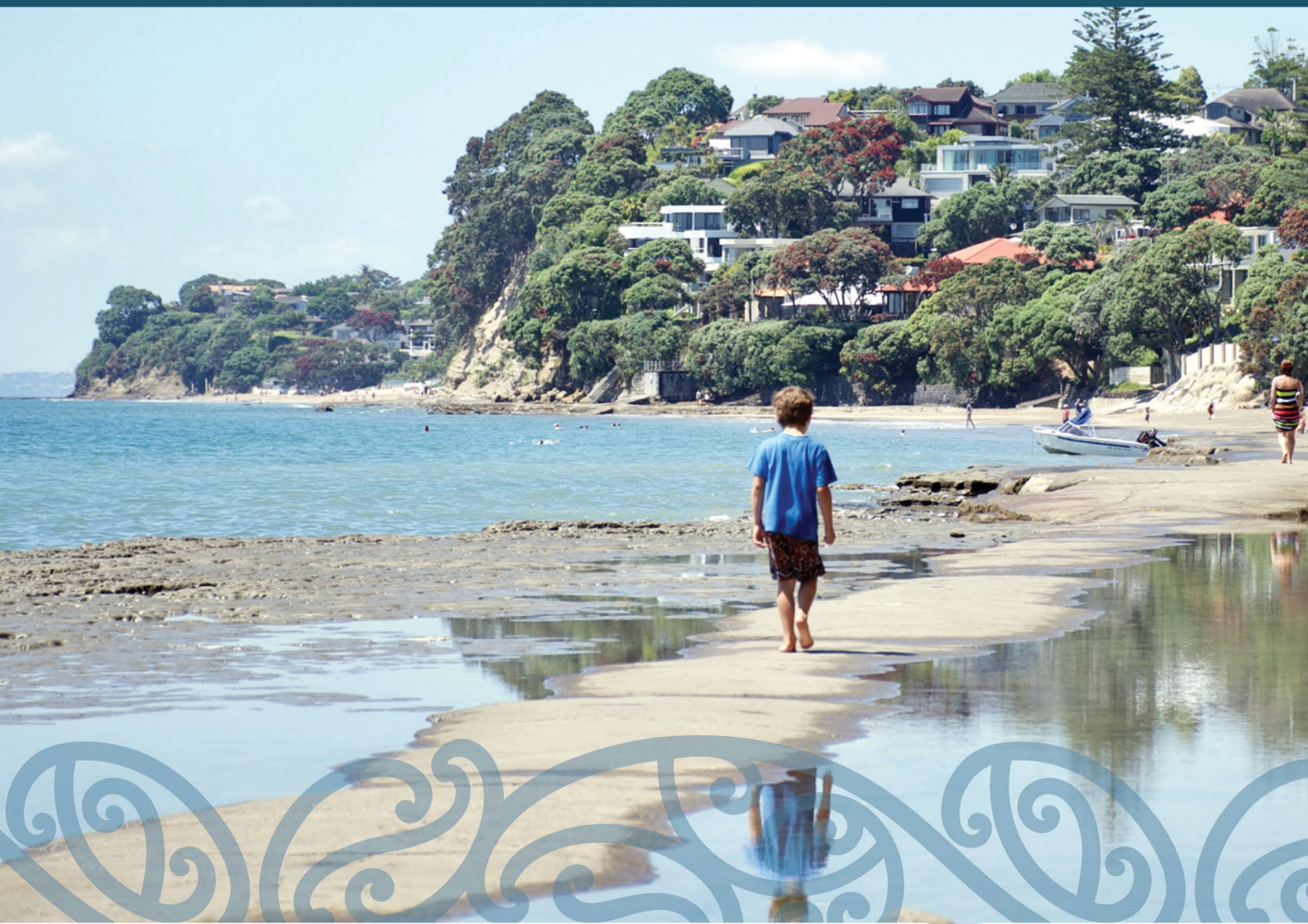


# Resource management reform

The need for change

## Ngā whakahōunga whakahaere rawa

Te hiahia kia panoni



# This document

This document provides a summary of Aotearoa New Zealand's future resource management system. It is a companion document to the larger *Our Future Resource Management System: Overview*, which takes a more in-depth look at the proposed changes.

Both documents aim to support understanding of what is proposed and to encourage all interested parties to make a submission on the Natural and Built Environment Bill (NBE Bill) and the Spatial Planning Bill (SP Bill), which were introduced to Parliament in November 2022.

