to update the necessary forms and references in the regulations [LEG-19-MIN-0146, para 24 refers].

- 5 The amendment regulations (Appendix 1) amend existing forms and create new forms, where necessary, to reflect the RMAA changes listed in paragraph 3 above.
- 6 I was also authorised to issue drafting instructions for consequential updates to the Resource Management (Discount on Administrative Charges) Regulations 2010 [LEG-19-MIN-0146, para 24 refers]. However those regulations do not need updating as a result of the RMAA.

Timing and 28-day rule

- 7 I propose the amendment regulations come into force in accordance with the standard 28 day rule. This will provide councils time to update their systems to address the new and modified forms.

Compliance

- 8 The regulations comply with:
 - 8.1 the principles of the Treaty of Waitangi
 - 8.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993
 - 8.3 the principles and guidelines set out in the Privacy Act 1993
 - 8.4 relevant international standards and obligations
 - 8.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 9 I do not consider there to be grounds for the Regulations Review Committee to draw the amendment regulations to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

- 10 The draft regulations are certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

- 11 Treasury's Regulatory Quality Team has determined that the amendment regulations proposed in this paper as a consequence of RMA process changes made through the RMAA, are exempt from the requirement to provide impact analysis. The relevant issues have already been covered in existing regulatory impact statements (RISs), which were considered when

the respective policy decisions on the associated RMA amendments were taken. The amendment regulations are to remove redundant forms and modify existing forms, as a consequence of the amendments described in paragraph 3 above.

- 12 The relevant RISs are available on the Ministry for the Environment website.¹
- 13 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Publicity

- 14 Once approved by the Executive Council, the regulations will be notified in the *New Zealand Gazette*. The Ministry for the Environment will also advise councils of the updated regulations following gazettal.

Proactive release

- 15 I propose to release this paper proactively 30 working days after Cabinet decisions.

Consultation

- 16 Consultation on the substantive RMA amendments to which these amendment regulations relate occurred through the legislative process for the RMAA.
- 17 The following departments have been consulted on this paper: the Department of Conservation, the Department of Internal Affairs, the National Emergency Management Agency, the Ministry of Business, Innovation and Employment, the Ministry of Transport, the Ministry of Culture and Heritage, the Ministry of Housing and Urban Development, the Ministry for Primary Industries, the Ministry of Health, the Ministry of Education, Te Arawhiti, the New Zealand Defence Force, the Treasury, the Department of Corrections, the State Services Commission, Land Information New Zealand, and the Ministry of Justice. Te Puni Kōkiri and the Department of Prime Minister and Cabinet have been kept informed. No feedback was received from departmental consultation.

Recommendations

- 18 I recommend that the Cabinet Legislation Committee:
 - 1 note that on 23 September 2019 the Cabinet Legislation Committee, with Power to Act, agreed to authorise me to issue drafting instructions to the Parliamentary Counsel Office to prepare consequential amendments to

¹ Section 3.2.2 - <https://www.mfe.govt.nz/more/briefings-cabinet-papers-and-related-material-search/regulatory-impact-statements/impact>; Whole RIS: <https://www.mfe.govt.nz/ris/new-planning-process-freshwater>; Section 3.1.12 <https://www.mfe.govt.nz/ris/additional-proposals-proposed-bill-amend-rma>; Parts (a) and (b): <https://www.mfe.govt.nz/sites/default/files/media/RMA/impact-summary-policy-decisions-rma-amendment-bill-departmental-report.pdf>; Whole RIS: <https://www.mfe.govt.nz/more/briefings-cabinet-papers-and-related-material-search/regulatory-impact-statements/impact-8>

the Resource Management (Forms, Fees and Procedure) Regulations 2003 [LEG-19-MIN-0146]

2 note that the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2020 will give effect to the decision referred to in paragraph 1 above

3 authorise the submission to the Executive Council of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2020

4 note that the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2020 come into force 28 days after gazettal.

Authorised for lodgement

Hon David Parker

Minister for the Environment

Proactively released

Appendix 1: Resource Management (Forms, Fees and Procedure) Amendment Regulations 2020

Proactively released