



## PROACTIVE RELEASE COVERSHEET

<b>Minister</b>	Bishop	<b>Portfolio</b>	RMA Reform
<b>Title of Cabinet paper</b>	Resource Management (Freshwater and Other Matters) Amendment Bill	<b>Date to be published</b>	5 June 2024

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
10 April 2024	Cabinet Paper – First Resource Management Act Amendment Bill to address a small number of time critical changes	Office of the Minister Responsible for RMA Reform  Office of the Minister for Infrastructure  Office of the Minister for Resources  Office of the Minister for Regional Development  Office of the Minister for Oceans and Fisheries
10 April 2024	ECO-24-MIN-0046 Minute of Decision – First Resource Management Act Amendment Bill: Addressing a Small Number of Time Critical Changes	Cabinet Office
15 April 2024	CAB-24-MIN-0121.01 Minute of Decision – First Resource Management Act Amendment Bill: Addressing a Small Number of Time Critical Changes	Cabinet Office

**Information redacted** YES

#### Summary of reasons for redaction

Some information has been withheld from the above documents to maintain legal professional privilege and the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown.

**In-Confidence**

Office of the Minister Responsible for RMA Reform

Office of the Minister for Infrastructure

Office of the Minister for Resources

Office of the Minister for Regional Development

Office of the Minister for Oceans and Fisheries

ECO – Cabinet Economic Policy Committee

**First Resource Management Act Amendment Bill to address a small number of time critical changes**

**Proposal**

1. This paper seeks agreement to the content and timing of a narrowly scoped Resource Management Act 1991 (RMA) Amendment Bill (the Bill) that addresses a small number of time-critical changes needed to the resource management system and to meet coalition commitments. These changes are:
  - 1.1 excluding the hierarchy of obligations contained in the National Policy Statement for Freshwater Management 2020 (NPS-FM) from resource consent application and decision-making processes
  - 1.2 aligning the consenting pathway for coal mining with other extractive activities across National Direction
  - 1.3 amending the National Policy Statement for Indigenous Biodiversity (NPS-IB) to suspend, for three years, the requirement for councils to identify new Significant Natural Areas (SNAs)
  - 1.4 extending the duration of certain coastal permits<sup>1</sup> for port companies
  - 1.5 amending stock exclusion in relation to sloped land
  - 1.6 repealing the intensive winter grazing regulations.
2. This paper seeks policy decisions for the matters set out in 1.1 and 1.2 above. Policy decisions for the matter set out in 1.3 have already been agreed [CAB-24-MIN-0069 refers]. The matters in 1.4, together with 1.5 and 1.6 are set out in two Cabinet papers that accompany this one from the relevant portfolio Ministers.

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<sup>1</sup> Those approved by the Minister of Transport under section 384A of the RMA for activities including navigation aids (such as buoys, lights, and fog signals), rights to exclusive occupation, and some structures located within the coastal marine area that are not consented elsewhere (such as some wharves) that were in place as of 1991.

3. This paper also seeks agreement to instruct Parliamentary Counsel Office (PCO) to begin drafting the Bill.

### **Relation to government priorities**

4. The proposals in this paper deliver on, or support, coalition agreement commitments to:
  - 4.1 replace the NPS-FM to rebalance Te Mana o te Wai to better reflect the interests of all water users (Coalition Agreement National Party/ACT New Zealand, and Coalition Agreement National Party/New Zealand First)
  - 4.2 seek advice on how to exempt councils from obligations under the NPS-FM (Coalition Agreement National Party/ACT New Zealand)
  - 4.3 make it easier to consent new infrastructure including renewable energy, allow farmers to farm, get more houses built, and enhance primary sector including fish and aquaculture, forestry, pastoral, horticulture and mining (Coalition Agreement National Party/ACT New Zealand and Coalition Agreement National Party/New Zealand First)
  - 4.4 facilitate the development and efficiency of ports and strengthen international supply networks (Coalition Agreement National Party/New Zealand First)
  - 4.5 begin to cease implementation of SNAs (Coalition Agreement National Party/ACT New Zealand, and Coalition government 100-day plan)
  - 4.6 defer central government rules requiring resource consents for winter grazing until freshwater farm plans are in place, with plans to become risk and outcomes-based (Coalition Agreement National Party/New Zealand First and Coalition Agreement National Party/ACT New Zealand)
  - 4.7 replace the winter grazing low slope map and low slope rules for stock exclusion with more effective catchment-level rules to accommodate regional differences (Coalition Agreement National Party/New Zealand First and Coalition Agreement National Party/ACT New Zealand).

### **Executive Summary**

5. I propose to introduce a narrowly scoped RMA Amendment Bill by the end of May 2024 (the Bill), to be enacted and commence in November 2024. This is consistent with my recent Cabinet paper on the three-year work programme for reforming the resource management system [CAB-24-MIN-0069 refers].
6. The Bill will address a small number of time-critical matters:
  - 6.1 excluding the hierarchy of obligations contained in the NPS-FM from resource consent application and decision-making processes
  - 6.2 aligning the consenting pathway for coal mining with other extractive activities across National Direction
  - 6.3 ceasing the implementation of new SNAs under the NPS-IB for three years to enable a thorough review of their operation

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- 6.4 extending the duration of certain coastal permits for port companies
  - 6.5 amending stock exclusion in relation to sloped land
  - 6.6 repealing the intensive winter grazing regulations.
7. This paper seeks agreement to the policy, and to issue drafting instructions, on two of the six changes listed above:
- 7.1 excluding the hierarchy of obligations for managing natural and physical resources, contained in the NPS-FM, from freshwater consent application and decision-making processes. This is a temporary measure until the NPS-FM can be reviewed and replaced. This will ensure that consent applicants will not have to provide an assessment against, and consent authorities will not consider, the hierarchy of obligations in the NPS-FM.
  - 7.2 aligning the consenting pathway for coal mines with other extractive activities across NPS-IB, NPS-FM and National Environmental Standards for Freshwater (NES-F) National Direction. This would remove barriers and make it possible for new coal mines to seek consent to operate within SNAs and wetlands.
8. Cabinet has already agreed the policy and to issue drafting instructions for ceasing the implementation of new SNAs [CAB-24-MIN-0069 refers]. Two separate Cabinet papers accompany this paper:
- 8.1 from the Minister of Transport, seeking decisions on extending the duration of certain coastal permits for port companies
  - 8.2 from the Minister of Agriculture and Associate Minister for the Environment, seeking decisions on amending stock exclusion regulations in relation to sloped land and repealing the intensive winter grazing regulations.

