



PROACTIVE RELEASE COVERSHEET

Title of package	Cabinet decisions on the Resource Management (Consenting and Other System Changes) Amendment Bill	Date to be published	13/02/2025
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List of documents that have been proactively released

<i>Date</i>	<i>Title</i>	<i>Author</i>
26 June 2024	Targeted Resource Management Act amendments to unlock development and drive a more efficient and effective system	Hon Chris Bishop, Minister Responsible for RMA Reform
26 June 2024	Cabinet Economic Policy Committee Minute of Decision: Targeted Resource Management Act amendments to unlock development and drive a more efficient and effective system	Cabinet Office
5 December 2024	Resource Management (Consenting and Other System Changes) Amendment Bill: Approval for Introduction	Hon Chris Bishop, Minister Responsible for RMA Reform
5 December 2024	Cabinet Legislation Committee Minute of Decision: Resource Management (Consenting and Other System Changes) Amendment Bill: Approval for Introduction	Cabinet Office

Information redacted **Yes**

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

Information in these documents has been withheld under the following grounds:

- S9(2)(f)(iv) – information is under active consideration by ministers, and
- S9(2)(h) – to maintain legal professional privilege.

In-Confidence

Office of the Minister Responsible for RMA Reform

ECO - Cabinet Economic Policy Committee

Targeted Resource Management Act amendments to unlock development and drive a more efficient and effective system

Proposal

- 1 This paper seeks Cabinet agreement to progress a second bill to make targeted changes to the Resource Management Act 1991 (RMA) to unlock development in infrastructure, housing and primary industries, and drive a more efficient and effective resource management system.
- 2 Specifically, this paper seeks Cabinet agreement to:
 - 2.1 the scope of a second RMA amendment bill (RM Bill 2), which will be subject to further policy development and advice
 - 2.2 the process for delivering RM Bill 2, including the delegation of further policy approvals to relevant portfolio Ministers and authorisation for myself, the Minister Responsible for RMA Reform, to instruct Parliamentary Counsel Office (PCO) to draft the bill.
- 3 It should be read alongside *Resource Management Reform Phase 2: National direction* (the national direction Cabinet paper) which seeks Cabinet agreement to develop and amend a range of RMA national direction instruments through a coordinated work programme.

Relation to Government priorities

- 4 The proposals in this paper deliver or support the following Government priorities:
 - 4.1 amending the RMA to make it easier to consent new infrastructure, including for renewable energy, building houses and enhancing the primary sector (2023 Speech from the Throne, Coalition Agreement National Party/New Zealand First, Coalition Agreement National Party/ACT New Zealand)
 - 4.2 cutting red tape to unleash the investment in renewable energy for New Zealand to meet its emissions reduction targets (2023 Speech from the Throne)
 - 4.3 making the Medium Density Residential Standards (MDRS) optional for councils, with the need for councils to ratify any use of MDRS, including existing zones (Coalition Agreement National Party/ACT New Zealand)
 - 4.4 implementing the Going for Housing Growth policy to unlock land for housing, build infrastructure and allow communities to share the benefits of growth (National Party policy)

- 4.5 facilitating the development and efficiency of ports and strengthening international supply networks (Coalition Agreement National Party/New Zealand First)
- 4.6 simplifying the planning system (Coalition Agreement National Party/New Zealand First).

Executive Summary

- 5 Cabinet agreed to a three-phase work programme for reforming the resource management system [CAB-24-MIN-0069 refers]. I propose to deliver the remainder of Phase 2 of RMA reform by mid-2025 through two complementary workstreams:
 - 5.1 RM Bill 2 will make targeted changes to the RMA. This is the focus of this paper.
 - 5.2 a range of national direction instruments will be developed or amended through a coordinated work programme that integrates engagement and decision-making as much as practicable. This is the focus of the national direction Cabinet paper.
- 6 Together, these workstreams will deliver Government priorities to unlock development in infrastructure, housing and primary industries, and drive a more efficient and effective resource management system.
- 7 There is widespread agreement that the RMA is no longer fit for purpose. The Government has committed to reforming the resource management system, with the enjoyment of property rights as a guiding principle (Phase 3 RMA Reform).
- 8 Targeted changes to the RMA are needed in the interim to improve the efficiency and effectiveness of the system and deliver coalition agreement and manifesto commitments for Electrify NZ, Infrastructure for the Future, Going for Housing Growth and the Primary Sector Growth Plan. These changes are aligned with the intent of Phase 3 of RMA Reform by starting to reset the boundary between resource management and property rights based on effects, reflecting the original intent of the RMA.
- 9 This paper seeks Cabinet agreement to introduce RM Bill 2 in late-2024 to be enacted in mid-2025. The RMA Reform Ministerial Group (RRMG) agreed at a high level to the policy proposals in this paper that I propose Cabinet progress through RM Bill 2 (with further policy approvals to be delegated to selected Ministers).
- 10 The proposed scope of RM Bill 2 covers the following areas:
 - 10.1 reduce delays and improve efficiency in consenting, including:
 - 10.1.1 providing greater certainty of consent duration for renewable energy and other long-lived infrastructure
 - 10.1.2 clarifying councils' ability to manage discharges
 - 10.2 improve certainty and simplify designation processes

- 10.3 extend the duration of certain coastal permits¹ for port companies
 - 10.4 enable housing growth
 - 10.5 amend the interface between the RMA and the Fisheries Act 1996
 - 10.6 better manage outcomes for heritage buildings
 - 10.7 improve resource management system effectiveness
 - 10.8 improve natural hazards and emergency provisions.
- 11 This paper also seeks Cabinet agreement to the following matters to deliver RM Bill 2:
- 11.1 delegate detailed policy approvals to myself, the Minister Responsible for RMA Reform, and certain Ministers:
 - 11.2 authorisation for myself, the Minister Responsible for RMA Reform, to issue drafting instructions to PCO on this paper and delegated decisions
 - 11.3 targeted engagement with stakeholder groups, iwi and hapū and local government on the development of the Bill
 - 11.4 officials working with post-settlement governance entities (PSGEs) and other relevant iwi and hapū entities to uphold Treaty Settlements and other legislative arrangements.
- 12 I propose to return to Cabinet in November 2024 to report back on delegated decisions and seek approval for the introduction of RM Bill 2.

Background

- 13 In March 2024, Cabinet noted that I am taking a three-phased approach to reforming the resource management system. This work fits into Phase 2 [CAB-24-MIN-0069-refers]. Phase 2 introduced a fast-track consenting regime within the first 100 days (now complete), makes targeted legislative changes to the RMA in 2024, develops new or amends existing national direction under the RMA, and implements the Going for Housing Growth work package.
- 14 Cabinet agreed that the resource management reform programme would be guided by the following objectives [CAB-24-MIN-0069-refers]:
- 14.1 making it easier to get things done by unlocking development capacity for housing and business growth, enabling delivery of high-quality infrastructure for the future (including doubling renewable energy) and enabling primary sector growth and development (including aquaculture, forestry, pastoral, horticulture and mining)
 - 14.2 while also safeguarding the environment and human health, adapting to the effects of climate change and reducing the risks from natural hazards, improving regulatory quality in the resource management system and upholding Treaty of Waitangi settlements and other related arrangements.

¹ Permits under s 384A of the RMA.

- 15 Cabinet agreed Phase 2 would include targeted amendments to the RMA via two amendment bills to streamline and simplify its operation [CAB-24-MIN-0069-refers].
- 16 The Resource Management (Freshwater and Other Matters) Amendment Bill (RM Bill 1) was introduced on 23 May 2024. RM Bill 1 includes speeding up the process for developing or amending national direction. This will allow the national direction work programme Cabinet is considering in parallel to this paper to be finalised and gazetted in mid-2025.
- 17 The RRMG met on 26 March and 22 May 2024 and made decisions on the scope of RM Bill 2 and the national direction work programme. The following assessment criteria were used to inform RRMG decisions: coalition commitments/National Party manifesto items, timing of impact, level of complexity and 'least regrets' (the proposal aligns with the direction we expect to take in Phase 3 RMA reform).
- 18 The proposals in this paper and the national direction Cabinet paper seek to confirm the decisions provided by the RRMG.

Policy areas for inclusion in RM Bill 2

- 19 The key policy proposals agreed by the RRMG to be included in RM Bill 2 are discussed below. There are different policy options to achieve the intended outcome, and some may support system wide improvements (including improving regulatory quality).
- 20 This paper proposes Cabinet delegate further policy approvals on these matters to myself, the Minister Responsible for RMA Reform, and selected portfolio Ministers following advice from officials. The final scope of RM Bill 2 will be determined by these decisions.
- 21 The scope of RM Bill 2 proposed in this paper is ambitious and has been scaled to be delivered within the timeframes at paragraph 49. The proposed scope reflects extensive cross agency discussions. Agencies have worked together to group the issues and achieve consensus about what will be deliverable. I do not consider more can be added to RM Bill 2 without compromising the ability to deliver this Bill in these timeframes.
- 22 Appendix 1 provides an overview of how the proposed scope of RM Bill 2 delivers Government priorities and aligns with the national direction package.

