

In Confidence

Office of the Minister for the Environment

Chair, Cabinet

## **APPOINTING THE CHAIR OF THE RESOURCE MANAGEMENT REVIEW PANEL**

### **Proposal**

- 1 This paper asks Cabinet to approve my intention to appoint Hon Tony Randerson QC as Chair of the Resource Management Review Panel (the Panel) for a term that will commence on the date of appointment and expire on 30 June 2020.
- 2 I will be seeking Cabinet's agreement to establish the Panel to lead a comprehensive review of the resource management system in a separate paper.<sup>1</sup>
- 3 I intend to seek Cabinet's agreement to appoint the other members of the Panel at a later date.

### **Background**

- 4 Cabinet has confirmed the Cabinet Environment, Energy and Climate Committee's work programme. This includes a commitment to improving the effectiveness of the resource management system [CAB-18-0246 refers].
- 5 A two-stage approach is proposed for improving the resource management system, particularly the Resource Management Act 1991 (RMA). Stage 1 is a Bill addressing problems that are relatively straightforward to correct, or where there is a clear need to act in advance of decisions on a more comprehensive review. Cabinet is now considering the remaining decisions needed to finish drafting the Stage 1 Bill.<sup>2</sup>
- 6 Stage 2 will be a more comprehensive review of the resource management system focused on the RMA. The review will build on current work across freshwater, climate change and urban development, and address a wide range of concerns with the RMA. Cabinet is also now considering the proposed scope and process for the Stage 2 review in a separate paper.

### **Resource Management Review Panel**

- 7 Developing new resource management legislation is a complex undertaking. I am seeking agreement to establish an expert advisory group that will work with officials to prepare proposals for reform of the RMA. I intend to call this group the Resource Management Review Panel (the Panel).

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<sup>1</sup> Comprehensive review of the resource management system: scope and process.

<sup>2</sup> Proposed Resource Management Amendment Bill: A new planning process for freshwater, and other outstanding policy decisions.

- 8 The Panel will be tasked with recommending how to reform the RMA, and be asked to provide detailed policy proposals and indicative legislative drafting of key provisions. I expect the Panel's final report to contain proposals for significant parts of a new Act or Acts. This includes the purpose and principles, national direction, plan making, consenting, compliance, monitoring and enforcement (CME), and the roles of central and local government, the Environment Court, and Māori.
- 9 As noted in the separate paper, I will report back to Cabinet to finalise the scope and terms of reference for the review following consultation with a targeted group, including Māori. However, I propose that the Chair be appointed now to assist in establishing the review and selecting other Panel members. Involving the Chair early is consistent with best practice outlined in the State Services Commission's appointment guidelines.<sup>3</sup>
- 10 Other Panel members will be considered by the Cabinet Appointments and Honours Committee (APH), prior to being confirmed by Cabinet.

## **Comment**

### *Role of the Chair*

- 11 I propose that the Panel be chaired by an experienced resource management decision-maker. The Chair is critical to the Panel's success and will be responsible for the delivery of review products in accordance with the terms of reference. The Chair will convene the Panel and actively strive for consensus amongst Panel members.
- 12 The Chair will report directly to the Minister for the Environment on behalf of the Panel, and hold key relationships with officials and stakeholders. The Chair must be:
- an individual with mana and credibility
  - experienced in managing similar groups or processes
  - able to quickly build a strong working relationship with the Minister and officials on behalf of the Panel.

### *Appointing the Chair*

- 13 I intend to appoint Hon Tony Randerson QC as Chair of the Panel.
- 14 Hon Randerson is an experienced senior decision maker with broad and deep resource management and legal expertise. In 1991, he chaired the Review Group on the Resource Management Bill tasked with improving certainty and ensuring workability of the legislation introduced to Parliament in 1989, and finally enacted in July 1991.
- 15 Hon Randerson was appointed Queen's Counsel in 1996. He was subsequently appointed as a High Court Judge in 1997 and was made the Chief High Court Judge in 2004. In 2010 he was appointed to the Court of Appeal, where he served until his

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<sup>3</sup> State Services Commission, *Board Appointment and Induction Guidelines*, <http://www.ssc.govt.nz/board-appointment-guidelines>

retirement in May 2017. He is a Distinguished Fellow at the Faculty of Law at University of Auckland.