## Content and timing of the Bill

### *Background*

9. In March 2024, Cabinet noted that I am taking a three-phased approach to reform of the resource management system. This work fits into the second of these phases “targeted legislative changes to the RMA in 2024” [CAB-24-MIN-0069 refers]:
- 9.1 phase one: repeal the Natural and Built Environment Act (NBA) and Spatial Planning Act (SPA) (now complete)
  - 9.2 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
  - 9.3 phase three: replace the current RMA with new resource management legislation based on the enjoyment of property rights, while ensuring good environmental outcomes.
10. Cabinet also agreed that the second phase would include making targeted amendments to the RMA via two amendment bills to streamline and simplify its operation [CAB-24-MIN-0069 refers]. I proposed that the focus of these bills be:

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- 10.1 this narrowly scoped RMA Amendment Bill that deals with a small number of time-critical matters (to be passed this year)
- 10.2 a second RMA Amendment Bill to be introduced in mid-2024, that will focus on additional urgent changes needed to meet our coalition and manifesto commitments.
- 11. I informed Cabinet of my intent to include the following changes in the first Bill<sup>2</sup>:
  - 11.1 clarifying the application of the hierarchy of obligations in the NPS-FM to resource consenting
  - 11.2 ceasing the implementation of new SNAs under the NPS-IB for three years to enable a thorough review of their operation.
- 12. A further issue has been raised with me by the Minister for Resources around the consenting pathway for coal mines which I also propose to include in this Bill.
- 13. The following Ministers were invited to submit papers on further 'quick win' amendments that could be included in this first Bill [CAB-24-MIN-0069 refers]:
  - 13.1 the Minister of Agriculture and Associate Minister for the Environment on sloped land; and
  - 13.2 the Minister of Transport on port consent extensions.

*Analysis*

- 14. I propose to include these issues in this first RMA Amendment Bill because of their time-critical nature:
  - 14.1 the changes to the hierarchy of obligations and SNAs are both short-term policies to allow time to conduct reviews of national direction. The changes need to happen as soon as possible to avoid wasted time and effort by councils and consent applicants
  - 14.2 currently, coal mining is treated differently to other extractive activities with similar environmental effects. This has led to new coal mines being unable to obtain resource consents across New Zealand. There is also currently a judicial review proceeding against the Minister for the Environment concerning the coal mining-specific restrictions in the NPS-FM, the NES-F and the NPS-IB. Changes will provide certainty to the parties in the litigation
  - 14.3 there are ten ports with section 384A coastal permits expiring on 30 September 2026. Giving an extension this year will give these port companies certainty for future investment and avoid the need for them to rapidly prepare consent applications
  - 14.4 relevant stock exclusion regulations come into force on 1 July 2025, these regulations need to be changed as soon as possible to avoid imposing significant costs of excluding (fencing or otherwise) certain stock from water

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<sup>2</sup> A proposal to extend the duration of marine farm consents was also included in this paper, however, this is not included in this Bill.

bodies on lower intensity beef and deer farmers for limited environmental benefit

- 14.5 the intensive winter grazing regulations are already in effect and removing these will avoid unnecessary costs for farmers wanting to undertake this activity who have no compliance pathway except to apply for a resource consent.
15. I intend to introduce this legislation to the House in May 2024 and for the Bill to be referred to select committee for a period of approximately four months. While six months is the usual length of time for a bill to be at select committee, this would not enable the Bill to be reported back to the House and passed in November 2024. Because of this, and the fact that the Bill is limited in scope, I consider four months to be adequate.
16. I consider a Select Committee process is important to ensure communities can comment on the Bill and to enable any unintended consequences to be identified and addressed. This is important given the limited time for engagement on the detailed proposals to date.

## **Specific policy issues for inclusion in the Bill**

### **Hierarchy of obligations within the NPS-FM**

#### *Background*

17. The NPS-FM includes the concept of Te Mana o te Wai that refers to the fundamental importance of freshwater and recognises that protecting the health of freshwater protects the health and well-being of the wider environment.
18. The concept of Te Mana o te Wai includes a hierarchy of obligations that prioritises:
  - i. first, the health and well-being of waterbodies and freshwater ecosystems
  - ii. second, the health needs of people (such as drinking water)
  - iii. third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and into the future.
19. Managing resources in a way that prioritises the hierarchy of obligations is the stated objective of the NPS-FM. The hierarchy plays a key role in the development of environmental outcomes in regional policy statements, and plans that manage all freshwater activities in a catchment. It also informs the content of, and guides decision-making on, resource consent applications.
20. Our coalition agreements commit to replacing the NPS-FM to rebalance Te Mana o te Wai to better reflect the interests of all water users. On 11 December 2023 Cabinet “agreed to review and replace the NPS-FM in the current term of government” [CAB-23-Min-0486 refers].
21. Cabinet also:
  - 21.1 agreed to clarify that councils should not be requiring individual resource consent applicants to demonstrate that their proposed activity adheres to the hierarchy of obligations contained in Te Mana o te Wai provisions of the NPS-FM” [CAB-23-MIN-0486 refers]

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- 21.2 directed officials to provide advice early in 2024, in time for inclusion in the Fast-Track Consenting Bill, on options to amend or exclude the hierarchy of obligations contained in the Te Mana o te Wai provisions of the NPS-FM when making decisions on consent applications.

*Analysis*

22. I have received advice from officials about how to implement Cabinet's decision [CAB-23-MIN-0486 refers]. Their advice is that excluding, rather than amending, the hierarchy of obligations provides the best way to resolve Ministers' concerns about how the hierarchy is being applied in consenting decisions.
23. Therefore, I propose that the hierarchy of obligations contained in specific clauses of the NPS-FM be excluded from resource consent application and decision-making processes.
24. This will ensure that consent applicants will not have to provide an assessment against the provisions of the NPS-FM that contain the hierarchy of obligations and that these provisions will not be considered by consent authorities in consent decisions. To give effect to this, and to provide the detail necessary for drafting, I propose amendments to:
- 24.1 preclude consent applicants from including an assessment of their proposed activities against the provisions of the NPS-FM that explicitly contain the hierarchy of obligations when applying for resource consent
  - 24.2 require consent authorities to disregard assessments against the provisions of the NPS-FM that explicitly contain the hierarchy of obligations included in applications for resource consent
  - 24.3 ensure that consent applicants cannot be required or asked to provide an assessment of their proposed activities against the provisions of the NPS-FM that explicitly contain the hierarchy of obligations
  - 24.4 preclude consent authorities from having regard to the provisions of the NPS-FM that explicitly contain the hierarchy of obligations when considering applications for resource consent.
25. To ensure the proposal operates as intended, for ease of implementation, and to ensure an orderly transition, I recommend that the proposal:
- 25.1 commences immediately after the Bill takes effect to maximise its impact while the NPS-FM is being replaced
  - 25.2 applies only to consent applications lodged with a consent authority after the Bill takes effect (consent authorities will continue to be required to have regard to the NPS-FM as it currently stands for applications already lodged)
  - 25.3 is delivered through a combination of amendments to the RMA and NPS-FM
  - 25.4 ceases to have effect when the NPS-FM is replaced.
26. There will continue to be safeguards to protect freshwater because all other provisions of the NPS-FM will continue to apply to resource consents in the interim.