Reduce delays and improve efficiency in consenting

Provide greater certainty of consent duration for renewable energy generation and other long-lived infrastructure

- 23 The RMA generally allows consents for the use and development of natural resources (such as water) up to a maximum of 35 years. There are generally no specific consent durations placed on district land-use consents (which includes all forms of infrastructure).

- 24 On 6 May 2024, Cabinet agreed to the Electrify NZ work programme, including considering a default 35-year consent term for renewable energy generation and transmission consents² [CAB-24-MIN-0151 refers].
- 25 I propose RM Bill 2 provides greater certainty of consent duration for renewable energy generation and other long-lived infrastructure by introducing a default duration of 35 years, subject to Cabinet receiving policy advice and making decisions on the Government's direction on freshwater.
- 26 This proposal is closely connected to the Government's freshwater policy being considered by the Freshwater Ministerial Group. Engagement with Māori, including the Freshwater Iwi Leaders Group, will be important to inform the policy design.

Clarify councils' ability to manage discharges

- 27 Environment Canterbury and industry groups³ have sought changes to RMA discharge provisions (specifically ss 70 and 107) following a recent High Court decision.⁴ The Court decisions are highly likely to impact on the efficiency and effectiveness of discharge-related consent processing and the primary sector.
- 28 I propose to amend the RMA to clarify councils' considerations and ability to manage discharges.

Other consenting proposals

- 29 Amendments to the consenting regime, including for renewable energy, wood-processing facilities and marine farm activities, are needed to accelerate consenting and improve the effectiveness of consent conditions.
- 30 I propose amendments to deliver the following outcomes:
- 30.1 extend default lapse periods for relevant renewable energy consents to 10 years from the current five years (to deliver Electrify NZ commitments)
 - 30.2 enable renewable energy generation projects (excluding hydroelectricity) to be decided within one year of application (to deliver Electrify NZ commitments)
 - 30.3 enable the re-consenting of existing generation assets (including hydroelectricity) to be decided within one year of application
 - 30.4 enable new wood-processing facility consents to be decided within one year of application, and streamline the process of re-consenting these facilities
 - 30.5 improve the ability for existing marine farms to change consent conditions by empowering national environmental standards relating to aquaculture activities to direct a more lenient activity status than discretionary for applications to change or cancel consent conditions

² Renewable energy consents are a suite of consents, such as land and discharge consents, required to enable a renewable energy project to be constructed.

³ These include but are not limited to Irrigation NZ, Horticulture NZ and Dairy NZ.

⁴ *Environmental Law Initiative v Canterbury Regional Council and Ashburton Lyndhurst Irrigation Limited* [2024] NZHC 612.

- 30.6 enable cost recovery for councils when reviewing consent conditions when the review has arisen from national direction⁵
- 30.7 provide greater clarity on the scope of information requests and requirements for consents
- 30.8 clarify how non-complying activity consents are considered where there are inconsistencies between relevant provisions in planning instruments, including provisions in national direction
- 30.9 limit the types of conditions that can be applied to consents.

Improve certainty and simplify designation processes

- 31 Designations are a powerful planning tool that provide for existing infrastructure and protect land for future infrastructure purposes. Designation powers increase investment and project certainty for key public works as designation (requiring) authorities are the decision-maker, rather than councils.
- 32 I propose the following amendments to enable designations:
 - 32.1 expand the scope of requiring authorities to include port operators, emergency service providers, Kāinga Ora and certain community housing providers
 - 32.2 double the default designation lapse period from 5 to 10 years to support route protection, allow for more time to plan and design infrastructure, and to acquire the land under the Public Works Act 1981 (PWA)
 - 32.3 reduce unnecessary costs by simplifying or removing the need to undertake an assessment of alternatives test and simplify other assessment and information requirements
 - 32.4 limit the types of conditions that can be applied to designations.
- 33 There is also a proposed review of the PWA. Interactions between the RMA and PWA will need to be closely considered as the two legislative processes progress.

Extend the duration of certain coastal permits for port companies

- 34 On 15 April, Cabinet noted that the Government intends to provide certainty to port operators and users, such as by extending their s 384A⁶ coastal permits (certain coastal permits) by 20 years and intends to provide a process to introduce or modify consent conditions on s 384A permits [CAB-24-MIN-0121 refers].
- 35 Cabinet agreed to consult iwi and stakeholders to achieve the above intentions and noted that, following this, it is intended that changes to these permits will be progressed through RM Bill 2. The Ministry of Transport is undertaking engagement with port companies, regional councils and mana whenua until 5 July 2024.

⁵ Note RRMG agreement in Appendix 1, Table B was in relation to existing marine farms only.

⁶ Section 384A of the RMA enables the Minister of Transport to approve 35- year permits for port companies for a limited but critical set of port activities in the coastal marine area to support their transition into the RMA framework. These permits are limited to occupation activities that were in place in 1991 and expire on 30 September 2026. To date, only three port companies have been transitioned into the RMA planning framework.

Enable Housing Growth

- 36 Cabinet has considered policy proposals in relation to tranche 1 decisions to implement the Going for Housing Growth programme (*Going for Housing Growth: Implementing the First Stage* Cabinet paper). The following proposals considered as part of that Cabinet paper would be delivered via RM Bill 2, with further amendments progressed through the national direction work programme:
- 36.1 councils to demonstrate compliance with the 30-year Housing Growth Targets
 - 36.2 a process to allow Tier 1 councils to opt-out from implementing the Medium Density Residential Standards (MDRS) into relevant residential zones
 - 36.3 processes for councils that have not yet completed their MDRS and National Policy Statement on Urban Development related plan changes
 - 36.4 providing central government with new powers relating to compliance with housing and business development capacity assessments
 - 36.5 exploring additional intervention powers to support implementation of the Going for Housing Growth plan.

Amend the interface between the RMA and the Fisheries Act 1996

- 37 The 2019 *Attorney-General v The Trustees of the Motiti Rohe Moana Trust & Ors*⁷ Court of Appeal decision clarified that councils may control fishing for biodiversity purposes (and other related values) under the RMA. In practice, this means that the Fisheries Act 1996 and RMA can be used to control the effects of fishing on biodiversity and other values.
- 38 The lack of coherent coordination and duplication between the RMA and the Fisheries Act 1996 creates uncertainty, increases costs for tangata whenua and stakeholders involved in council planning processes, and raises concerns over future access to fisheries resources.
- 39 I propose delegated Ministers receive further advice on how the interface between the two Acts can be amended through RM Bill 2 to ensure effectiveness and efficiency. Options include amending regional council functions under the RMA to remove their ability to manage fishing or clarify or reduce the extent to which regional councils may manage fishing. All options need to consider the impacts on Māori fisheries settlement rights.

Better manage outcomes for heritage

- 40 Managing heritage listed buildings are a significant issue for building owners and councils. This was recently highlighted with Wellington City Council seeking to delist the Gordon Wilson Flats and other heritage buildings. I propose to progress changes through RM Bill 2 and the national direction work programme to better enable councils to manage heritage.

⁷ *Attorney-General v The Trustees of the Motiti Rohe Moana Trust & Ors* [2019] NZCA 532.

Improve resource management system effectiveness

- 41 Some system improvements, such as for compliance and enforcement, were developed through the Natural and Built Environment Act 2023. These improvements can be incorporated into the RMA without significant new policy development and support the direction we expect to take in Phase 3 of the RMA reform work programme. There are also some RMA issues with simple fixes, which should be addressed.
- 42 I propose amendments to:
- 42.1 improve the functionality of compliance and enforcement provisions, including adjusting penalties (to also achieve increased penalties for non-compliance with forestry harvesting conditions) and amending regulations for fines and fees⁸
 - 42.2 enable warranted officers authorised by the Minister of Conservation to undertake enforcement action in the coastal marine area of specified offshore islands for matters not limited to resource consents, including enforcement of the regional coastal plan
 - 42.3 amend the Conservation Act 1987 to explicitly enable the defence for discharging contaminants to apply in every instance where the discharge was authorised under the RMA.
- 43 I also propose to amend Part 9A of the RMA to support freshwater farm plans to be more cost effective and practical following engagement (which is currently taking place).
- 44 Some RMA amendments may also be required to support proposals progressed through the work programme in the national direction Cabinet paper, including but not limited to any empowering provisions for national direction and regulations.

Improve natural hazards and emergency provisions

- 45 Amendments are needed to ensure RMA emergency provisions are appropriate for larger emergency events and cover the recovery period following an emergency. This would limit the need for the development of bespoke legislation and speed up subsequent Orders in Council in response to events.
- 46 Changes are also needed to ensure available information relating to natural hazard risks can be applied earlier.
- 47 I propose amendments to:
- 47.1 allow authorities carrying out emergency works on private land to leave a written notice on site and inform the ratepayer, rather than directly contact the occupier, when the occupier cannot be found
 - 47.2 introduce a new regulation-making power into the RMA to help respond to, and recover from, emergency events
 - 47.3 extend timeframes for retrospective consent for emergency works

⁸ Resource Management (Infringement Offences) Regulations 1999.

- 47.4 introduce an additional ability for councils to decline land-use consent applications or impose conditions on land-use consents, where there is significant risk from natural hazards
- 47.5 provide for rules relating to risk from natural hazards to have immediate legal effect from notification of a plan or plan change.