This document does not cover the proposed Climate Adaptation Act (CAA). Public consultation on the early policy ideas for the CAA took place alongside the National Adaptation Plan consultation, which occurred in mid 2022 under the Climate Change Response Act 2002. It is expected the CAA will be introduced to Parliament in 2023.

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# Message from the Minister



Tēnā koutou katoa.

The reform of the resource management system (RM reform) is changing how Aotearoa New Zealand's natural resources are managed for the well-being of our people today and for future generations.

There is a broad consensus that the Resource Management Act 1991 (RMA) has not worked as intended. It takes too long, and costs too much. It has not adequately protected the natural environment, nor enabled housing or infrastructure development where needed. There is an urgent need to address these issues and create a system that protects and provides now and in the future.

The new system will be less complex and provide more certainty.

In undertaking reform, the Government is proposing that the RMA be replaced with three new Acts: the Spatial Planning Act (SPA), the Natural and Built Environment Act (NBA) and the Climate Adaptation Act (CAA). The NBA will be the main replacement for the RMA.

These Acts will set up a system for protecting and, if degraded, restoring the natural environment, and for enabling development within biophysical limits. And they will better prepare us for adapting to climate change and natural hazards, and give effect to the principles of te Tiriti o Waitangi.

The new system will help significantly improve housing supply, affordability and choice and the provision of appropriate infrastructure – as well as reducing the complexity of the resource management system and making it more efficient and effective.

This document summarises how the new system will work. Your input will help further test and improve the content of the SPA and NBA before they are passed by Parliament. I encourage people to have a say because the way our natural resources are managed affects everyone.

Hon David Parker

**Minister for the Environment**

A handwritten signature in blue ink, appearing to read 'David Parker', written over a light blue horizontal line.

November 2022



# Why resource management reform is needed

There is a broad consensus that the resource management system introduced by the Resource Management Act 1991 (RMA) takes too long, costs too much, and has neither adequately protected the natural environment, nor enabled housing or infrastructure development where needed.

Central government has, until recently, not made best use of the RMA, by failing to issue national policy statements with clear priorities and environmental bottom lines. Likewise, local government has struggled to deliver a well-functioning system. Plans have been poorly drafted and too slow to change, partly due to the multiple avenues open to relitigate decisions. They have not effectively managed cumulative environmental effects on the natural environment.

Plans have had unnecessary rules in urban areas and not enabled housing or infrastructure development where needed, contributing to rapidly increasing urban land prices and New Zealand's housing being amongst the least affordable in the OECD.

Resource consenting has become more costly. Between 2014/15 and 2018/19, council consenting fees increased by 124 per cent for notified consents. Consenting is also taking longer, with median decision-making timeframes increasing by 50 per cent between the same years.



The Infrastructure Commission/Te Waihanga (Infracom) has reported on the negative impacts for infrastructure providers. Infracom estimates that infrastructure developers are collectively spending NZ\$1.29 billion annually on resource consent processes, representing 5.5 per cent of total project costs. International benchmarking shows Aotearoa is at the extreme end of approval costs with equivalent costs in the United Kingdom and European Union of between 0.1 per cent to 5 per cent.

Infracom has also estimated that decision-making timeframes on consents for infrastructure projects have increased by 150 per cent for consents issued between 2010–14 compared to 2015–19.

The health of our natural environment has been degraded through the accumulation of decisions on plans and consents being made on a case-by-case basis. The ongoing decline in the quality of our freshwater and continued loss of indigenous biodiversity since the RMA was introduced are just two examples.

An overemphasis on managing the effects of activities under the RMA has led to a lack of longer-term, strategic planning. This has made forward planning difficult. The system has been too heavily weighted towards the status quo in both rural and urban areas, and there has been insufficient use of economic instruments to complement regulation.

There has been a lack of capacity and capability in central and local government to undertake the roles expected of them. Additionally, when processes have become inefficient, elected councillors have not had sufficient accountability and governance tools to effectively oversee their planning departments. And there have been failures to enable sufficient development, protect the environment, and fund effective enforcement.

The RMA was intended to provide for better recognition and protection of Māori interests in resource management, but it failed to adequately do so. Involvement and engagement with Māori has been inconsistent across the country.

There have been successive legislative amendments targeting aspects of the RMA, and a proliferation of new arrangements to work around it. While necessary to address deficiencies in the system, these workarounds indicate that the system has been inflexible and underperforming.