27. Only the hierarchy of obligations in specific clauses of the NPS-FM would be excluded from resource consent application and decision-making processes. Where the hierarchy is contained in a regional policy statement, regional plan, or other statutory document (e.g. iwi planning document), it will continue to be a relevant matter for resource consenting.
28. Officials have advised that the hierarchy of obligations is currently contained in the proposed regional policy statements for the Otago and Greater Wellington regions, and at least two iwi planning documents.
29. When applying Part 2 of the RMA to consent applications, consent authorities may still prioritise the health and well-being of waterbodies and freshwater ecosystems, and the health needs of people (ie, the first and second priorities of the hierarchy) over other uses of water in consent decisions.

#### *Treaty of Waitangi considerations*

30. Key points conveyed by many iwi and Māori from the limited engagement on the proposal (see the Consultation section for the engagement that occurred) include:
  - 30.1 concern about or opposition to the changes, predominantly due to concerns about potential impacts on freshwater quality, as well as impacts on customary rights, and Treaty settlement commitments for some iwi
  - 30.2 that the engagement process has been inadequate (for reasons including insufficient information, lack of time, and that decisions appeared to have already been taken).
31. The issues and risks arising from Treaty considerations are addressed in the Legal Implications section.
32. Treaty impact analysis for this proposal with further detail is contained in the Regulatory Impact Statement (RIS) at Appendix One.

### **Aligning the consenting pathway for coal mining with other extractive activities across National Direction**

#### *Background*

33. New Zealand's coals are important assets to our economy. Our bituminous (coking) coals are exported and used for international steel making, and our sub-bituminous (thermal) coals are vital to our domestic steel production.
34. In 2022 the NPS-FM and NPS-IB put in place strong protections for wetlands and SNAs, but also provided specific consent pathways for mineral extraction to undertake mining in a wetland or SNA. Coal mining, however, currently has additional controls on its resource consent pathway compared to other extractive activities, although the localised environmental effects are similar. The consent pathway does not apply to *new* mines, and in relation to *thermal* coal the ability to apply for a consent to expand current operations ceases on 31 December 2030.
35. There is current litigation about the special restrictions placed on the ability to seek resource consent for new coal mines under the NPS-FM, NES-F and NPS-IB. The changes I am proposing would repeal the coal mining-specific restrictions, which is the

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outcome sought by the applicants in the litigation. Including the proposed changes in this Bill, rather than in a later Bill, should avoid a costly litigation process. I intend to release a statement, pending Cabinet approval on the proposals, to indicate the intent of the changes to provide some certainty to the litigants.

36. These changes are in line with our coalition agreements, which commit to amending the RMA to make it easier to consent new infrastructure including renewable energy, allow farmers to farm, get more houses built, and enhance primary sector, including fish and aquaculture, forestry, pastoral, horticulture and mining.

*Analysis*

37. I am concerned about the inconsistent treatment of coal mining across different national direction instruments as compared to other extractive activities of a similar environmental effect. Recently, new coal mines have been unable obtain resource consents and this could create a significant barrier to extracting the resources we need and for coal to play a part in the export-led economic recovery for New Zealand.
38. The current coal mining provisions under the NPS-IB, NPS-FM and NES-F apply additional controls on coal mining in comparison to other extractive activities (eg aggregate and other mineral extraction), even though the environmental effects of extracting coal and its ancillary activities are similar to other extractive activities.
39. The current resource consent pathway for coal mining under the NPS-IB, NPS-FM and the NES-F:
- 39.1 applies only to the operation and extension of existing mines (not to new mines)
  - 39.2 for thermal coal, the consent pathway is subject to a sunset clause of 31 December 2030 for the lodging of a consent application with the relevant consent authority
  - 39.3 for coking coal, there is no sunset clause for lodging a consent application for the operation and extension of existing mines.
40. There is currently a judicial review proceeding against the Minister for the Environment concerning the coal mining-specific restrictions in these instruments. The proceeding is brought by West Coast coal mining parties,<sup>3</sup> and seeks orders quashing the special restrictions placed on the ability to seek resource consents for new coal mines in natural inland wetlands under the NPS-FM and NES-F and in Significant Natural Areas (SNAs) under the NPS-IB. The proceeding is set down for hearing commencing 29 July 2024.
41. In order to address the coalition Government's concerns, and to provide certainty to the parties in the litigation, the Minister for Resources is proposing to align how coal mining is treated under the NPS-IB, NPS-FM and NES-F with other extractive activities. These proposed changes would apply the same test for other mineral extraction and ancillary activities to coal mines by:
- 41.1 extending the consenting pathway for coal mines to new coal mines

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<sup>3</sup> The coal mining parties comprise two West Coast Rūnanga, the West Coast Regional Council and six coal mining companies.

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- 41.2 removing the sunset clause on consent applications for thermal coal mines.
42. The Minister for Resources considers the removal of the additional controls on the coal mining resource consent pathway, will give industry certainty and confidence, and enable a wider range of consent applications for coal mines to be made. This will have flow on benefits to all New Zealanders.
43. Resource consent applications for coal mining will remain subject to the gateway tests and the Effects Management Hierarchy with its offsetting and compensation requirements.<sup>4</sup>
44. To ensure the proposal operates as intended, for ease of implementation, and to ensure an orderly transition, I recommend that the proposal:
- 44.1 commences immediately after the Bill is enacted to maximise its impact while the NPS-FM/NPS-IB are being reviewed
  - 44.2 applies only to consent applications lodged with a consent authority after the Bill is enacted (consent authorities will continue to be required to have regard to the NPS-IB, NPS-FM and NES-F as they currently stand for applications already lodged)
  - 44.3 is delivered through a combination of amendments to the RMA and NPS-IB, NPS-FM and NES-F
  - 44.4 ceases to have effect when the NPS-FM/NPS-IB are replaced.