Process for delivery of RM Bill 2

Anticipated timeframes

48 The table below shows the anticipated timeframes for RM Bill 2. These timeframes are contingent on delegated policy approvals and PCO drafting capacity.

Milestone/Activity	Timing
Policy development, targeted engagement and delegated decisions	Now – July/August 2024
Bill drafting by PCO	August – November 2024
Report back on delegated decisions and Cabinet approval to introduce bill	November 2024
Bill introduction	November/December 2024
Bill enacted	Mid-2025

49 I propose myself, the Minister Responsible for RMA Reform, be the lead delegated decision-maker for detailed policy decisions for RM Bill 2. Where there are clear cross-cutting policy decisions, I propose there is another Minister with delegated authority to make joint decisions.

50 I propose that detailed decisions within the scope of the policy approved by Cabinet in this paper are delegated to relevant portfolio Ministers in accordance with the table below. Delegated decisions are needed to ensure efficiency in decisions and issuing drafting instructions to PCO.

51 There may also be instances where I will invite another relevant Minister to make joint decisions with me (in my role as Minister Responsible for RMA Reform), where appropriate. I will work with my RRMG colleagues and consult with Ministers with relevant portfolios, where appropriate, before making detailed policy decisions.

Policy area	Joint decision-making Ministers (in addition to Minister responsible for RMA Reform)
Consenting (including 35-year consent duration and councils' ability to manage discharges)	<ul style="list-style-type: none"> • Minister Bishop (Infrastructure, Housing) • Minister Brown (Transport, Energy) - where decisions directly impact renewable energy, electricity generation and transport • Minister McClay (Agriculture, Forestry) - where decisions directly impact councils' ability to manage discharges and wood processing facilities • Minister Jones (Oceans and Fisheries) – where decisions directly impact on existing marine farm consents <p>Consultation will include the Minister of Local Government where relevant (such as for councils' ability to manage discharges)</p>
Designations	<ul style="list-style-type: none"> • Minister Bishop (Infrastructure, Housing) • Minister Brown (Transport, Local Government, Energy)

s 9(2)(h)
[Redacted]

s 9(2)(h)
[Redacted]

[Redacted]

Further Legal Advice

58 Further legal advice will be provided at the time of delegated decisions on the detailed policy.

Cost-of-living Implications

59 There are no direct cost-of-living implications associated with this paper.

Financial Implications

60 Agencies are expected to meet costs of this work, along with the wider resource management reform work programme from within baselines. In terms of specific funding for resource management reform:

60.1 Environment funding of \$301m over four years for implementation of previous resource management reforms was returned in the December 2023 mini-budget

60.2 new Environment funding of \$92.235m over four years for resource management reform replacement was agreed in Budget 2024. This was at the scaled initiative level and did not include funding for implementation.

61 The resource management reform work programme includes the Fast-track Approvals Bill, RM Bill 1, RM Bill 2, the national direction work programme and Phase 3 replacement of the RMA. Delay or complication in any one area of the work programme may impact delivery in others.

62 The work programme will need to be tightly managed. Ongoing prioritisation decisions may be needed to deliver RM Bill 2 and the national direction work programme as

scoped in this paper and the national direction Cabinet paper alongside other resource management commitments.

Legislative Implications

- 63 The policy decisions from this paper will require legislative change to be progressed through a bill to amend the RMA and will likely make consequential amendments to other statutes. The amendments will be binding on the Crown.
- 64 The request for priority in the 2024 legislation programme proposed that the Bill has a priority Category 3 rating.

Impact Analysis

Regulatory Impact Statement and Treaty Impact Assessment

- 65 Cabinet's impact analysis requirements apply to the proposals in this paper, but there is no accompanying Regulatory Impact Statement (RIS) and the Ministry for Regulation has not exempted the proposals from the impact analysis requirements. Therefore, the paper does not meet Cabinet's requirements for regulatory proposals. The Ministry for Regulation and the Ministry for the Environment have agreed that supplementary analysis will be provided at Cabinet Legislation Committee consideration of the Bill.
- 66 This paper also delegates a number of decisions to Ministers (or groups of Ministers). The Ministry for Regulation and the Ministry for the Environment have agreed that delegated decision briefings will contain key features normally contained in standalone RISs. In line with the normal process for RISs, these briefings will be quality assured by an independent panel and will be proactively released alongside this paper.
- 67 Treaty impact assessment will also take place during the policy development and will inform delegated Ministers' decisions.

Climate Implications of Policy Assessment

- 68 A Climate Implications of Policy Assessment (CIPA) is not required for this paper. This may be a consideration during the policy development process.

Population Implications

- 69 Improvements to the RMA should result in a more efficient and effective resource management system that will benefit all New Zealanders. Implementation of this work programme will need to closely consider its potential impact on populations and communities, including on Māori.
- 70 There are no direct human rights implications resulting from this paper. Consistency with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 will be assessed as the work programme is implemented and through further Cabinet decisions.

Use of External Resources

- 71 Three contractors (under contracts of less than 12 weeks) have been used as surge resource across the wider resource management reform programme, and specialised technical expertise may be needed for specific aspects of the work going forward. It is

otherwise not intended that external resources will be required to further develop, implement or deliver this work.

- 72 This work is intended to be carried out by officials from the Department of Conservation, Department of Internal Affairs, Land Information New Zealand, Ministry of Business, Innovation & Employment, Ministry for Culture and Heritage, Ministry for the Environment, Ministry of Housing and Urban Development, Ministry for Primary Industries, Ministry of Transport, Te Arawhiti, National Emergency Management Agency, New Zealand Infrastructure Commission and other agencies with relevant portfolios.

Consultation

- 73 I wrote to PSGEs, iwi, and groups representing local government, infrastructure, development and environmental interests in late-March 2024 providing a short opportunity for them to suggest proposals for inclusion in a Phase 2 process. Further targeted engagement will take place during the policy development process and will inform delegated Ministers' decisions.
- 74 I wrote to Ministers in early March 2024 inviting them to provide any proposals for inclusion in RM Bill 2 in relation to their portfolios.
- 75 The scope and timing of RM Bill 2 was discussed and agreed to at the RRMG meetings on 26 March 2024 and 22 May 2024.
- 76 The following agencies were provided with an opportunity to review the content of this paper: Department of Conservation, Department of Corrections, Department of Internal Affairs, Land Information New Zealand, Ministry of Business, Innovation & Employment, Ministry for Culture and Heritage, Ministry of Health, Ministry of Housing and Urban Development, Ministry of Justice, Ministry for Primary Industries, Ministry of Transport, National Emergency Management Agency, New Zealand Defence Force, Oranga Tamariki, Parliamentary Counsel Office, Te Arawhiti, Te Puni Kōkiri, New Zealand Infrastructure Commission and Treasury.
- 77 The Ministry of Justice has raised potential natural justice and property rights issues associated with some of the proposals in this paper (including consent duration and additional powers). Any implications will be assessed during the delegated decision process, and I will report back to Cabinet on any key issues in November 2024.

Communications

- 78 Subject to Cabinet approval of the proposals in this paper, I intend to release a press statement on the proposed content of RM Bill 2.

Proactive Release

- 79 I intend to delay release of this paper beyond the 30 business days of decisions being confirmed by Cabinet, until the bill is introduced. 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:

- 1 **note** that the Government is taking a three-phased approach to reforming the resource management system and this work fits into Phase 2 [CAB-24-MIN-0069 refers]
- 2 **note** that Cabinet agreed Phase 2 would include making targeted amendments to the Resource Management Act 1991 (RMA) via two amendment bills to streamline and simplify its operation [CAB-24-MIN-0069 refers]
- 3 **note** that the first RMA amendment bill was introduced on 23 May 2024 and addresses a small number of time critical amendments
- 4 **agree** to introduce a second bill later in 2024 to make targeted changes to the RMA to unlock development in infrastructure, housing and primary industries and drive a more efficient and effective resource management system (RM Bill 2)
- 5 **note** Phase 2 will be delivered by mid-2025 through two complementary workstreams: RM Bill 2 and a national direction work programme (which Cabinet is receiving advice on in parallel to this paper through *Resource Management Reform Phase two: National direction* (the national direction Cabinet paper))

Scope of RM Bill 2

- 6 **agree** the scope of RM Bill 2 will be progressed based on the policy proposals in recommendations 9-20, subject to further policy advice and engagement
- 7 **note** further policy approvals will be delegated to the Minister Responsible for RMA Reform and relevant portfolio Ministers, in consultation with appropriate Ministers (recommendations 21 to 24), to implement the policy intent of the proposals outlined in recommendations 9 to 20
- 8 **note** the final scope of RM Bill 2 will be determined by these decisions, informed by further policy advice and stakeholder engagement
- 9 **agree in principle** to provide greater certainty of consent duration for renewable energy generation and other long-lived infrastructure by introducing a default duration of 35 years, subject to further policy decisions on freshwater
- 10 **agree** to further consenting changes to:
 - 10.1 clarify councils' ability to manage discharges
 - 10.2 extend default lapse periods for relevant renewable energy consents to 10 years from the current five years
 - 10.3 enable renewable energy generation projects (excluding hydroelectricity) to be decided within one year of application
 - 10.4 enable the re-consenting of existing generation assets (including hydroelectricity) to be decided within one year of application
 - 10.5 enable new wood-processing facility consents to be decided within one year of application and streamline the process of re-consenting these facilities
 - 10.6 improve the ability for existing marine farms to change consent conditions by empowering national environmental standards relating to aquaculture activities

