



Cabinet Legislation Committee

Minute of Decision

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Resource Management Amendment Bill: Approval for Introduction

Portfolio **Environment**

On 17 September 2019, the Cabinet Legislation Committee, having been authorised by Cabinet to have Power to Act [CAB-19-MIN-0483]:

- 1 **noted** that on 8 October 2018, Cabinet agreed to a narrowly-focused set of amendments to reduce complexity, increase certainty, restore previous public participation opportunities, and improve Resource Management Act 1991 (RMA) processes, in advance of a more comprehensive review of the resource management system [CAB-18-MIN-0485.01];
- 2 **noted** that on 1 July 2019, Cabinet:
 - 2.1 agreed to further expand the scope of the Bill to include a specialised planning process for freshwater planning documents in order to implement a new National Policy Statement for Freshwater Management (NPS-FM), as the current planning process in the RMA will not be able to resolve the problems relating to freshwater planning;
 - 2.2 authorised the Minister for the Environment to decide whether an amendment to the RMA is necessary to ensure that unreasonable financial contributions cannot be imposed on notices of requirement;

[CAB-19-MIN-0337.01]
- 3 **noted** that the Minister for the Environment has decided to remove the ability for territorial authorities to recommend, or the Environment Court or boards of inquiry to impose, financial contributions on any notices of requirement lodged by the Minister of Education as a requiring authority, due to risks of unreasonable cost and delays that these may pose to delivering the National Education Growth Plan;
- 4 **agreed** that the proposal to remove the ability for territorial authorities to recommend, or the Environment Court or boards of inquiry to impose, financial contributions apply both to notices of requirement lodged by the Minister of Education and by the Minister of Defence as requiring authorities;

Freshwater planning process

- 5 **noted** that in July 2019, Cabinet authorised the Minister for the Environment to:
 - 5.1 make consequential amendments to the RMA and other affected statutes to ensure the workability of the agreed amendments;

- 5.2 further clarify and develop policy matters relating to Cabinet's decisions in a manner not inconsistent with the policy decisions;

[CAB-19-MIN-0337.01]

Applying the freshwater planning process to all planning documents that relate to freshwater

- 6 **noted** that in July 2019, Cabinet agreed that regional and unitary councils will be required to use this process for any changes required to their regional plans and policy statements (freshwater planning documents) to implement a new NPS-FM [CAB-19-MIN-0337.01];
- 7 **agreed** that the freshwater planning process will also be mandatory for any provisions in freshwater planning documents that relate to freshwater (even if they do not solely implement the NPS-FM);

Freshwater planning processes to involve public notification

- 8 **agreed** that all freshwater planning documents subject to the freshwater planning process must be publicly notified and a hearing must be held;

Councils to forward material to the Chief Freshwater Commissioner within six months of public notification

- 9 **rescinded** Cabinet's decision that councils forward information to the freshwater hearings panel [CAB-19-MIN-0337.01]; and instead
- 10 **agreed** that councils must forward all relevant information to the Chief Freshwater Commissioner within six months from the date of notification;

Enabling secretariat support by the Environment Protection Authority

- 11 **agreed** to enable the Environment Protection Authority to provide secretariat support to the group of freshwater commissioners, including the Chief Freshwater Commissioner;

Allowing for smaller hearings panel sizes

- 12 **noted** that in July 2019, Cabinet agreed that each freshwater hearings panel must include two freshwater commissioners, one of whom will serve as chair and hold the casting vote; two accredited councillors, nominated by the council (or two accredited independent commissioners nominated by the council); and one accredited person with an understanding of tikanga Māori and mātauranga Māori (to be selected from nominations by local tangata whenua) [CAB-19-MIN-0337.01];
- 13 **noted** that in July 2019, Cabinet agreed that in particular circumstances a hearings panel size could exceed five, in order to accommodate circumstances unique to a region or locality [CAB-19-MIN-0337.01];
- 14 **agreed** that, despite the previous decisions above, the Chief Freshwater Commissioner has the discretion to convene a freshwater hearings panel with fewer than five members, but no less than three members;
- 15 **agreed** that each freshwater hearings panel must have, at a minimum, one freshwater commissioner (to serve as chair of the panel and hold the casting vote), one accredited councillor, nominated by the council (or one accredited independent commissioners nominated by the council); and one accredited person with an understanding of tikanga Māori and mātauranga Māori (to be selected from nominations by local tangata whenua);