*Treaty of Waitangi considerations*

45. Due to the limited time available, it has not been possible to engage with iwi/Māori on these proposals nor fully assess the Treaty impacts, including on the Crown's Treaty settlement commitments.
46. The specific impacts arising from new coal mining consent applications will depend on the circumstances of each application. This includes the aspirations of local iwi and Māori, impacts on wetlands, land and species as a taonga and relevant Treaty settlement commitments.
47. Aligning coal mining with other extractive activities across National Direction does not diminish or alter the significance given to a number of environmental values under the RMA, and the significance given to:
- 47.1 relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga (section 6(e))
  - 47.2 kaitiakitanga (section 7(a)).
48. Māori (like all New Zealanders) can benefit from the economic impacts of a coal mine (jobs, regional GDP, affordable resources), and decision makers will have the ability to impose conditions that seek to reconcile conflicts between matters of national significance including the protections in sections 6(e).

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<sup>4</sup> The Effects Management Hierarchy requires loss of wetland extent or SNA to be offset or compensated for so there is no net loss from the activity.

- 49. Section 8 will continue to require decision-makers take into account the principles of the Treaty of Waitangi.

**Ceasing the implementation of new SNAs**

- 50. In March 2024, Cabinet agreed to suspend the clauses in the NPS-IB that direct councils to identify new SNAs and include them in their plans. Cabinet agreed to make these amendments to the NPS-IB via a Resource Management Amendment Bill [CAB-24-MIN-0069 refers].

**Extending the duration of certain coastal permits for port companies**

- 51. The Minister of Transport has prepared a separate Cabinet paper which accompanies this paper, seeking decisions on extending the duration of certain coastal permits for port companies.

**Amending stock exclusion regulations in relation to sloped land and repealing the intensive winter grazing regulations**

- 52. The Minister of Agriculture and the Associate Minister for the Environment have prepared a separate Cabinet paper which accompanies this paper, seeking decisions on amending stock exclusion regulations in relation to sloped land and repealing the intensive winter grazing regulations.

**Legal Implications [Legally Privileged]**

- 53. Section 9(2)(h) [Redacted]

*Excluding the hierarchy of obligations within the NPS-FM from resource consenting*

- 54. Section 9(2)(h) [Redacted]

- 55. Section 9(2)(h) [Redacted]

- 56. Section 9(2)(h) [Redacted]

- 57. Section 9(2)(h) [Redacted] er

Section 9(2)(h) [Redacted]

58. Section 9(2)(h) [Redacted]

59. Section 9(2)(h) [Redacted]

*Aligning the consenting pathway for coal mining with other extractive activities across National Direction*

60. Section 9(2)(h) [Redacted]

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Sect ion 9(2)(h) [Redacted]

61. Section 9(2)(h) [Redacted]

<sup>5</sup> Section 9(2)(h) [Redacted]

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

62. These provisions are not expected to have any significant impact on the cost of living.

### **Financial Implications**

63. Policy proposals in this paper are not expected to have any financial implications.

### **Legislative Implications**

64. A bill is needed to implement the proposals contained in this paper. A priority 3 category slot has been applied for.
65. I also propose that Cabinet delegate authority to me to make further policy and drafting decisions that are consistent with the decisions made in this paper.
66. The proposed Act will bind the Crown.

### **Impact Analysis**

#### *Regulatory Impact Statement - excluding the hierarchy of obligations within the NPS-FM from resource consenting*

67. A quality assurance panel, comprising members from the Ministry for the Environment and the Ministry for Primary Industries has reviewed the RIS for excluding the hierarchy of obligations in the NPS-FM from resource consenting. The panel considers that it partially meets the Quality Assurance criteria.
68. The RIS, within the context it is written in, has provided a near complete impact analysis which is clear and concise. While the analysis is balanced, it could not provide robust evidence to provide a complete analysis of likely impacts (due to the limited time). Consultation was limited and stakeholders were not given sufficient time, or a full range of options to consider. The monitoring section is insufficient. We are unconvinced that the proposal for post-implementation monitoring of likely impacts is feasible.

#### *Regulatory Impact Statement - Aligning the consenting pathway for coal mining with other extractive activities across National Direction*

69. In the time available it has not been possible for the Ministry of Business Innovation and Employment to prepare a Regulatory Impact Statement on aligning the consenting pathway for coal mining with other extractive activities across National Direction.
70. A Supplementary Analysis Report will be prepared and submitted to Cabinet with the Bill in late May.

#### *Climate Implications of Policy Assessment*

71. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that CIPA requirements do not apply to the proposal to exclude the hierarchy of obligations within the NPS-FM from resource consenting, or the proposed amendments to the coal mining provisions in the NPS-FM, NES-F and NPS-IB, as these are not expected to result in any significant, direct emissions impacts.

## Population Implications

72. The policies are not expected to have any other population implications.

## Human Rights

73. There are no inconsistencies with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

## Use of External Resources

74. No contractors or consultants have been engaged or provided a material contribution to the preparation of the policy advice in the paper.
75. This work is intended to be carried out by officials from the Ministry for the Environment, the Ministry for Primary Industries, the Ministry for Business Innovation and Employment and the Ministry of Transport and not require external resources to further develop, implement or deliver this work.

## Consultation

76. While the time-sensitive nature of these policies has meant only limited time for engagement on these policies, most of the policies have been signalled in our coalition agreements.

### *Excluding the hierarchy of obligations within the NPS-FM from resource consenting*

77. I sent two letters in late December 2023 and late January 2024 that outlined the Government's intent to exclude the hierarchy from resource consent applications and decisions to iwi (including Post-Settlement Governance Entities (PSGEs), and unsettled iwi), and local government. The January 2024 letter also included primary sector stakeholders and environmental non-government organisations (ENGOS), and practitioners.
78. Officials undertook targeted engagement with these groups on the Government's intent. I note that not all groups were available to engage with officials in the available timeframes and/or circumstances (e.g., some groups indicated they understood that the policy decisions had already been taken, citing the letters from me to support this view).
79. Key points conveyed by iwi and Māori from this engagement are outlined in the Treaty of Waitangi considerations section.
80. Local government raised specific implementation concerns relating to the scope of the proposal. In particular, whether the proposal would exclude the hierarchy of obligations contained in regional policy statements, plans, or iwi planning documents (which was clarified by officials).
81. ENGOS and practitioners were generally opposed to the proposal citing support for the application of the hierarchy of obligations to consenting, and concern that the proposal is attempting to elevate commercial uses of water over ecological values.
82. Primary sector stakeholders were supportive of the proposal, emphasising a preference for flexibility and practicality in the application of the hierarchy in consenting processes.