- to direct a more lenient activity status than discretionary for applications to change or cancel consent conditions
- 10.7 enable cost recovery for councils when reviewing consent conditions when the review has arisen from national direction
- 10.8 provide greater clarity on the scope of information requests and requirements for consents
- 10.9 clarify how non-complying activity consents are considered where there are inconsistencies between relevant provisions in planning instruments, including provisions in national direction
- 10.10 limit the types of conditions that can be applied to consents
- 11 **agree** to improve certainty and simplify designation processes by:
 - 11.1 expanding the scope of requiring authorities to include port operators, emergency service providers, Kāinga Ora and certain community housing providers
 - 11.2 doubling the default designation lapse period from 5 to 10 years to support route protection, allow for more time to plan and design infrastructure, and to acquire the land under the Public Works Act 1981
 - 11.3 reducing unnecessary costs by simplifying or removing the need to undertake an assessment of alternatives test and simplify other assessment and information requirements
 - 11.4 limiting the types of conditions that can be applied to designations
- 12 **note** that Cabinet agreed to consult iwi and stakeholders on s 384A coastal permits for port companies and this is currently underway
- 13 **agree** to progress the extension of s 384A permits through RM Bill 2, subject to consultation
- 14 **note** the proposals in the Going for Housing Growth Cabinet paper that will be delivered through RM Bill 2 include:
 - 14.1 councils to demonstrate compliance with the 30-year Housing Growth Targets
 - 14.2 a process to allow Tier 1 councils to opt-out from implementing the Medium Density Residential Standards (MDRS) into relevant residential zones
 - 14.3 processes for councils that have not yet completed their MDRS and National Policy Statement on Urban Development related plan changes
 - 14.4 providing central government with new powers relating to compliance with housing and business development capacity assessments
 - 14.5 additional intervention powers to support implementation of Going for Housing Growth plan (subject to further advice)

- 15 **agree in principle** to amend the interface between the RMA and the Fisheries Act 1996 subject to delegated Ministers receiving further advice and making decisions
- 16 **agree** to progress amendments to better enable councils to manage heritage
- 17 **agree** to improve resource management system effectiveness by:
- 17.1 improving functionality of compliance and enforcement provisions, including adjusting penalties and amending regulations for fines (such as for non-compliance with forestry harvesting conditions)
 - 17.2 enabling warranted officers authorised by the Minister of Conservation to undertake enforcement action in the coastal marine area of specified offshore islands for matters not limited to resource consents, including enforcement of the regional coastal plan
 - 17.3 amending the Conservation Act 1987 to explicitly enable the defence for discharging contaminants to apply in every instance where the discharge was authorised under the RMA
- 18 **agree** to allow amendments to Part 9A of the RMA to support freshwater farm plans to be more cost effective and practical
- 19 **agree** to allow amendments to the RMA to support proposals progressed through the work programme in the national direction Cabinet paper
- 20 **agree** to improve natural hazard and emergency provisions by:
- 20.1 allowing authorities carrying out emergency works on private land to leave a written notice on site and inform the ratepayer, rather than directly contact the occupier, when the occupier cannot be found
 - 20.2 introducing a new regulation making power into the RMA to help respond to, and recover from, emergency events
 - 20.3 extending timeframes for retrospective consent for emergency works
 - 20.4 introducing an additional ability for councils to decline land-use consent applications, or impose conditions on land-use consents, where there is significant risk from natural hazards
 - 20.5 providing for rules relating to risks from natural hazards to have immediate legal effect from notification of a plan or plan change

Process to deliver RM Bill 2

Detailed decisions delegated to relevant portfolio Ministers

- 21 **agree** to delegate the ability to make further policy decisions on the development of RM Bill 2, including commencement, savings and transitionals, to the Minister Responsible for RMA Reform and:
- 21.1 for consenting (recommendations 9 to 10):

- 21.1.1 the Minister for Infrastructure and Minister of Housing, where decisions impact on housing and infrastructure
- 21.1.2 the Minister for Infrastructure and Minister for Energy where the decisions relate to Electrify NZ commitments, the NPS for renewable energy and the NPS on electricity transmission (recommendations 9, 10.2 to 10.4)
- 21.1.3 the Minister of Agriculture and Minister of Forestry where the decisions relate to councils' ability to manage discharges and wood processing facilities (recommendations 10.1 and 10.5)
- 21.1.4 the Minister for Oceans and Fisheries where the decisions relate to existing marine farm consents (recommendation 10.6)
- 21.2 for designations (recommendation 11), the Minister of Housing, Minister for Infrastructure, Minister of Transport, Minister for Energy and Minister of Local Government
- 21.3 for s 384A permits (recommendation 13) the Minister of Transport, Minister of Conservation and Minister for Crown Māori Relations: Te Arawhiti
- 21.4 for the interface between the RMA and the Fisheries Act 1996 (recommendation 15), the Minister for Oceans and Fisheries, Minister of Conservation and Minister for Māori Crown Relations: Te Arawhiti
- 21.5 for heritage management (recommendation 16), the Minister of Housing, Minister for Arts, Culture and Heritage and Minister for Building and Construction
- 21.6 for system improvement (recommendations 17 to 19):
 - 21.6.1 the Minister of Conservation and Minister of Crown Māori Relations: Te Arawhiti where decisions impact the Conservation Act 1987, Takutai Moana and enforcement in the coastal marine area
 - 21.6.2 the Associate Minister of Agriculture and the Associate Minister for the Environment where decisions impact freshwater farm plans (recommendation 18)
- 21.7 for natural hazard and emergency provisions (recommendation 20), the Minister for Infrastructure and Minister of Housing
- 22 **agree** the Minister Responsible for RMA Reform will be the lead delegated decision-maker for detailed policy approvals for RM Bill 2 and has the ability to invite other Ministers to make joint policy approvals (in addition to the key areas identified in recommendation 21), where appropriate
- 23 **note** the Going for Housing Growth Cabinet paper proposes that decisions on the Housing Growth proposals in scope of RM Bill 2 (recommendation 14) are delegated to the Minister Responsible for RMA Reform and Housing
- 24 **agree** the Minister Responsible for RMA Reform will continue to progress RM Bill 2 with the RRMG Ministers, and consult with other Ministers on matters arising relevant to their portfolios as needed

Targeted engagement and upholding Treaty Settlements

- 25 **agree** that officials will undertake targeted engagement with industry stakeholders, iwi and hapū, and local government to inform the policy development of RM Bill 2
- 26 **note** that some proposals in scope of RM Bill 2 interact with Māori rights and interests in freshwater and other interests in natural and physical resources recognised and provided for in the RMA and protected by the Treaty, or engage obligations in Treaty settlements and other legislative arrangements, and further advice will be provided on this during the delegated decision process
- 27 **note** officials will work with relevant post-settlement governance entities and other iwi and hapū entities to ensure any impacts on the settlements/arrangements are upheld in accordance with the commitment in the NZ First coalition agreement to honour undertakings in Treaty settlements

Procedural considerations to introduce RM Bill 2

- 28 **authorise** the Minister Responsible for RMA Reform to issue drafting instructions to PCO:
- 28.1 to implement the recommendations in this paper and the delegated policy approvals made under recommendations 21, 22 and 24
- 28.2 to make minor, technical, or consequential changes that arise during drafting to the RMA and other affected statutes to ensure workability
- 29 **note** that the recommendations in this paper reflect the policy intent and may not reflect the actual drafting of the RMA (or other statutes), subject to PCO drafting protocols [REDACTED]
s 9(2)(h)
- 30 **note** that I will report back to Cabinet in November 2024 seeking approval to introduce the RM Bill 2 in late-2024 with a priority Category 3 rating

Other matters

- 31 **note** costs of progressing further work on Phase 2 of the RMA reform programme will be met from within current agency baselines
- 32 **note** that the Minister Responsible for RMA Reform will issue a press statement on the proposed content of RM Bill 2
- 33 **agree** to delay the release of this paper until the Bill is introduced later in the year, beyond the usual 30 business days after approval by Cabinet.

authorised for lodgement

Hon Chris Bishop






Minister Responsible for RMA Reform

Appendix

Appendix 1. Joint overview of *Targeted Resource Management Act amendments to unlock development and drive a more efficient and effective system* and *Resource Management Reform Phase 2: National direction*

RESOURCE MANAGEMENT REFORM – PHASE 2 PRIORITIES + VEHICLES

Phase 2 will progress targeted amendments through RM Bill 2 and national direction to deliver objectives for Electrify NZ, Infrastructure for the Future, Going for Housing Growth and Primary Sector Growth Plan