- 16 I am confident that Hon Randerson meets all of the requirements for the Chair of the Panel identified above.

### **Representativeness of appointments**

- 17 I anticipate appointing four other Panel members in addition to the Chair. Members will be selected based on the Panel's collective skills in planning, local government, environmental management, ecology, te ao Māori, resource management law, development, primary industries, economics and climate change response.
- 18 The representativeness of the Panel in terms of gender, age, ethnicity and geographic location will be considered in appointing other Panel members.

### **Remuneration**

- 19 I have classified the Panel as a Group 4, Level 1 body under the Cabinet Fees Framework. The daily fees range for chairing this class of body is \$540 - \$1,150.
- 20 I have assessed the requisite skills and experience required by the Panel to be at the top of this range. Accordingly, I propose paying the Chair s 9(2)(a) which is consistent with the Fees Framework.
- 21 Actual and reasonable travel and accommodation costs will also be reimbursed.

### **Appointment process and consultation**

- 22 I can confirm that an appropriate process has been followed in selecting the proposed appointee, in line with the State Services Commission appointment guidelines.
- 23 This process involved working with officials to determine the skills and expertise required by the Chair and the Panel, and to identify suitable candidates. Suitable candidates were identified through existing networks and drew on the Ministry for the Environment's experience in administering the existing legislative and regulatory framework.
- 24 This process to appoint the Chair is appropriate as it is a time-limited, non-statutory body providing expert advice and reporting directly to me.

### **Conflicts of interest**

- 25 At the time of lodging this paper, conflicts of interest enquiries were still being completed. The appointment will not be finalised before appropriate enquiries concerning conflicts of interest have been carried out in accordance with the State Services Commission appointment guidelines. I will report to Cabinet on the outcome of these enquiries should any issues arise.

### **Timing and Publicity**

- 26 A press statement will be issued once the appointment has been approved and Hon Randerson has been notified.

### **Recommendation**

- 27 I recommend that Cabinet approve my intention to appoint the Hon Tony Randerson QC as Chair of the Resource Management Review Panel, for a term commencing on the date of appointment and expiring on 30 June 2020.

Authorised for lodgement

Hon David Parker

Minister for the Environment

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**Appendix 1 – Resource Management Review Panel Organisation Form**

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# Organisation Form

## Cabinet Appointments and Honours Committee

All sections must be completed with information as at 31 December.

**Organisation**

Resource Management Review Panel

**Portfolio**

Environment

### Brief Outline of the Functions and Responsibilities of the Organisation

The Resource Management Review Panel will lead a comprehensive review of the resource management system, focused on the Resource Management Act 1991 (RMA). The Panel will be tasked with recommending how to reform the RMA, and be asked to provide detailed policy proposals and indicative legislative drafting of key provisions. The Panel's final report is expected to contain proposals for significant parts of a new Act or Acts. This includes the purpose and principles, national direction, plan making, consenting, compliance, monitoring and enforcement, and the roles of central and local government, the Environment Court, and Māori.

### Current Membership

Name	M/F/X	City/Town	Date of original appointment	Expiry date of present term
Tony Randerson	M	Auckland	From acceptance of offer.	30 June 2020

### Ethnic Representation

Please provide the number of members who identify with any of the following ethnic groups

NZ European/Pākehā	Māori	Samoan	Tongan
1			
Cook Island Māori	Indian	Niuean	Chinese
Other (please specify)			

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**Appendix 2 – Candidate CV for the Chair of the Resource Management Review Panel**

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# Candidate CV Form

Sections with \* must be completed.

This form should be completed by, or in consultation with, the candidate where possible.