83. A full summary of feedback provided to officials is contained in the RIS.
84. Te Arawhiti has advised that freshwater is of foundational importance as a taonga for Māori communities and culture and the paper should be explicit that Māori will be involved in the review of the NPS-FM.

*Aligning the consenting pathway for coal mining with other extractive activities across National Direction*

85. There has been insufficient time to consult on these proposals. The analysis is informed by feedback on previous engagement with the coal mining sector.

*Agency consultation on this paper*

86. The following agencies have been provided with this paper, the Ministry for Primary Industries, Ministry of Transport, Ministry of Business Innovation and Employment, Department of Internal Affairs, Department of Conservation, Te Arawhiti, the Treasury and the Department of the Prime Minister and Cabinet.

## Communications

87. Subject to Cabinet approval of the proposals in this paper and the papers being prepared by the Minister of Transport and the Minister of Agriculture and Associate Minister for the Environment, I propose to release a press statement on the proposed content of the Bill, in conjunction with the Minister of Transport, the Minister of Agriculture, Minister of Resources and the Associate Minister for the Environment.

## Proactive Release

88. I intend to delay release of this paper beyond the 30 business days of decisions being confirmed by Cabinet, until the Bill is introduced into the House. Release of the paper will be subject to redaction as appropriate under the Official Information Act 1982.

## Recommendations

The Minister Responsible for RMA Reform recommends that the Committee:

*Content and timing of the Bill*

1. **note** that the Government is taking a three-phased approach to reform of the resource management system and that this work fits into the second of these phases (“targeted legislative changes to the Resource Management Act in 2024”)
2. **note** that Cabinet agreed that the second phase of resource management reform would include making targeted amendments to the RMA via two amendment bills to streamline and simplify its operation [CAB-24-MIN-0069 refers]
3. **agree** to include the following changes in the first RMA Amendment Bill (the Bill) to address a small number of time critical changes:
  - a. excluding the hierarchy of obligations contained in the National Policy Statement for Freshwater Management 2020 (NPS-FM) from resource consent application and decision-making processes

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- b. amending the special provisions for coal mining in wetlands and Significant Natural Areas (SNAs) as set out in the NPS-FM, National Policy Statement for Indigenous Biodiversity (NPS-IB) and National Environmental Standards for Freshwater (NES-F)
  - c. extending the duration of coastal permits for port companies that were approved by the Minister of Transport under s384A
  - d. amending the NPS-IB to suspend, for three years, the requirement for councils to identify new SNA.
  - e. amending stock exclusion regulations in relation to sloped land
  - f. repealing the intensive winter grazing regulations
4. **note** that in March 2024, Cabinet agreed to amend the NPS-IB to suspend, for three years, the requirement for councils to identify new SNAs [CAB-24-MIN-0069 refers]
5. **note** that an accompanying Cabinet paper from the Minister of Agriculture is seeking agreement to repeal the intensive winter grazing regulations and remove the map of low slope land and associated requirements to exclude beef cattle and deer from waterbodies from the Stock Exclusion Regulations
6. **agree in principle**, subject to other Cabinet priorities, to introduce the Bill to the House in late May 2024 and for the Bill to be referred to select committee for a period of approximately four months

*Excluding the hierarchy of obligations within the NPS-FM from resource consenting*

7. **note** that under the RMA, the NPS-FM (including its hierarchy of obligations), is a relevant consideration for resource consent applications and decisions
8. **note** that Cabinet agreed to clarify that councils should not be requiring individual resource consent applicants to demonstrate that their proposed activity adheres to the hierarchy of obligations contained in Te Mana o te Wai provisions of the NPS-FM [CAB-23-MIN-0486 refers]
9. **note** that Cabinet directed officials to provide advice early in 2024, in time for inclusion in the Fast-Track Consenting Bill, on options to amend or exclude the hierarchy of obligations contained in the Te Mana o te Wai provisions of the NPS-FM when making decisions on consent applications [CAB-23-MIN-0486 refers]
10. **agree** to preclude consent applicants from including an assessment of their proposed activities against the provisions of the NPS-FM that explicitly contain the hierarchy of obligations in applications for resource consent
11. **agree** to require consent authorities to disregard assessments against the provisions of the NPS-FM that explicitly contain the hierarchy of obligations that are included in applications for resource consent
12. **agree** to preclude consent authorities from requiring or asking consent applicants to provide an assessment of their proposed activities against the provisions of the NPS-FM that explicitly contain the hierarchy of obligations in applications for resource consent

**IN CONFIDENCE**

13. **agree** to preclude consent authorities from having regard to the provisions of the NPS-FM that explicitly contain the hierarchy of obligations when considering applications for resource consent
14. **agree** that the proposal to exclude the hierarchy of obligations within specific clauses of the NPS-FM from resource consent application and decision-making processes will:
  - a. commence immediately after the Bill receives Royal Assent
  - b. apply only to consent applications lodged with a consent authority after the amendment bill receives Royal Assent
  - c. be delivered through the Bill amending the RMA and NPS-FM
  - d. cease to have effect when the NPS-FM is replaced
15. **note** that consent authorities will continue to be required to have regard to the NPS-FM as it currently stands (including its provisions that explicitly contain the hierarchy of obligations) for resource consent applications already lodged with a consent authority
16. **note** that there will continue to be safeguards to protect freshwater because all other provisions of the NPS-FM will continue to be relevant matters for resource consent applications and resource consent decisions
17. **note** that provisions in regional policy statements, plans, or other documents (e.g., iwi planning documents) that contain the hierarchy of obligations will continue to be relevant matters for resource consent applications and resource consent decisions
18. **note** that the hierarchy of obligations is currently contained in the proposed regional policy statements for the Otago and Greater Wellington regions, and at least two iwi planning documents

*Aligning the consenting pathway for coal mining with other extractive activities across National Direction*

19. **note** that New Zealand's coals are important assets to our economy. Our bituminous (coking) coals are exported and used for international steel making, and our sub-bituminous (thermal) coals are vital to our domestic steel production
20. **note** the current resource consent pathway for coal mining under the NPS-IB, NPS-FM and the NES-F:
  - a. applies only to the operation and extension of existing mines (not to new mines)
  - b. for thermal coal, the consent pathway is subject to a sunset clause of 31 December 2030 for the lodging of a consent application with the relevant consent authority
  - c. for coking coal, there is no sunset clause for seeking consent for the operation and extension of existing mines
21. **note** that the current coal mining provisions under the NPS-IB, NPS-FM and NES-F apply additional controls on coal mining in comparison to other extractive activities