	Infrastructure (including energy) 	Housing 	Farming & primary sector 	Emergencies and natural hazards 	System improvements/ other 
RM Bill 2	<ul style="list-style-type: none"> • Default consent duration of 35 years for renewable electricity and long-lived infrastructure. • Reduce consent and re-consenting processing time for renewable energy and other activities (ie, within 1 year). • Longer lapse period for renewable energy/other infrastructure consents • Amend consent information. • Amend requirements/requests and support decision makers in making effective consent conditions • Extend default lapse period for designations from 5 to 10 years. • Extend designation (requiring) authority status to Kāinga Ora, identified community housing providers, ports and emergency services . • Remove or simplify alternatives test, and reduce assessment and information requirements. • Extension of certain coastal permits for port companies by 20 years. 	<ul style="list-style-type: none"> • Councils to demonstrate compliance with the 30 year Housing Growth Targets. • A process to allow Tier 1 councils to opt-out from implementing the Medium Density Residential Standards (MDRS) into relevant residential zones. • Processes for councils that have not yet completed their MDRS and National Policy Statement on Urban Development related plan changes. • Providing central government with new powers relating to compliance with housing and business. • Exploring additional intervention powers to support implementation of the Going for Housing Growth plan. 	<ul style="list-style-type: none"> • Reducing regulatory overlap between the RMA and Fisheries Act 1996. • Efficient consent processing for wood processing facilities and other activities (ie, within 1 year). • Update consents in an efficient manner (including marine farm consents) • Improving freshwater farm plans. 	<ul style="list-style-type: none"> • Improvement to emergency provisions, including a new regulation making power for emergency responses. • Ability to decline land-use consents, or attach conditions, where there are significant risks of natural hazards. • Rules relating to natural hazards have immediate legal effect (from notification). 	<ul style="list-style-type: none"> • Heritage management. • Efficient cost-recovery by local authorities. • Targeted improvements to compliance and enforcement. • Technical improvements to DOC functions to manage discharges, compliance and enforcement.
National direction	<ul style="list-style-type: none"> • Amendments to NPS-Renewable Electricity Generation, NPS-Electricity Transmission and NES-Electricity Transmission Activities (including distribution), and NES-Telecommunications Facilities. • Further advice on how to deliver the remaining elements of Electrify NZ and Infrastructure commitments. • Targeted new national direction for Infrastructure (including standards). • Enabling quarrying. • Amendments to NZ Coastal Policy Statement. 	<ul style="list-style-type: none"> • Amendments to NPS-Urban Development and NPS-Highly Productive Land. • New national direction for housing targets, granny flats and papakāinga. 	<ul style="list-style-type: none"> • Amendments to NPS-Freshwater Management and NES-Freshwater, NPS-Indigenous Biodiversity, NES-Commercial Forestry, NES-Drinking Water, NES-Marine Aquaculture and Stock Exclusion Regulations. • New national direction for Water Storage. 	<ul style="list-style-type: none"> • New national direction for Natural Hazards. • New national environmental standards for heritage (bundled into the Housing package). 	<ul style="list-style-type: none"> • Rectifying existing and preventing further policy misalignment through a coordinated approach (where practicable).



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.

Targeted Amendments to Unlock Development and Drive a More Efficient and Effective System

Portfolio RMA Reform

On 26 June 2024, the Cabinet Economic Policy Committee:

Background

- 1 **noted** that the Government is taking a three-phased approach to reform of the resource management system, and that the work referred to below fits into the second of these phases (Phase 2);
- 2 **noted** that in March 2024, Cabinet agreed that Phase 2 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 **noted** that the first RMA amendment bill was introduced on 23 May 2024 and addresses a small number of time critical amendments;
- 4 **agreed** to introduce a second bill later in 2024 to make targeted changes to the RMA to unlock development in infrastructure, housing and primary industries and drive a more efficient and effective resource management system (RM Bill 2);
- 5 **noted** that Phase 2 will be delivered by mid-2025 through two complementary workstreams: RM Bill 2 and a national direction work programme (being considered in the separate paper *Resource Management Reform Phase Two: National Direction* [ECO-24-SUB-0112]);

Scope of RM Bill 2

- 6 **agreed** that the scope of RM Bill 2 be progressed based on the policy decisions in paragraphs 9 to 20 below, subject to further policy advice and engagement;
- 7 **noted** that authority is sought in paragraphs 21 to 24 below for further policy approvals to be delegated to the Minister Responsible for RMA Reform and relevant portfolio Ministers, in consultation with appropriate Ministers, to implement the policy intent of the proposals outlined in paragraphs 9 to 20 below;
- 8 **noted** that the final scope of RM Bill 2 will be determined by these decisions, informed by further policy advice and stakeholder engagement;

- 9 **agreed** in principle to provide greater certainty of consent duration for renewable energy generation and other long-lived infrastructure by introducing a default duration of 35 years, subject to further policy decisions on freshwater;
- 10 **agreed** to further consenting changes to:
- 10.1 clarify councils' ability to manage discharges;
 - 10.2 extend default lapse periods for relevant renewable energy consents to 10 years from the current five years;
 - 10.3 enable renewable energy generation projects (excluding hydroelectricity) to be decided within one year of application;
 - 10.4 enable the re-consenting of existing generation assets (including hydroelectricity) to be decided within one year of application;
 - 10.5 enable new wood-processing facility consents to be decided within one year of application and streamline the process of re-consenting these facilities;
 - 10.6 improve the ability for existing marine farms to change consent conditions by empowering national environmental standards relating to aquaculture activities;
 - 10.7 to direct a more lenient activity status than discretionary for applications to change or cancel consent conditions;
 - 10.8 enable cost recovery for councils when reviewing consent conditions when the review has arisen from national direction;
 - 10.9 provide greater clarity on the scope of information requests and requirements for consents;
 - 10.10 clarify how non-complying activity consents are considered where there are inconsistencies between relevant provisions in planning instruments, including provisions in national direction;
 - 10.11 limit the types of conditions that can be applied to consents
- 11 **agreed** to improve certainty and simplify designation processes by:
- 11.1 expanding the scope of requiring authorities to include port operators, emergency service providers, Kāinga Ora, and certain community housing providers;
 - 11.2 doubling the default designation lapse period from 5 to 10 years to support route protection, allow for more time to plan and design infrastructure, and to acquire the land under the Public Works Act 1981;
 - 11.3 reducing unnecessary costs by simplifying or removing the need to undertake an assessment of alternatives test and simplify other assessment and information requirements;
 - 11.4 limiting the types of conditions that can be applied to designations;
- 12 **noted** that in April 2024, ECO agreed to consult iwi and stakeholders on section 384A (of the RMA) coastal permits for port companies [ECO-24-MIN-0050], and that this is currently underway;

- 13 **agreed** to progress the extension of section 384A permits through RM Bill 2, subject to the above consultation;
- 14 **noted** that the decisions on Going for Housing Growth [ECO-24-MIN-0100] that will be delivered through RM Bill 2 include:
- 14.1 requiring councils to demonstrate compliance with the 30-year Housing Growth Targets;
 - 14.2 a process to allow Tier 1 councils to opt-out from implementing the Medium Density Residential Standards (MDRS) into relevant residential zones;
 - 14.3 processes for councils that have not yet completed their MDRS and National Policy Statement on Urban Development related plan changes;
 - 14.4 providing central government with new powers relating to compliance with housing and business development capacity assessments;
 - 14.5 additional intervention powers to support implementation of Going for Housing Growth plan, subject to further advice;
- 15 **agreed** in principle to amend the interface between the RMA and the Fisheries Act 1996 subject to delegated Ministers receiving further advice and making decisions;
- 16 **agreed** to progress amendments to better enable councils to manage heritage;
- 17 **agreed** to improve resource management system effectiveness by:
- 17.1 improving functionality of compliance and enforcement provisions, including adjusting penalties and amending regulations for fines (such as for non-compliance with forestry harvesting conditions);
 - 17.2 enabling warranted officers authorised by the Minister of Conservation to undertake enforcement action in the coastal marine area of specified offshore islands for matters not limited to resource consents, including enforcement of the regional coastal plan;
 - 17.3 amending the Conservation Act 1987 to explicitly enable the defence for discharging contaminants to apply in every instance where the discharge was authorised under the RMA;
- 18 **agreed** to allow amendments to Part 9A of the RMA to support freshwater farm plans to be more cost effective and practical;
- 19 **agreed** to allow amendments to:
- 19.1 the RMA to support matters progressed through the national direction work programme [ECO-24-SUB-0112];
 - 19.2 the sand and shingle royalties' provision of the Resource Management (Transitional, Fees, Rents and Royalties) Regulations 1991 (including any workability amendments to the RMA) to align the legislative intent of the Marine and Coastal Area (Takutai Moana) Act 2011, subject to further decisions by the Minister for Resources and Minister Responsible for RMA Reform;

- 20 **agreed** to improve natural hazard and emergency provisions by:
- 20.1 allowing authorities carrying out emergency works on private land to leave a written notice on site and inform the ratepayer, rather than directly contact the occupier, when the occupier cannot be found;
 - 20.2 introducing a new regulation-making power into the RMA to help respond to, and recover from, emergency events;
 - 20.3 extending timeframes for retrospective consent for emergency works;
 - 20.4 introducing an additional ability for councils to decline land-use consent applications, or impose conditions on land-use consents, where there is significant risk from natural hazards;
 - 20.5 providing for rules relating to risks from natural hazards to have immediate legal effect from notification of a plan or plan change;