# The reform to date

In 2019, the Government set up the Resource Management Review Panel (Randerson Panel) to review the resource management system. This was an expert panel chaired by Hon Tony Randerson KC.

The Randerson Panel's report, *New Directions for Resource Management in New Zealand*, identified similar issues to those found in previous reviews of the resource management system.

These included reviews by the Productivity Commission, the OECD, Local Government New Zealand, and the Environmental Defence Society supported by the Employers and Manufacturers Association, Property Council New Zealand, and Infrastructure New Zealand. There have also been contributions from the Waitangi Tribunal (1993–2022), and the Tax Working Group.

In February 2021, the Government announced it would repeal the RMA and replace it with three new Acts – based on the recommendations of the Randerson Panel:

- **Spatial Planning Act (SPA)** which will help coordinate and integrate decisions made under relevant legislation by requiring the development of long-term regional spatial strategies (RSS).
- **Natural and Built Environment Act (NBA)** which will protect and restore the environment while better enabling development, as the primary replacement for the RMA.
- **Climate Adaptation Act (CAA)** which will address complex issues associated with managed retreat and funding and financing adaptation.

## Reform objectives

The Government set five objectives for the future resource management system. These are to:

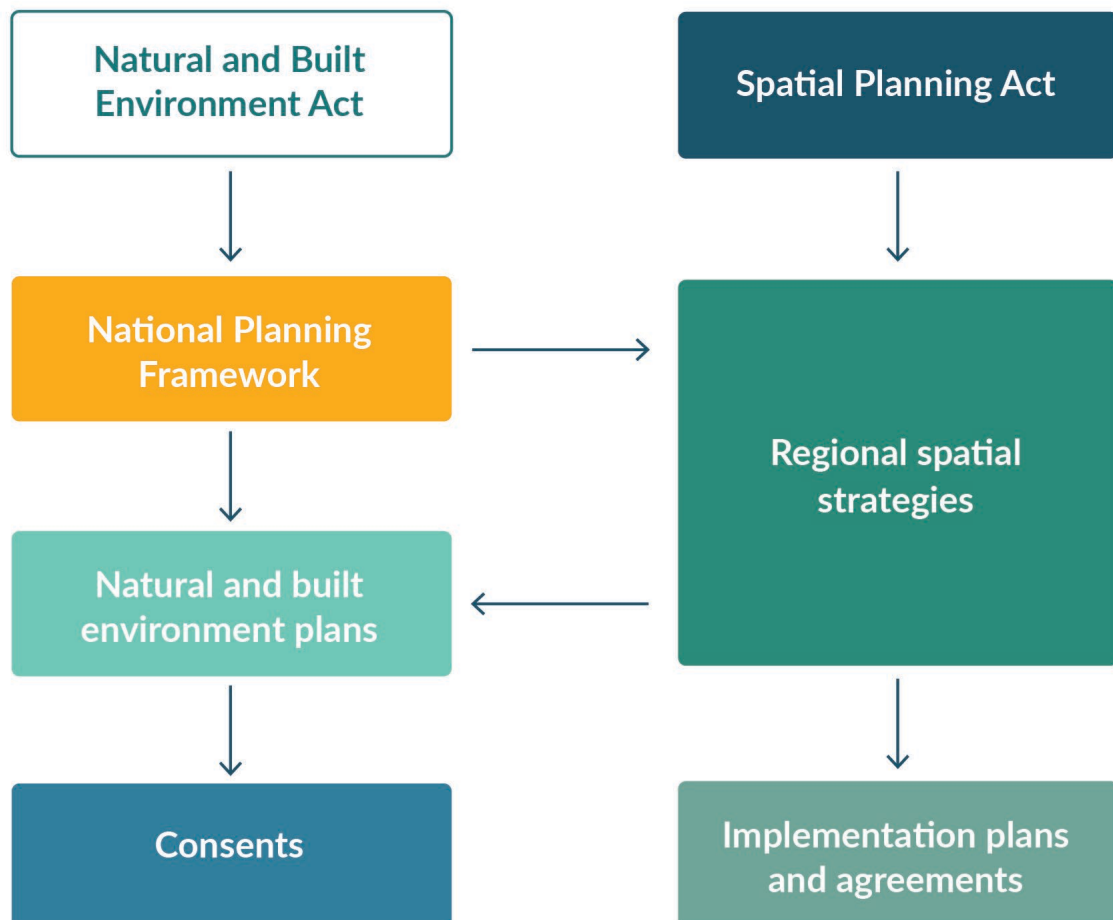
- protect and where necessary restore the natural environment, including its capacity to provide for the well-being of present and future generations
- better enable development within environmental biophysical limits, including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure
- give effect to the principles of te Tiriti o Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori
- better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change
- improve system efficiency and effectiveness, and reduce complexity, while retaining appropriate local democratic input.