## IN CONFIDENCE

- (e.g., aggregate and other minerals), even though the environmental effects of extracting coal and its ancillary activities are similar to other extractive activities
22. **note** that there is currently a judicial review proceeding against the Minister for the Environment concerning the coal mining-specific restrictions in these instruments
  23. **agree** that the resource consent pathway for coal mining should be aligned with other extractive activities under the NPS-IB, NPS-FM and NES-F by:
    - a. extending the consenting pathway for coal mines to new coal mines
    - b. removing the sunset clause on consent applications for thermal coal
  24. **agree** that the proposal to align the consenting pathway for coal mining with other extractive activities across these National Direction instruments will:
    - a. commence immediately after the Bill receives Royal Assent
    - b. apply only to consent applications lodged with a consent authority after the amendment Bill receives Royal Assent
    - c. be delivered through the Bill amending the NPS-IB, NPS-FM and NES-F
    - d. cease to have effect when the relevant national direction is replaced
  25. **note** that the removal of the additional controls on the coal mining resource consent pathway will give industry certainty and confidence, reduce consenting time and cost, and enable a wider range of consent applications for coal mines to be made. This will have flow on benefits to all New Zealanders
  26. **note** that no consultation has been undertaken to date on the coal mining proposals in this paper
  27. **note** that I intend to release a public statement following decisions from Cabinet, setting out the Governments intent regarding the coal mining proposals

### *Drafting instructions*

28. **note** that the proposals will be given effect through the first Resource Management Act Amendment Bill, and I have sought a category three priority on the 2024 Legislation Programme (to be referred to a select committee in 2024)
29. **authorise** the Minister Responsible for RMA Reform to issue drafting instructions to the Parliamentary Counsel Office to implement the recommendations in this paper
30. **note** that Cabinet agreed to authorise drafting instructions to suspend the clauses in the NPS-IB that direct councils to identify SNAs for three years, and this will be included in the same Bill [CAB-24-Min-0069 refers]
31. **note** that for the proposal relating to aligning the consenting pathway for coal mining with other extractive activities across National Direction, a Supplementary Analysis Report will be provided to Cabinet in late May when approval is sought for the Bill.
32. **authorise** the Minister Responsible for RMA Reform to make further policy and drafting decisions that are consistent with the decisions made in this paper.

Authorised for lodgement

Hon Chris Bishop

**Minister Responsible for RMA Reform**

**Minister for Infrastructure**

Hon Shane Jones

**Minister for Resources**

**Minister for Regional Development**

**Minister for Oceans and Fisheries**



# Cabinet Economic Policy Committee

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### First Resource Management Act Amendment Bill: Addressing a Small Number of Time Critical Changes


**Portfolios**                      **Infrastructure / RMA Reform / Oceans and Fisheries / Regional Development / Resources**

On 10 April 2024, the Cabinet Economic Policy Committee (ECO):

#### Content and timing of the Bill

- 1        **noted** that the Government is taking a three-phased approach to reform of the resource management system and that the work under ECO-24-SUB-0046 fits into the second of these phases;
- 2        **noted** that in March 2024, the ECO agreed that the second phase of resource management reform would include making targeted amendments to the Resource Management Act 1991 (RMA) via two amendment bills to streamline and simplify its operation;  
[ECO-24-MIN-0022]
- 3        **agreed** to include the following changes in the first Resource Management Act Amendment Bill (the Bill) to address a small number of time critical changes:
  - 3.1        excluding the hierarchy of obligations contained in the National Policy Statement for Freshwater Management 2020 (NPS-FM) from resource consent application and decision-making processes;
  - 3.2        amending the special provisions for coal mining in wetlands and Significant Natural Areas (SNAs) as set out in the NPS-FM, National Policy Statement for Indigenous Biodiversity (NPS-IB), and National Environmental Standards for Freshwater (NES-F);
  - 3.3        amending the NPS-IB to suspend, for three years, the requirement for councils to identify new SNAs, as agreed by ECO in March 2024 [ECO-24-MIN-0021];
  - 3.4        amending stock exclusion regulations in relation to sloped land, as agreed in the paper under ECO-24-SUB-0051;
  - 3.5        repealing the intensive winter grazing regulations, as agreed in the paper under ECO-24-SUB-0051;
- 4        **agreed in principle**, subject to other Cabinet priorities, to introduce the Bill in late May 2024 and for the Bill to be referred to select committee for a period of approximately four months;

**Excluding the hierarchy of obligations within the NPS-FM from resource consenting**

- 5 **noted** that under the RMA, the NPS-FM (including its hierarchy of obligations), is a relevant consideration for resource consent applications and decisions;
- 6 **noted** that in December 2023, Cabinet agreed to clarify that councils should not be requiring individual resource consent applicants to demonstrate that their proposed activity adheres to the hierarchy of obligations contained in Te Mana o te Wai provisions of the NPS-FM [CAB-23-MIN-0486];
- 7 **noted** that Cabinet also directed officials to provide advice early in 2024, in time for inclusion in the Fast-Track Consenting Bill, on options to amend or exclude the hierarchy of obligations contained in the Te Mana o te Wai provisions of the NPS-FM when making decisions on consent applications [CAB-23-MIN-0486];
- 8 **noted** that the removal of hierarchy of obligations within the NPS-FM (through Te Mana o Te Wai) will have implications for the water services regulator, Taumata Arowai, including for setting wastewater standards;
- 9 Section 9(2)(f)(iv) 
- 10 **agreed** to preclude consent applicants from including an assessment of their proposed activities against the provisions of the NPS-FM that explicitly contain the hierarchy of obligations in applications for resource consent;
- 11 **agreed** to require consent authorities to disregard assessments against the provisions of the NPS-FM that explicitly contain the hierarchy of obligations that are included in applications for resource consent;
- 12 **agreed** to preclude consent authorities from requiring or asking consent applicants to provide an assessment of their proposed activities against the provisions of the NPS-FM that explicitly contain the hierarchy of obligations in applications for resource consent;
- 13 **agreed** to preclude consent authorities from having regard to the provisions of the NPS-FM that explicitly contain the hierarchy of obligations when considering applications for resource consent;
- 14 **agreed** that the proposal to exclude the hierarchy of obligations within specific clauses of the NPS-FM from resource consent application and decision-making processes will:
- 14.1 commence immediately after the Bill receives Royal Assent;
  - 14.2 apply only to consent applications lodged with a consent authority after the amendment bill receives Royal Assent;
  - 14.3 be delivered through the Bill amending the RMA and NPS-FM;
  - 14.4 cease to have effect when the NPS-FM is replaced;