Process to deliver RM Bill 2

Detailed decisions delegated to relevant portfolio Ministers

- 21 **authorised** the Minister Responsible for RMA Reform to make further policy decisions on the development of RM Bill 2, including commencement, savings and transitional provisions, and:
- 21.1 for consenting:
 - 21.1.1 the Minister for Infrastructure and Minister of Housing, where decisions impact on housing and infrastructure;
 - 21.1.2 the Minister for Infrastructure and Minister for Energy where the decisions relate to Electrify NZ commitments, the National Policy Statement (NPS) for renewable energy and the NPS on electricity transmission;
 - 21.1.3 the Minister of Agriculture, Minister of Forestry and Associate Minister of Agriculture (Hon Andrew Hoggard) where the decisions relate to councils' ability to manage discharges;
 - 21.1.4 the Minister of Agriculture and Minister of Forestry where the decisions relate to wood processing facilities;
 - 21.1.5 the Minister for Oceans and Fisheries where the decisions relate to existing marine farm consents;
 - 21.2 for designations, the Minister of Housing, Minister for Infrastructure, Minister of Transport, Minister for Energy, and Minister of Local Government;
 - 21.3 for section 384A permits, the Minister of Transport, Minister of Conservation, and Minister for Māori Crown Relations: Te Arawhiti;
 - 21.4 for the interface between the RMA and the Fisheries Act 1996, the Minister for Oceans and Fisheries, Minister of Conservation and Minister for Māori Crown Relations: Te Arawhiti;
 - 21.5 for heritage management, the Minister of Housing, Minister for Arts, Culture and Heritage, and Minister for Building and Construction;

- 21.6 for system improvement:
- 21.6.1 the Minister for Treaty of Waitangi Negotiations, Minister of Conservation and Minister for Māori Crown Relations: Te Arawhiti where decisions impact the Conservation Act 1987, Takutai Moana, and enforcement in the coastal marine area;
 - 21.6.2 the Minister of Agriculture, Associate Minister of Agriculture (Hon Andrew Hoggard) and the Associate Minister for the Environment where decisions impact freshwater farm plans;
 - 21.6.3 the Minister for Resources where decisions impact the Resource Management (Transitional, Fees, Rents and Royalties) Regulations 1991;
- 21.7 for natural hazard and emergency provisions, the Minister for Infrastructure and Minister of Housing;
- 22 **agreed** that the Minister Responsible for RMA Reform be the lead delegated decision-maker for detailed policy approvals for RM Bill 2, and that he has the ability to invite other Ministers to make joint policy approvals where appropriate, in addition to the key areas authorised above;
- 23 **noted** that ECO has previously agreed that decisions on the Housing Growth proposals in scope of RM Bill 2 be delegated to the Minister Responsible for RMA Reform and Housing [ECO-24-MIN-0100];
- 24 **agreed** that the Minister Responsible for RMA Reform continue to progress RM Bill 2 with the RMA Reform Ministerial Group, and consult with other Ministers on matters arising relevant to their portfolios as needed;

Targeted engagement and upholding Treaty Settlements

- 25 **agreed** that officials undertake targeted engagement with industry stakeholders, iwi and hapū, and local government to inform the policy development of RM Bill 2;
- 26 **noted** that some proposals in scope of RM Bill 2 interact with Māori rights and interests in freshwater and other interests in natural and physical resources recognised and provided for in the RMA and protected by the Treaty, or engage obligations in Treaty settlements and other legislative arrangements, and that further advice will be provided on this during the delegated decision process;
- 27 **noted** that officials will work with relevant post-settlement governance entities and other iwi and hapū entities to ensure any impacts on the settlements/arrangements are upheld in accordance with the commitment in the New Zealand First coalition agreement to honour undertakings in Treaty settlements;

Procedural considerations to introduce RM Bill 2

- 28 **authorised** the Minister Responsible for RMA Reform to issue drafting instructions to the Parliamentary Counsel Office (PCO) to:
- 28.1 implement the above decisions and those made under delegated authority in paragraphs 21, 22 and 24 above;

28.2 make minor, technical, or consequential changes that arise during drafting to the RMA and other affected statutes to ensure workability;

29 **noted** that the above decisions reflect the policy intent and may not reflect the actual drafting of the RMA (or other statutes), subject to PCO drafting protocols and s 9(2)(h)

30 **noted** that the Minister Responsible for RMA Reform intends to report back to ECO in November 2024 seeking approval to introduce the RM Bill 2 in late-2024;

Other matters

31 **noted** that costs of progressing further work on Phase 2 of the RMA reform programme will be met from within current agency baselines;

32 **noted** that the Minister Responsible for RMA Reform will issue a press statement on the proposed content of RM Bill 2;

33 **agreed** to delay the release of the paper under ECO-24-SUB-0113 until the RM Bill 2 is introduced;

34 **noted** that the National-ACT Coalition Agreement proposes to replace the RMA with new resource management laws premised on the enjoyment of property rights as a guiding principle (Phase 3), which should provide guardrails to ensure least regrets for work undertaken on Phase 2, including national direction.

35 **noted** that while urgent work to amend the RMA proceeds, the Minister Responsible for RMA Reform intends to submit a paper to ECO in Quarter 3 2024 setting the direction to replace the RMA (Phase 3) to meet committed timeframes to introduce legislation by mid-2025 and pass by mid-2026.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Christopher Luxon
Rt Hon Winston Peters
Hon David Seymour
Hon Nicola Willis (Chair)
Hon Brooke van Velden
Hon Shane Jones
Hon Chris Bishop
Hon Simeon Brown
Hon Erica Stanford
Hon Paul Goldsmith
Hon Judith Collins KC
Hon Todd McClay
Hon Tama Potaka
Hon Simon Watts
Hon Casey Costello
Hon Melissa Lee
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 the Deputy Prime Minister
Office of Hon Chris Bishop
Office of Hon Erica Stanford
Officials' Committee for ECO

In-Confidence

Office of the Minister Responsible for RMA Reform

Cabinet Legislation Committee

**Resource Management (Consenting and Other System Changes)
Amendment Bill: Approval for Introduction**

Proposal

- 1 This paper seeks approval for the introduction of the Resource Management (Consenting and Other System Changes) Amendment Bill (RM COSC Bill).

Policy

Background

- 2 Cabinet agreed to a three-phase work programme for reforming the resource management system [CAB -24-MIN-0069 refers]. The remainder of Phase 2 of the Resource Management Act 1991 (RMA) reform will be delivered through two complementary workstreams:

- 2.1 RM COSC Bill (the focus of this paper); and

- 2.2 a package of national direction instruments being developed or amended s 9(2)(f)(iv)

- 3 RM COSC Bill will make targeted amendments to the RMA, ahead of replacing the current RMA with new resource management legislation based on the enjoyment of property rights (Phase 3 RMA Reform).

Relation to Government priorities

- 4 The proposed amendments to the RMA in RM COSC Bill deliver or support the following Government priorities:
 - 4.1 amending the RMA to make it easier to consent new infrastructure, including for renewable energy, building houses, and enhancing the primary sector (2023 Speech from the Throne, Coalition Agreement National Party/New Zealand First, Coalition Agreement National Party/ACT New Zealand);
 - 4.2 cutting red tape to unleash the investment in renewable energy for New Zealand to meet its emissions reduction targets (2023 Speech from the Throne);

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- 4.3 making the Medium Density Residential Standards (MDRS) optional for councils, with the need for councils to ratify any use of MDRS, including existing zones (Coalition Agreement National Party/ACT New Zealand);
- 4.4 implementing the Going for Housing Growth policy to unlock land for housing, build infrastructure, and allow communities to share the benefits of growth (National Party policy);
- 4.5 facilitating the development and efficiency of ports, and strengthening international supply networks (Coalition Agreement National Party/New Zealand First); and
- 4.6 simplifying the planning system (Coalition Agreement National Party/New Zealand First).

Scope of RM COSC Bill

- 5 On 26 June 2024, Cabinet Economic Policy Committee agreed to include the following policy changes in RM COSC Bill [ECO-24-MIN-0113] (some refinement for decision clarity):
 - 5.1 provide greater certainty of consent duration for renewable energy generation and other long-lived infrastructure by introducing a default duration of 35 years;
 - 5.2 further consenting changes to:
 - 5.2.1 clarify councils' ability to manage discharges;
 - 5.2.2 extend default lapse periods for relevant renewable energy consents to 10 years from the current 5 years;
 - 5.2.3 enable renewable energy generation projects (excluding new hydroelectricity and geothermal) to be decided within one year of application;
 - 5.2.4 enable the re-consenting of existing generation assets (including hydroelectricity and geothermal) to be decided within one year of application;
 - 5.2.5 enable new wood-processing facility consents to be decided within one year of application and streamline the process of re-consenting these facilities;
 - 5.2.6 improve the ability for existing marine farms to change consent conditions by empowering national environmental standards relating to aquaculture activities;
 - 5.2.7 direct a more lenient activity status than discretionary for applications to change or cancel consent conditions;