# How the new Acts will work together

The SPA, NBA and CAA will deliver better outcomes for the use, development, and protection of the environment by creating a system that is more efficient and consistent, and better able to meet current and future challenges and opportunities.

The SPA and NBA will work in tandem as a single integrated system for planning, and the allocation of resources, across Aotearoa.

## A single integrated system



## Spatial Planning Act

The SPA will provide the strategic framework for environmental management and regional development. It will deliver long-term (30–100 years) planning through regional spatial strategies (RSS) to guide major decisions about land use.

The SPA will link with the NBA and other legislation important to the natural and built environment, including the Local Government Act 2002 and the Land Transport Act 2003.

Under the SPA, there will be both RSS and implementation plans and agreements.

- **Regional spatial strategies** will focus on matters of long-term strategic importance for integrated spatial planning in a region and set out a vision and objectives to guide the region over at least the next 30-plus years. RSS will be prepared by regional planning committees (RPC) comprising representatives from local government, Māori, and central government.
- **Implementation plans and agreements** will be high-level plans for delivering priority actions in the RSS. These will identify the key actions needed for delivery partners to implement the RSS and the approach to monitor and report on priority actions.

## Natural and Built Environment Act

The NBA will be the primary replacement for the RMA and will provide for land use and environmental regulation. It will focus on both natural and built environments, protecting and restoring the natural environment while also providing for growth and change.

The NBA will introduce a new National Planning Framework (NPF) to provide consistent national policy, outcomes, limits and targets. Each region will be required to develop a natural and built environment plan (NBE plan), with 15 plans replacing more than 100 district and regional plans under the RMA currently.

- **National Planning Framework** will influence and direct the resource management system at a national level. It will consolidate existing national direction into a single, cohesive document (eg, direction on urban development, freshwater management and highly productive land). The NPF will set the outcomes, limits and targets that will be incorporated into RSS and NBE plans.
- **Natural and built environment plans** will be developed for each region by a RPC comprising representatives from local government and Māori, with strong community engagement. NBE plans are intended to bring efficiencies through consistency across a region.



- **Resource consents** will continue to be the primary land use or resource allocation approval method, although fewer will be required. Consents will be standardised and be processed more efficiently, with reduced costs for users, home builders and owners, and decision-makers. The NPF and NBE plans will enable more activities without a resource consent where appropriate and within environmental limits. This will focus resource consent applications on activities with less certain outcomes and higher potential for adverse effects.

## Climate Adaptation Act

The CAA will support Aotearoa New Zealand's response to the effects of climate change. It will address the complex legal and technical issues associated with managed retreat and funding and financing adaptation.

The CAA will work together with the SPA and NBA to address climate change. Provisions in the SPA and NBA will better prepare us for adapting to climate change and risks from natural hazards, as well as mitigating the emissions which contribute to climate change. The NPF will provide content on specific greenhouse gas discharging activities, natural hazard risk reduction and climate change adaptation.

### RM reform key transformational shifts

The new resource management system will involve a transformational shift in approach from the RMA. Key shifts include:

- a system that is cheaper and easier to use
- planning for positive outcomes, not just managing adverse effects
- stronger and more consistent national direction, including an infrastructure chapter for the NPF, which is being developed by Infracore
- more integrated and strategic long-term planning flowing from RSS and NBE plans
- giving effect to the principles of te Tiriti o Waitangi.
- a regional collaborative approach to planning. RPC will be the stewards of the plan-making process, which reduces the number of plans from over 100 RMA plans to 15 NBE plans
- moving to efficient and fair resource allocation within limits
- improved evidence, monitoring, feedback, and oversight.