- 15 **noted** that consent authorities will continue to be required to have regard to the NPS-FM as it currently stands (including its provisions that explicitly contain the hierarchy of obligations) for resource consent applications already lodged with a consent authority;
- 16 **noted** that there will continue to be safeguards to protect freshwater because all other provisions of the NPS-FM will continue to be relevant matters for resource consent applications and resource consent decisions;
- 17 **noted** that provisions in regional policy statements, plans, or other documents (e.g. iwi planning documents) that contain the hierarchy of obligations will continue to be relevant matters for resource consent applications and resource consent decisions;
- 18 **noted** that the hierarchy of obligations is currently contained in the proposed regional policy statements for the Otago and Greater Wellington regions, and at least two iwi planning documents;

### **Aligning the consenting pathway for coal mining with other extractive activities across National Direction**

- 19 **noted** that New Zealand's coals are important assets to New Zealand's economy, as bituminous (coking) coals are exported and used for international steel making, and sub-bituminous (thermal) coals are vital to domestic steel production;
- 20 **noted** that the current resource consent pathway for coal mining under the NPS-IB, NPS-FM and the NES-F:
- 20.1 applies only to the operation and extension of existing mines (not to new mines);
  - 20.2 for thermal coal, the consent pathway is subject to a sunset clause of 31 December 2030 for the lodging of a consent application with the relevant consent authority;
  - 20.3 for coking coal, there is no sunset clause for seeking consent for the operation and extension of existing mines;
- 21 **noted** that the current coal mining provisions under the NPS-IB, NPS-FM and NES-F apply additional controls on coal mining in comparison to other extractive activities (e.g. aggregate and other minerals), even though the environmental effects of extracting coal and its ancillary activities are similar to other extractive activities;
- 22 **noted** that there is currently a judicial review proceeding against the Minister for the Environment concerning the coal mining-specific restrictions in these National Direction instruments;
- 23 **agreed** that the resource consent pathway for coal mining should be aligned with other extractive activities under the NPS-IB, NPS-FM and NES-F by:
- 23.1 extending the consenting pathway for coal mines to new coal mines;
  - 23.2 removing the sunset clause on consent applications for thermal coal;
- 24 **agreed** that the proposal to align the consenting pathway for coal mining with other extractive activities across these National Direction instruments will:
- 24.1 commence immediately after the Bill receives Royal Assent;
  - 24.2 apply only to consent applications lodged with a consent authority after the Bill receives Royal Assent;

24.3 be delivered through the Bill amending the NPS-IB, NPS-FM and NES-F;

24.4 cease to have effect when the relevant national direction is replaced;

25 **noted** that the removal of the additional controls on the coal mining resource consent pathway will give industry certainty and confidence, reduce consenting time and cost, and enable a wider range of consent applications for coal mines to be made, which will have flow on benefits to all New Zealanders;

26 **noted** that no consultation has been undertaken to date on the coal mining proposals in the paper under ECO-24-SUB-0046;

27 **noted** that the Minister Responsible for RMA Reform intends to release a public statement setting out the Government's intentions in regard to coal mining, as agreed above;

### Drafting instructions

28 **noted** that the above decisions will be given effect through the Bill, and that the Minister Responsible for RMA Reform has sought a category three priority on the 2024 Legislation Programme (a priority to be passed by the end of 2024);

29 **invited** the Minister Responsible for RMA Reform to issue drafting instructions to the Parliamentary Counsel Office to include the above decisions in the Bill;

30 **noted** that in March 2024, ECO authorised drafting instructions to suspend the clauses in the NPS-IB that direct councils to identify Significant Natural Areas for three years, and this will also be included in the Bill [ECO-24-MIN-0021];

31 **noted** that for the proposal relating to aligning the consenting pathway for coal mining with other extractive activities across National Direction instruments, a Supplementary Analysis Report will be provided to Cabinet in late May 2024 when approval is sought for the Bill;

32 **authorised** the Minister Responsible for RMA Reform to make further policy and drafting decisions that are consistent with the above decisions.

Rachel Clarke  
Committee Secretary

#### Present:

Rt Hon Christopher Luxon  
Hon David Seymour  
Hon Brooke van Velden  
Hon Shane Jones  
Hon Chris Bishop (Chair)  
Hon Simeon Brown  
Hon Todd McClay  
Hon Tama Potaka  
Hon Matt Doocey  
Hon Melissa Lee  
Hon Simon Watts  
Hon Penny Simmonds  
Hon Chris Penk  
Hon Andrew Bayly  
Hon Andrew Hoggard  
Hon Mark Patterson  
Simon Court MP

#### Officials present from:

Office of the Prime Minister  
Office of Hon Chris Bishop  
Office of Hon Simon Watts  
Officials Committee for ECO



# Cabinet

## Minute of Decision

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### First Resource Management Act Amendment Bill: Addressing a Small Number of Time Critical Changes

**Portfolios**                      **Infrastructure / RMA Reform / Oceans and Fisheries / Regional Development / Resources**

On 15 April 2024, following reference from the Cabinet Economic Policy Committee (ECO), Cabinet:

#### Content and timing of the Bill

- 1        **noted** that the Government is taking a three-phased approach to reform of the resource management system and that the work under ECO-24-SUB-0046 fits into the second of these phases;
- 2        **noted** that in March 2024, ECO agreed that the second phase of resource management reform would include making targeted amendments to the Resource Management Act 1991 (RMA) via two amendment bills to streamline and simplify its operation; [ECO-24-MIN-0022]
- 3        **agreed** to include the following changes in the first RMA Amendment Bill (the Bill) to address a small number of time critical changes:
  - 3.1        excluding the hierarchy of obligations contained in the National Policy Statement for Freshwater Management 2020 (NPS-FM) from resource consent application and decision-making processes;
  - 3.2        amending the special provisions for coal mining in wetlands and Significant Natural Areas (SNAs) as set out in the NPS-FM, National Policy Statement for Indigenous Biodiversity (NPS-IB), and National Environmental Standards for Freshwater (NES-F);
  - 3.3        amending the NPS-IB to suspend, for three years, the requirement for councils to identify new SNAs, as agreed by ECO in March 2024 [ECO-24-MIN-0021];
  - 3.4        amending stock exclusion regulations in relation to sloped land, as agreed in the paper under ECO-24-SUB-0051;
  - 3.5        repealing the intensive winter grazing regulations, as agreed in the paper under ECO-24-SUB-0051;