<b>Name*</b> (family name in upper case; include title if appropriate)	The Honourable Tony RANDERSON QC
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## The Position

<b>Organisation/Entity*</b>	Resource Management Review Panel
<b>Position *</b> (chair/member etc.)	Chair
<b>Term*</b>	Date of appointment – 30 June 2020
<b>Payment*</b> (per day /per year)	s 9(2)(a)

## How the Candidate Meets the Needs of the Position

<b>Skills and attributes the candidate will bring to the position*</b> (e.g. business skills, community involvement, cultural awareness, regional perspective – as relevant to the needs of the position)	<ul style="list-style-type: none"><li>• Extensive legal and judicial experience, including resource management</li><li>• Mana and credibility, particularly within the legal profession</li><li>• Experience in chairing similar groups</li><li>• Ability to quickly build strong working relationships with the Minister for the Environment and the Ministry for the Environment.</li></ul>
<b>Possible conflicts of interest*</b>	At the time of lodging, conflicts of interests enquires have yet to be completed. The appointment will not be finalised before appropriate enquires concerning conflicts of interest have been carried out in accordance with the State Service Commission appointment guidelines.
<b>Proposals for conflict management</b> (if applicable)	Conflict management will be identified if conflicts are identified.

## The Candidate

<b>Name*</b> (family name in upper case; include title if appropriate)	The Honourable Tony RANDERSON QC
<b>Address</b>	Auckland
<b>Ethnicity(s)</b>	NZ European/Pākehā
<b>Age range*</b>	60+
<b>Gender*</b>	M
<b>Current or most recent Employment*</b> (specify position and employer, include years)	<ul style="list-style-type: none"> <li>• Judge of the Court of Appeal, 1 February 2010 – 1 June 2017</li> <li>• Distinguished Fellow at the Auckland University School of Law, 2017 - current</li> </ul>
<b>Government board appointments held*</b> (current and previous, include years)	Chaired the Committee reviewing the Resource Management Bill, November 1990 – February 1991
<b>Private and/or voluntary sector board appointments held*</b> (current and previous, include years)	<ul style="list-style-type: none"> <li>• Convenor of the Legislation Committee of the New Zealand Law Society, to 1992</li> <li>• Chairman of the High Court Committee of the Auckland Law Society, to 1992</li> <li>• Chairman of the Disciplinary Committee of the Auckland District Law Society</li> <li>• Member of the New Zealand Bar Association Council</li> </ul>
<b>Qualifications and experience</b> (include significant work history and community involvement)	<ul style="list-style-type: none"> <li>• LLB, Auckland University, 1968</li> <li>• Admitted to the bar as a barrister and solicitor, 1969</li> <li>• LLB (Hons), Auckland University, 1972</li> <li>• Wallace McLean Bawden and Partners (later Kensington Swan) as a: <ul style="list-style-type: none"> <li>▪ Barrister and solicitor, 1968-1972</li> <li>▪ Senior litigation partner, 1972-1989</li> </ul> </li> <li>• Barrister sole, 1989-1997</li> <li>• Appointed Queen's Counsel, 1996</li> <li>• High Court Judge, 1997-2004</li> <li>• Chief High Court Judge, 2004-2010</li> <li>• Judge of the Court of Appeal, 2010-2017</li> </ul>

	<ul style="list-style-type: none"><li>• Distinguished Fellow at the Auckland University School of Law, 2017 - current</li><li>• Editor of <i>Sim and Cain on High Court Procedure</i> for 8 years</li><li>• Specific resource management experience includes:<ul style="list-style-type: none"><li>▪ extensive experience in planning and resource management litigation including acting for the then Auckland Regional Council and the Waitakere City Council</li><li>▪ extensive experience as an arbitrator, mediator and hearings commissioner under the Resource Management Act</li><li>▪ contributing author to <i>Williams: Environment and Resource Management Law</i> (2<sup>nd</sup> ed.) on the Resource Management Act</li><li>▪ as a Judge, wrote a number of judgements on a range of RMA issues.</li></ul></li></ul>
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**Date: 26 / 06 / 2019**

Ethnicity, age and gender information is collected for statistical collation by the State Services Commission, Ministry for Women, and Office of Ethnic Communities.

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