## How the new Acts will meet the reform objectives

### Improving environmental outcomes

The purpose proposed for the NBA (to be reflected in the SPA) updates the RMA's focus on sustainable management. The purpose is to:

- (a) enable the use, development, and protection of the environment in a way that:
  - (i) supports the well-being of present generations without compromising the well-being of future generations; and
  - (ii) promotes outcomes for the benefit of the environment; and
  - (iii) complies with environmental limits and their associated targets; and
  - (iv) manages adverse effects; and
- (b) recognise and uphold te Oranga o te Taiao.

The purpose is an intergenerational environmental test for all New Zealanders. It draws on te Oranga o te Taiao, a te ao Māori concept that speaks to the health of the natural environment, the essential relationship between the health of the natural environment and its capacity to sustain life, and the interconnectedness of all parts of the environment.

Importantly, the purpose does not prohibit use and development, but it will affect how use and development is undertaken.

The NBA will include implementation principles to guide how decisions should be made. They will ensure sufficient consideration is given to important matters such as integrated management, cumulative effects, and the precautionary principle.

Environmental limits and targets will be set through the NPF and will reduce the impacts of cumulative effects. Limits will set bottom lines, and targets will drive ongoing improvement.

Exemptions will be provided for infrastructure where it cannot be situated elsewhere and, when appropriate, offsetting will be required.

The existing compliance, monitoring and enforcement regime will be strengthened. Cost recovery provisions will allow costs to be recovered for compliance, monitoring of permitted activities, and investigation of non-compliant activities. There will also be increases in some financial penalties.

## **Improving development outcomes**

The NBA will contain outcomes focused on enabling housing and infrastructure, and these will place clear expectations on decision-makers to consider how these outcomes can be met through the NPF, RSS and NBE plans.

The NPF will provide direction for decision-makers to plan for, and enable, development within limits. The first iteration of the NPF will carry over existing RMA national direction, and include new direction to better enable development through an infrastructure chapter being developed by Infracom.

Over time, the NPF is expected to include a suite of nationally consistent standards for activities often associated with infrastructure and development (eg, sediment and noise control). These standards could be used to reduce the information requirement when consenting occurs, or be the basis of permitted activity criteria.

Medium density residential standards enabled through legislation in 2021 will be carried over into the NPF to assist with addressing housing supply demand and promoting urban development.

Under the SPA, RSS will provide long-term, high level, strategic direction for integrated planning in a region. RSS will identify where housing can be provided and will support a coordinated approach to infrastructure funding and investment. Delivery of RSS will be supported by implementation plans and agreements.

A more flexible process will enable designations to be available for a wider range of providers, including renewable electricity generators. A two-stage process for notices of requirement will enable improved delivery of infrastructure, as well as ensuring people can have a say on the effects of construction and operation activities where appropriate.

A specified housing and infrastructure fast-track pathway will be available for infrastructure and larger housing developments, based on the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA), which has reduced consenting time for infrastructure by an average 15 months per project.

## **Role of Māori in the system**

The SPA and NBA will provide a more effective role for Māori by requiring decision-makers to “give effect to” the principles of te Tiriti o Waitangi (te Tiriti), as is the case under the Conservation Act 1987.

Māori will be able to appoint members to RPC. Regions will determine how many Māori and local government members will be on each committee. The minimum number of Māori members will be two, out of a minimum committee membership of six.

An independent National Māori Entity will monitor te Tiriti performance in the system, provide input into the NPF, and provide recommendations to central and local government. This is to be set up in a way that does not usurp the mana of Māori in an area.

## **Adapting to climate change and natural hazards, and reducing emissions**

The resource management system will have an important role to play in mitigating and adapting to climate change. The NPF must “not be inconsistent with” provisions of an emissions reduction plan or a national adaptation plan.

The NPF will provide direction on reducing natural hazard risks and on climate change adaptation. RSS will identify areas that are at risk of sea-level rise and other natural hazards and require an appropriate response. The combination of the NPF, RSS and NBE plans will direct development to areas that have a lower risk profile from natural hazards.

RSS will enable regions to identify areas for protection and enhancement, enabling development and land use change to be located away from these areas.

NBE plans will be required to provide for environmental outcomes to reduce greenhouse gas emissions and increase the removal of greenhouse gases from the atmosphere.

## **Improving system efficiency and reducing costs to users**

The private sector (eg, developers, infrastructure providers, and businesses) will see reduced costs and time for consents and designations for infrastructure and development projects under the new system.

The SPA and NBA will reduce costs and time involved in planning and development processes. This will be done in part by embedding land and housing supply opportunities, thereby avoiding inflated urban land costs.