- 4 **agreed** to also include in the Bill amendments to speed up the process to develop or amend national direction;
- 5 **agreed in principle**, subject to other Cabinet priorities, to introduce the Bill in late May 2024 and for the Bill to be referred to select committee for a period of approximately four months;

### **Excluding the hierarchy of obligations within the NPS-FM from resource consenting**

- 6 **noted** that under the RMA, the NPS-FM (including its hierarchy of obligations), is a relevant consideration for resource consent applications and decisions;
- 7 **noted** that in December 2023, Cabinet agreed to clarify that councils should not be requiring individual resource consent applicants to demonstrate that their proposed activity adheres to the hierarchy of obligations contained in Te Mana o te Wai provisions of the NPS-FM [CAB-23-MIN-0486];
- 8 **noted** that Cabinet also directed officials to provide advice early in 2024, in time for inclusion in the Fast-Track Consenting Bill, on options to amend or exclude the hierarchy of obligations contained in the Te Mana o te Wai provisions of the NPS-FM when making decisions on consent applications [CAB-23-MIN-0486];
- 9 **agreed** to preclude consent applicants from including an assessment of their proposed activities against the provisions of the NPS-FM that explicitly contain the hierarchy of obligations in applications for resource consent;
- 10 **agreed** to require consent authorities to disregard assessments against the provisions of the NPS-FM that explicitly contain the hierarchy of obligations that are included in applications for resource consent;
- 11 **agreed** to preclude consent authorities from requiring or asking consent applicants to provide an assessment of their proposed activities against the provisions of the NPS-FM that explicitly contain the hierarchy of obligations in applications for resource consent;
- 12 **agreed** to preclude consent authorities from having regard to the provisions of the NPS-FM that explicitly contain the hierarchy of obligations when considering applications for resource consent;
- 13 **agreed** that the proposal to exclude the hierarchy of obligations within specific clauses of the NPS-FM from resource consent application and decision-making processes will:
- 13.1 commence immediately after the Bill receives Royal Assent;
  - 13.2 apply only to consent applications lodged with a consent authority after the amendment bill receives Royal Assent;
  - 13.3 be delivered through the Bill amending the RMA and NPS-FM;
  - 13.4 cease to have effect when the NPS-FM is replaced;
- 14 **noted** that consent authorities will continue to be required to have regard to the NPS-FM as it currently stands (including its provisions that explicitly contain the hierarchy of obligations) for resource consent applications already lodged with a consent authority;

- 15 **noted** that there will continue to be safeguards to protect freshwater because all other provisions of the NPS-FM will continue to be relevant matters for resource consent applications and resource consent decisions;
- 16 **noted** that provisions in regional policy statements, plans, or other documents (e.g. iwi planning documents) that contain the hierarchy of obligations will continue to be relevant matters for resource consent applications and resource consent decisions;
- 17 Section 9(2)(f)(iv)
- 18 Section 9(2)(f)(iv)
- 19 Section 9(2)(f)(iv)
- 20 **noted** that the hierarchy of obligations is currently contained in the proposed regional policy statements for the Otago and Greater Wellington regions, and at least two iwi planning documents;

### **Aligning the consenting pathway for coal mining with other extractive activities across National Direction**

- 21 **noted** that New Zealand's coals are important assets to New Zealand's economy, as bituminous (coking) coals are exported and used for international steel making, and sub-bituminous (thermal) coals are vital to domestic steel production;
- 22 **noted** that the current resource consent pathway for coal mining under the NPS-IB, NPS-FM and the NES-F:
- 22.1 applies only to the operation and extension of existing mines (not to new mines);
  - 22.2 for thermal coal, the consent pathway is subject to a sunset clause of 31 December 2030 for the lodging of a consent application with the relevant consent authority;
  - 22.3 for coking coal, there is no sunset clause for seeking consent for the operation and extension of existing mines;
- 23 **noted** that the current coal mining provisions under the NPS-IB, NPS-FM and NES-F apply additional controls on coal mining in comparison to other extractive activities (e.g. aggregate and other minerals), even though the environmental effects of extracting coal and its ancillary activities are similar to other extractive activities;
- 24 **noted** that there is currently a judicial review proceeding against the Minister for the Environment concerning the coal mining-specific restrictions in these National Direction instruments;
- 25 **agreed** that the resource consent pathway for coal mining should be aligned with other extractive activities under the NPS-IB, NPS-FM and NES-F by:
- 25.1 extending the consenting pathway for coal mines to new coal mines;

- 25.2 removing the sunset clause on consent applications for thermal coal;
- 26 **agreed** that the proposal to align the consenting pathway for coal mining with other extractive activities across these National Direction instruments will:
- 26.1 commence immediately after the Bill receives Royal Assent;
- 26.2 apply only to consent applications lodged with a consent authority after the Bill receives Royal Assent;
- 26.3 be delivered through the Bill amending the NPS-IB, NPS-FM and NES-F;
- 26.4 cease to have effect when the relevant national direction is replaced;
- 27 **noted** that the removal of the additional controls on the coal mining resource consent pathway will give industry certainty and confidence, reduce consenting time and cost, and enable a wider range of consent applications for coal mines to be made, which will have flow on benefits to all New Zealanders;
- 28 **noted** that no consultation has been undertaken to date on the coal mining proposals in the paper under ECO-24-SUB-0046;
- 29 **noted** that the Minister Responsible for RMA Reform intends to release a public statement setting out the Government's intentions in regard to coal mining, as agreed above;

### Drafting instructions

- 30 **noted** that the above decisions will be given effect through the Bill, and that the Minister Responsible for RMA Reform has sought a category three priority on the 2024 Legislation Programme (a priority to be passed by the end of 2024);
- 31 **invited** the Minister Responsible for RMA Reform to issue drafting instructions to the Parliamentary Counsel Office to include the above decisions in the Bill;
- 32 **noted** that in March 2024, ECO authorised drafting instructions to suspend the clauses in the NPS-IB that direct councils to identify Significant Natural Areas for three years, and this will also be included in the Bill [ECO-24-MIN-0021];
- 33 **noted** that for the proposal relating to aligning the consenting pathway for coal mining with other extractive activities across National Direction instruments, a Supplementary Analysis Report will be provided to Cabinet in late May 2024 when approval is sought for the Bill;
- 34 **authorised** the Minister Responsible for RMA Reform to make further policy and drafting decisions that are consistent with the above decisions;

Rachel Hayward  
Secretary of the Cabinet

*Secretary's Note: This minute replaces ECO-24-MIN-0046. Cabinet agreed to add paragraphs 4, 17-19.*

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