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- 5.2.8 enable cost recovery for councils when reviewing consent conditions when the review has arisen from national direction;
- 5.2.9 provide greater clarity on the scope of information requests and requirements for consents;
- 5.2.10 clarify how non-complying activity consents are considered where there are inconsistencies between relevant provisions in planning instruments, including provisions in national direction; and
- 5.2.11 limit the types of conditions that can be applied to consents;
- 5.3 improve certainty and simplify designation processes by:
 - 5.3.1 expanding the scope of requiring authorities to include port operators, emergency service providers, Kāinga Ora, and certain community housing providers;
 - 5.3.2 doubling the default designation lapse period from 5 to 10 years to support route protection, allow for more time to plan and design infrastructure, and to acquire the land under the Public Works Act 1981;
 - 5.3.3 reducing unnecessary costs by simplifying or removing the need to undertake an assessment of alternatives test and simplify other assessment and information requirements; and
 - 5.3.4 limiting the types of conditions that can be applied to designations;
- 5.4 progress the extension of section 384A permits through RM COSC Bill;
- 5.5 deliver the following Going for Housing Growth amendments (noting that Cabinet also agreed to more detailed policy decisions on the Going for Housing Growth work programme [CAB-24-MIN-0228.01]):
 - 5.5.1 requiring councils to demonstrate compliance with the 30-year Housing Growth Targets;
 - 5.5.2 a process to allow Tier 1 councils to opt-out from implementing the MDRS into relevant residential zones;
 - 5.5.3 processes for councils that have not yet completed their MDRS and National Policy Statement on Urban Development (NPS-UD) related plan changes;
 - 5.5.4 providing central government with new powers relating to compliance with housing and business development capacity assessments; and

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- 5.5.5 additional intervention powers to support implementation of the Going for Housing Growth plan, subject to further advice;
- 5.6 amend the interface between the RMA and the Fisheries Act 1996;
- 5.7 progress amendments to better enable councils to manage heritage;
- 5.8 improve resource management system effectiveness by:
 - 5.8.1 improving functionality of compliance and enforcement provisions, including adjusting penalties and amending regulations for fines (such as for non-compliance with forestry harvesting conditions);
 - 5.8.2 enabling warranted officers authorised by the Minister of Conservation to undertake enforcement action in the coastal marine area of specified offshore islands for matters not limited to resource consents, including enforcement of the regional coastal plan; and
 - 5.8.3 amending the Conservation Act 1987 to explicitly enable the defence for discharging contaminants to apply in every instance where the discharge was authorised under the RMA;
- 5.9 allow amendments to Part 9A of the RMA to support freshwater farm plans to be more cost effective and practical;
- 5.10 allow amendments to:
 - 5.10.1 the RMA to support matters progressed through the national direction work programme;
 - 5.10.2 the sand and shingle royalties' provision of the Resource Management (Transitional, Fees, Rents and Royalties) Regulations 1991 (including any workability amendments to the RMA) to align with the legislative intent of the Marine and Coastal Area (Takutai Moana) Act 2011;
- 5.11 improve natural hazard and emergency provisions by (noting that refinements for workability have been made through detailed decisions):
 - 5.11.1 allowing authorities carrying out emergency works on private land to leave a written notice on site and inform the ratepayer, rather than directly contact the occupier, when the occupier cannot be found;
 - 5.11.2 introducing a new regulation-making power into the RMA to help respond to, and recover from, emergency events;
 - 5.11.3 extending timeframes for retrospective consent for emergency works;

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- 5.11.4 introducing an additional ability for councils to decline land-use consent applications, or impose conditions on land-use consents, where there is significant risk from natural hazards; and
- 5.11.5 providing for rules relating to risks from natural hazards to have immediate legal effect from notification of a plan or plan change.

Cabinet delegated policy decisions to selected Ministers

- 6 Cabinet delegated detailed policy decisions to my colleagues and me [ECO-24-0113, paragraphs 7-8 refers]. We have made policy decisions on the above proposals.
- 7 Appendix 1 sets out a summary of the RM COSC Bill changes that will be progressed in five distinct packages: Infrastructure and Energy, Housing, Farming and Primary Sector, Emergency Response and Natural Hazards, and System Improvements.
- 8 We have decided not to progress some proposals from ECO-24-MIN-0113. This is because their policy outcomes can be achieved through a combination of the integrated national direction package, existing RMA mechanisms, and the broader government work programme. The proposals are:
 - 8.1 expanding the scope of requiring authorities to include emergency service providers, Kāinga Ora, and certain community housing providers;
 - 8.2 limiting the types of conditions that can be applied to designations and consents; and
 - 8.3 clarifying how non-complying activity consents are considered where there are inconsistencies between relevant provisions in planning instruments, including provisions in national direction.
- 9 In addition, I propose minor changes to the scope of some decisions in the Going for Housing Growth package [CAB-24-MIN-0228 refers] to apply these more broadly across the resource management system. In particular, I propose:
 - 9.1 ensuring compliance not only with the NPS-UD, but all national direction across the resource management system by expanding the scope of ministerial powers to:
 - 9.1.1 direct changes to documents required by national direction (ie, Housing and Business Development Capacity Assessments under the NPS-UD);
 - 9.1.2 direct councils to use a particular plan change process;

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- 9.2 amend the decision-making processes for Streamlined Planning Processes by requiring the use of an Independent Hearings Panel, enabling the responsible Minister to appoint up to half the members of the Panel, and making the council, instead of the Minister, the final decision-maker.
- 10 I intend amendments to the RMA to work across the board for all topics and activities where possible. I am seeking agreement to these proposals to ensure RM COSC Bill does not create inconsistencies in the resource management system that may require legislative change in the future. I note that these changes take a least regrets approach to align with the intent of Phase 3 of RMA Reform by starting to reset the boundary between resource management and property rights, reflecting the original intent of the RMA.
- 11 These proposals are included in the draft RM COSC Bill [Appendix Two].

Impact analysis

- 12 In accordance with Cabinet's impact analysis requirements all detailed policy decisions were accompanied by a Regulatory Impact Analysis.
- 13 The Ministry for Regulation has determined that certain proposals are exempt from the requirement to provide a Regulatory Impact Statement on the grounds that they have no or only minor impacts on businesses, individuals, and not-for-profit entities.
- 14 Further impact analysis is provided in the Supplementary Analysis Report (SAR), attached to this paper as Appendix Three. A quality assurance panel with members from the Ministry for the Environment reviewed the "Analysis produced to support the introduction of the Resource Management Act Amendment Bill 2" SAR prepared by the Ministry for the Environment. The panel considers that the analysis partially meets the Quality Assurance criteria. The panel considers that the analysis is clear and concise; however, the extent of the analysis is limited. There is limited evidence presented, and there has been limited consultation with external parties. Time and other constraints have applied to the development of the SAR which has prevented a more fulsome analysis, but constraints and limitations are signaled.

Compliance

- 15 The Bill complies with each of the following:
- 15.1 the disclosure statement requirements. A disclosure statement has been prepared and is attached to the paper at Appendix Four;
 - 15.2 the principles and guidelines set out in the Privacy Act 2020;
 - 15.3 relevant international standards and obligations; and
 - 15.4 the Legislation Guidelines (2021 edition).

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- 16 Compliance with the principles of the Treaty of Waitangi is addressed in the SAR attached to the paper at Appendix Three.
- 17 The policy proposals have been considered against the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 (NZBORA). Ministry for the Environment officials consider the current policy proposals appear generally consistent with the rights and freedoms affirmed in NZBORA having considered the consistency of the proposals with section 19 (freedom from discrimination), section 21 (freedom from unreasonable search and seizure), section 26 (Retroactive penalties and double jeopardy) and section 27(2) (right to judicial review). The Bill will engage section 27 of NZBORA as it contains provisions which enable the removal of public and limited notification processes and appeal rights under the RMA. However, Ministry for the Environment officials consider the proposal is a justified limit on the rights and freedoms under NZBORA.
- 18 The Ministry of Justice are progressing a full NZBORA assessment.

Consultation

- 19 The following agencies have been consulted on this paper: the Ministry for Primary Industries, Ministry of Transport, Ministry of Business, Innovation and Employment, Ministry for Foreign Affairs and Trade, Department of Internal Affairs, Department of Conservation, Te Arawhiti, Te Waihanga, Land Information New Zealand, Ministry of Housing and Development, Ministry of Justice, Ministry for Culture and Heritage, and the Treasury.

Binding on the Crown

- 20 The proposed Bill will bind the Crown.

Other instruments

Emergency regulation powers

- 21 The Bill proposes to introduce a new power into the RMA that will enable the Governor-General, on recommendation of the Minister for the Environment, to make regulations by Order in Council that help respond to, and recover from, emergency events. This regulation-making power will ensure a quicker process, reducing the need for bespoke legislation to address RMA matters and speeding-up the development of any subsequent Orders in Council. This in turn will help rural communities' response and recovery.
- 22 This power will have certain characteristics and safeguards to ensure that the regulations are appropriate to manage the emergency situation for which they are needed, while minimising the possibility of overreach or poor and enduring outcomes.

Renewable energy generation and transmission and long-lived infrastructure list

- 23 The Bill proposes to introduce a new default consent duration of 35 years for all time-limited consents for renewable energy generation and transmission

and certain long-lived infrastructure. This would provide greater certainty for operators, and reduce the frequency of re-consenting and overall costs. A shorter duration may be granted in some limited circumstances, such as when requested by the applicant.

- 24 Long-lived infrastructure will be defined through a list of infrastructure activities limited to ports, roads, rail infrastructure, telecommunication network, electricity and gas generation and transmission. These are kinds of infrastructure which are designed to have a long working life and are regularly issued with time-limited consents.
- 25 However, this list may not capture all long-lived infrastructure. To provide additional flexibility, a new regulation-making power will be given to the Minister for the Environment to add further activities to the list.