Infrastructure, including renewable energy generation that will support the affordable decarbonisation of the economy, will be enabled.

The new system will focus on limits and targets for biophysical outcomes. Also, it will remove amenity as a matter to have particular regard to, as under the RMA. The preservation of amenity has been used subjectively to prevent development under the RMA.

Through regional spatial strategies (RSS) under the SPA, development and housing needed over 30 years can be identified and enabled in NBE plans.

The new system will save time and cost for developers and households, and for local and central government (eg, identifying and acquiring school sites early at lower cost).

#### **Some benefits of the reformed system**

- Using low-range (conservative) assumptions, the new system should deliver a cost benefit ratio of 2.58 over a 30-year period (NZ\$2.58 in benefits for every NZ\$1 in cost).
- Using mid-range assumptions, the new system could realistically deliver a cost benefit ratio of 4.90 over that period (NZ\$4.90 in benefits for every NZ\$1 in cost).
- This includes increasing housing supply benefits over the next 30 years from NZ\$2.2 billion to NZ\$7.5 billion (present day value).
- It also includes consent efficiency benefits increasing from NZ\$210 million to NZ\$430 million per year.
- The new system will provide annual average benefits from increased housing affordability of between NZ\$146 million (low-range) and NZ\$834.3 million (mid-range).
- There will be improved environmental outcomes that cannot be monetised but are also significant.

## **Local government continues to play a lead role**

Local government will continue having a lead role in the planning process and in developing strategies and plans that will shape regions, districts, and cities.

### **Regional planning**

RPC, with representatives on them from a region's councils, will be the stewards of the new resource management system planning process in their regions.

Regional councils and territorial authorities will continue to process and approve resource consent applications. Regional councils will retain responsibility for natural resource functions, and territorial authorities will retain their core land-use and subdivision responsibilities.

Both will also continue to handle compliance monitoring and enforcement, including deciding when to take enforcement action.



## **Community voice will be upheld**

Local communities are best placed to know their surroundings and should be involved in deciding what needs developing and protecting and how.

### **Outcome statements enable communities to express their aspirations**

Councils will work with their communities to develop 'outcome statements' that outline the aspirations of a community for their district or region.

The local voice of the community and its priorities and needs will be reflected in the new system through statements of community outcomes (SCOs) prepared by territorial authorities and statements of regional environmental outcomes (SREOs) developed by regional councils.

SCOs will set out a district or city's long-term vision and aspirations, strategic directions, and objectives, as well as local placemaking and community wellbeing priorities and objectives.

SREOs will address any significant resource management issues faced by a region, district, or local community.

RPC will have to consider these statements when making decisions on RSS and NBE plans.

### **Submissions and hearings**

Similar to the RMA, communities will be able to make submissions on RSS and NBE plans. The RPC (with the support of a secretariat) will be responsible for preparing the NBE plan to get it ready for notification. Any person or entity can make a submission.

The hearings process for NBE plans will be run by an Independent Hearing Panel (IHP). The hearings process is intended to be inquisitorial (investigation and evidence based) rather than adversarial (persuasive legal arguments). The IHP will receive submissions, hold hearings, and make recommendations to the RPC. This is similar to the process adopted some years ago for the Auckland Unitary Plan, and ensures that people's ideas and concerns are given expert consideration.

### **Consents**

NBE plans will make it much clearer which projects will need to be notified for public submissions thereby providing more certainty to communities and the people carrying out the project.

## Transition and implementation

A well-managed transition and effective implementation are critical to the success of the new resource management system. Work is already underway on this ahead of the SPA and NBA coming into force. The shortcomings in RMA implementation show how important sufficient funding for this is.

Consequently, Budget 2021 provided NZ\$131.8 million for the design, enactment, transition, capacity building, and initial implementation of the new system. Budget 2022 provided an additional NZ\$179 million over the next four years.

### Three regions will test the new system first

The new system will be rolled out over several years with regions moving into the new system in tranches.

The first tranche will consist of up to three regions which will develop the first set of RSS and NBE plans. To support the process, these regions will receive financial support and resourcing from central government.

This process will test the new system and come away with lessons and “model plans” that can assist the other 12 regions.

### Enabling digital technology

The Ministry for the Environment is developing a consultation document that will look at the opportunities for digital technologies across the new system. The Ministry will test direction and priorities with stakeholders before the end of 2022, and with the public in early 2023.