Further evaluation reports to be produced by hearings panels

- 16 **noted** that in July 2019, Cabinet agreed that, in cases where a council rejects any recommendations of a freshwater hearings panel, the council must publicly notify its decisions identifying alternative provisions, together with a further evaluation report under section 32AA of the RMA [CAB-19-MIN-0337.01];
- 17 **agreed** to amend the previous decision so that councils are not required to prepare a further evaluation report where they reject any freshwater hearings panel recommendations;
- 18 **agreed** that a freshwater hearings panel must prepare a further evaluation report regarding any recommendations it makes to the relevant council that differ from the proposed planning document when it was notified;

Variations to planning documents

- 19 **agreed** that the Chief Freshwater Commissioner has the discretion to accept or reject, for hearing by a freshwater hearings panel, variations to proposed plan changes, or proposed regional policy statements or changes, that are already in the freshwater planning process;

Other procedural matters

- 20 **noted** that in July 2019, Cabinet agreed that the freshwater hearings panel will be required to follow normal RMA plan and policy statement decision-making requirements, in formulating its recommendations on freshwater planning related matter [CAB-19-MIN-0337.01];
- 21 **agreed** to enable the hearings panels to accept or reject late submissions;

Renaming the head of the Environment Court

- 22 **agreed** to rename the head of the Environment Court from Principal Environment Judge to Chief Environment Court Judge;

Consequential changes to RMA regulations

- 23 **noted** that consequential amendments will need to be made to the Resource Management (Forms, Fees and Procedures) Regulations 2003 and to the Resource Management (Discount on Administrative Charges) Regulations 2010 to update the necessary forms and references prior to the commencement of these provisions;
- 24 **authorised** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to prepare these consequential amendments to the regulations, for Cabinet approval before the relevant provisions of the Bill commence three months after the Bill is enacted;

Commencement, transitional and savings provisions

- 25 **noted** that Cabinet authorised the Minister for the Environment to develop commencement, transitional and savings provisions with the Parliamentary Counsel Office, through the drafting process for this Bill, and noted that these provisions would be subject to Cabinet approval when it considers the Bill for introduction [CAB-18-MIN-0485.01 and CAB-19-MIN-0337.01];
- 26 **noted** that the Bill includes a range of commencement, transitional and savings provisions with the majority of changes coming into force the day after Royal assent, and the provisions for the repeal of preclusions on resource consent notification and appeals, and the

suspension of processing of resource consents, will come into force three months after Royal assent;

- 27 **agreed** to the commencement, transitional and savings provisions set out in Appendix 2 to the submission under LEG-19-SUB-0146;

Introduction

- 28 **noted** that the Resource Management Amendment Bill holds a category 3 priority on the 2019 Legislation Programme (to be passed, if possible, within the year);
- 29 **approved** the Resource Management Amendment Bill [PCO 21656] for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 30 **agreed** that the Bill be introduced in September 2019;
- 31 **agreed** that the government propose that the Bill be:
- 31.1 referred to the Environment committee for consideration;
- 31.2 enacted by mid-2020;
- 32 **agreed** that the Bill bind the Crown;
- 33 **authorised** the Minister for the Environment to make any minor changes to Bill drafting after Cabinet's approval.

Gerrard Carter
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Andrew Little
Hon Chris Hipkins (Chair)
Hon David Parker
Hon Ron Mark
Hon Tracey Martin
Hon Shane Jones
Hon Aupito William Sio
Hon James Shaw
Hon Julie Ann Genter
Hon Eugenie Sage
Michael Wood, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

Hard-copy distribution:

Minister for the Environment