Freshwater farm plans

- 26 The Bill proposes to change the current approach of regional councils approving industry organisations to deliver freshwater farm plan certification and audit services, to one where the Minister for the Environment approves industry organisations to deliver freshwater farm plans to their members (if satisfied an industry organisation meets certain eligibility requirements).
- 27 This will create a nationally consistent and cost-effective process for supporting farmers and growers with farm planning.
- 28 Regulations will be made under Part 9A outlining the requirements and approval process for industry organisations to be appointed to deliver farm plan certification and audit services. This will provide flexibility while ensuring the substantive outcomes of the system are the same (no matter which certification and audit process a farmer chooses to use).

Commencement of legislation

- 29 The Bill will come into force on the day after the date of Royal assent.
- 30 However, the provisions related to banning insurance against fines for RMA offending will be subject to a two-year delayed commencement to enable insurance providers to undertake the necessary preparations, and for existing insurance policies to expire.
- 31 The provisions which improve consent processing, including introducing a one-year processing timeframe for renewable energy and wood processing consents, will have a delayed commencement of two-months to enable councils to adjust their systems as needed. Provisions relating to the 35-year default consent duration for renewable energy and long-lived infrastructure will commence via Order in Council to enable alignment with national direction changes.

Parliamentary stages

- 32 I recommend the Bill be introduced in December 2024 and enacted in 2025.

- 33 I proposed this Bill to be referred to the Environment Select Committee for a period of six months.

Proactive Release

- 34 I propose to release this paper proactively within 30 business days, subject to redaction as appropriate under the Official Information Act 1982.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that the Resource Management (Consenting and Other System Changes) Amendment Bill holds a category 5 priority on the 2024 Legislation Programme to proceed to select committee by the end of 2024
- 2 **note** that the Bill will make targeted changes to the Resource Management Act 1991 to unlock development in infrastructure, housing, and primary industries, and drive a more efficient and effective resource management system
- 3 **confirm** the detailed decisions made by delegated ministers on the Bill's five packages - Infrastructure and Energy, Housing, Farming and Primary Sector, Emergency Response and Natural Hazards, and System Improvements, as outlined in Appendix One which broadly include:
 - 3.1 changes to consent processes to require one-year consenting for renewable energy generation and wood processing facilities;
 - 3.2 a default consent duration of 35 years for renewable energy generation and certain long-lived infrastructure;
 - 3.3 extending the duration of port occupation permits under section 384A of the Resource Management Act 1991 by 20 years to 2046;
 - 3.4 amendments to section 70 of the Resource Management Act 1991 to enable councils to better provide for discharges, in particular for farming activities;
 - 3.5 amendments to enable councils to opt-out of the medium density residential standards, and other changes to give effect to housing policies;
 - 3.6 clarifications on the extent councils can control fishing for the purposes of protecting biodiversity and other related values under the Resource Management Act and ensure this aligns with the Fisheries Act 1996;
 - 3.7 when considering whether to decline or impose conditions on land use consents, set out what decision-makers must consider when there is an increase in risk to life and property from natural hazards, including removing the reference to wellbeing and refer instead to the health and safety of people; and

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- 3.8 system improvements to compliance and enforcement provisions, including increased penalties and enabling the consideration of compliance history in consent decision-making
- 4 **agree** to extend the new ministerial intervention power to require councils to amend part or all of any document (eg, amend a Housing and Business Development Capacity Assessment in the NPS on Urban Development 2020) (other than plans or policy statements) required by national direction to prepare, in the event of non-compliance with requirements
- 5 **agree** to extend the new ministerial intervention power to direct councils to use a specific plan change process (eg, the Streamlined Planning Process) in the event of non-compliance with any national direction more generally (eg, Housing Growth Targets provisions)
- 6 **agree** to change the Streamlined Planning Process to require the use of an Independent Hearings Panel, enable the responsible Minister to appoint up to half the members of the Panel, and make the council, instead of the Minister, the final decision-maker
- 7 **note** that the following proposals will no longer progress through the Bill:
- 7.1 expanding the scope of requiring authorities to include Kāinga Ora, emergency service providers, and certain community housing providers;
- 7.2 limiting the types of conditions that can be applied to designations and consents; and
- 7.3 clarifying how non-complying activity consents are considered where there are inconsistencies between relevant provisions in planning instruments, including provisions in national direction
- 8 **approve** Resource Management (Consenting and Other System Changes) Amendment Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives
- 9 **agree** that the Bill be introduced on 9 December 2024
- 10 **agree** that the government propose that the Bill be:
- 10.1 referred to the Environment Select Committee for consideration; and
- 10.2 enacted no later than December 2025.

Authorised for lodgement

Hon Chris Bishop

Minister Responsible for RMA Reform

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Cabinet Legislation 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.

Resource Management (Consenting and Other System Changes) Amendment Bill: Approval for Introduction

Portfolio RMA Reform

On 5 December 2024, the Cabinet Legislation Committee:

- 1 **noted** that the Resource Management (Consenting and Other System Changes) Amendment Bill (the Bill) holds a category 5 priority on the 2024 Legislation Programme (to proceed to select committee by the end of 2024);
- 2 **noted** that the Bill will make targeted changes to the Resource Management Act 1991 (RMA) to unlock development in infrastructure, housing, and primary industries, and drive a more efficient and effective resource management system;
- 3 **confirmed** the detailed decisions made by delegated ministers on the Bill's five packages - Infrastructure and Energy, Housing, Farming and Primary Sector, Emergency Response and Natural Hazards, and System Improvements, as outlined in Appendix One to the paper under LEG-24-SUB-0253, which broadly include:
 - 3.1 changes to consent processes to require one-year consenting for renewable energy generation and wood processing facilities;
 - 3.2 a default consent duration of 35 years for renewable energy generation and certain long-lived infrastructure;
 - 3.3 extending the duration of port occupation permits under section 384A of the RMA by 20 years to 2046;
 - 3.4 amendments to section 70 of the RMA to enable councils to better provide for discharges, in particular for farming activities;
 - 3.5 amendments to enable councils to opt-out of the medium density residential standards, and other changes to give effect to housing policies;
 - 3.6 clarifications on the extent councils can control fishing for the purposes of protecting biodiversity and other related values under the RMA and ensure this aligns with the Fisheries Act 1996;
 - 3.7 when considering whether to decline or impose conditions on land use consents, set out what decision-makers must consider when there is an increase in risk to life and property from natural hazards, including removing the reference to wellbeing and refer instead to the health and safety of people; and

- 3.8 system improvements to compliance and enforcement provisions, including increased penalties and enabling the consideration of compliance history in consent decision-making;
- 4 **agreed** to extend the new ministerial intervention power to require councils to amend part or all of any document (e.g. amend a Housing and Business Development Capacity Assessment in the National Policy Statement on Urban Development 2020)(other than plans or policy statements) required by national direction to prepare, in the event of non-compliance with requirements;
- 5 **agreed** to extend the new ministerial intervention power to direct councils to use a specific plan change process (e.g. the Streamlined Planning Process) in the event of non-compliance with any national direction more generally (e.g. Housing Growth Targets provisions);
- 6 **agreed** to change the Streamlined Planning Process to require the use of an Independent Hearings Panel, enable the responsible Minister to appoint up to half the members of the Panel, and make the council, instead of the Minister, the final decision-maker;
- 7 **noted** that the following proposals will no longer progress through the Bill:
- 7.1 expanding the scope of requiring authorities to include Kāinga Ora, emergency service providers, and certain community housing providers;
- 7.2 limiting the types of conditions that can be applied to designations and consents; and
- 7.3 clarifying how non-complying activity consents are considered where there are inconsistencies between relevant provisions in planning instruments, including provisions in national direction;
- 8 **agreed** to apply the one-year consenting time limit to new geothermal and hydroelectricity generation activities, and that consent authorities must extend the one-year time period for new geothermal and hydroelectricity generation activities when requested to do so by Treaty settlement entities, iwi authorities and recognised customary rights groups for the purpose of recognising and providing for Treaty settlements and other arrangements;
- 9 **agreed** that the Parliamentary Counsel Office may continue to make minor changes to the Bill to settle technical and workability matters;
- 10 **approved** the Resource Management (Consenting and Other System Changes) Amendment Bill [PCO 26092/8.0] for introduction, subject to the final approval of the Government caucuses and sufficient support in the House of Representatives;
- 11 **agreed** that the Bill be introduced by 9 December 2024;
- 12 **agreed** that the Government propose that the Bill be:
- 12.1 referred to the Environment Select Committee for consideration;
- 12.2 enacted no later than December 2025.

Tom Kelly
Committee Secretary

Attendance: (See over)

Present:

Hon Chris Bishop (Chair)
Hon Simeon Brown
Hon Shane Jones
Hon Brooke van Velden
Hon Louise Upston
Hon Tama Potaka
Hon Casey Costello
Hon Nicole McKee
Hon Simon Watts
Hon Nicola Grigg
Hon Andrew Bayly
Hon Scott Simpson, MP
Todd Stephenson, MP

Officials present from:

Officials Committee for LEG
Prime Minister's Office
Leader of the House's Office