## Have your say

The Bills that will become the SPA and NBA are the Spatial Planning Bill (SP Bill) and the Natural and Built Environment Bill (NBE Bill). Have your say on these Bills.

For more detailed information on the RM reforms read *Our Future Resource Management System: Overview*.

Your feedback is valued. To make a submission go to <https://www.parliament.nz/en/pb/sc/make-a-submission>.

# Resource management timeline

## Key dates in resource management in Aotearoa

|      |   |
|------|---|
| 1875 | Plans of Towns Regulation Act set specific standards for the layout of towns that were developed by the Crown.  |
| 1926 | Town-planning Act required boroughs over 1,000 people to prepare a town planning scheme.  |
| 1945 | Public Works Department (later called the Ministry of Works and Development) had by around now established a Town and Country Planning Division.  |
| 1953 | Town and Country Planning Act required district schemes to be approved by the Minister of Works and regional planning schemes.  |
| 1973 | Amendment to the Town and Country Planning Act introduced matters of national importance.   |
| 1977 | Town and Country Planning Act replaced the 1953 Act. The stated purpose of regional, district and maritime planning was the 'wise use and management of the resources' and the 'direction and control of the development of a region, district, or area in such a way as will most effectively promote and safeguard the health, safety convenience, and the economic, cultural, social, and general welfare of the people, and the amenities, of every part of region, district or areas.' |
| 1979 | National Development Act passed to provide an accelerated planning process for proposed works of national interest (ie, 'Think Big' projects).  |
| 1986 | Hearn Report recommended changes to the Town and Country Planning Act 1977.   |
| 1986 | Environment Act established Ministry for the Environment and the Parliamentary Commissioner for the Environment.  |
| 1987 | Government announced a comprehensive review of resource management legislation, in conjunction with local government reforms.   |
| 1988 | Government announced a comprehensive reform of all laws relating to the use and management of natural resources.  |
| 1989 | Amalgamations of local governments began, with regional councils being established based on catchment boundaries. Approximately 600 councils and special purpose bodies were amalgamated to create 86 local authorities.  |
| 1989 | Resource Management Bill introduced.  |
| 1991 | Resource Management Act (RMA) replaced 78 statutes and regulations.   |
| 1994 | First national direction, New Zealand Coastal Policy Statement (NZCPS), came into effect.   |
| 2002 | Climate Change Response Act 2002 passed.  |
| 2004 | First national standards under RMA established (air quality). Making Good Decisions Programme introduced.   |
| 2007 | Resource Management (National Environment Standards for Sources of Human Drinking Water) Regulations 2007 came into effect.   |
| 2008 | Climate Change Response (Emissions Trading) Amendment Act passed. NPS for Electricity Transmission, NES for Telecommunications Facilities came into effect.   |
| 2010 | NES for Electricity Transmission Activities 2009 came into effect.  |

|      |   |
|------|---|
| 2011 | NPS for Freshwater Management 2011, NPS for Renewable Electricity Generation came into effect.  |
| 2012 | National Monitoring System established to collect information from local authorities on RMA implementation. Replaced the two-yearly survey of local authorities.  |
| 2012 | NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 came into effect.  |
| 2017 | Resource Legislation Amendment Act 2017 amended five different Acts: RMA 1991, Conservation Act 1986, Reserves Act 1977, Public Works Act 1981, and Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2013. |
| 2019 | National Planning Standards introduced.   |
| 2019 | Expert panel led by Hon Tony Randerson KC appointed to review RMA.  |
| 2020 | Randerson Panel published its report recommending reform of the resource management system.<br>NPS on Urban Development came into effect.   |
| 2020 | Changes introduced by the Resource Management Amendment Act 2020.   |
| 2021 | Based on Randerson panel recommendations, the Government announced that it would repeal and replace the RMA.  |
| 2021 | Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 passed, requiring medium density residential standards (MDRS) for specified urban areas.   |
| 2021 | Exposure draft of the Natural and Built Environment Act (NBA) was referred by Parliament to a select committee inquiry.   |
| 2022 | NPS on Indigenous Biodiversity exposure draft consultation occurred.  |
| 2022 | NPS on Highly Productive Land came into effect in October 2022.   |
| 2022 | Spatial Planning and Natural Built Environment Bills introduced in November 2022.   |

NPS – National Policy Statement

NES – National Environmental Standards