

# Supplementary Analysis Report: Streamlining National Direction Processes

## Coversheet

Purpose of Document	
Decision sought/taken:	<i>Analysis produced to support the introduction of the Resource Management (Freshwater and Other Matters) Amendment Bill</i>
Advising agencies:	<i>Ministry for the Environment</i>
Proposing Ministers:	<i>Minister Responsible for RMA Reform</i>
Date finalised:	<i>14 May 2024</i>
Problem Definition	
<p>Processes for preparing national direction (national resource management policies and standards) are disproportionate (sometimes making them unnecessarily slow and onerous), duplicative and inconsistent, resulting in unnecessary cost to central government and the resource management system. Inefficiencies in evaluation report and national direction assessment processes contribute to delays in preparing policy for national resource management issues.</p>	
Executive Summary	
<p><b>Context</b></p> <p>This Supplementary Analysis Report (SAR) assesses the impact of a proposal to streamline and reduce costs of processes for preparing and amending national direction under the Resource Management Act 1991 (RMA).</p> <p>National direction provides national resource management policies and standards to support local government policy development and decision-making under the RMA. It comprises national policy statements<sup>1</sup>, national environmental standards<sup>2</sup>, national planning standards<sup>3</sup> and section 360 regulations<sup>4</sup>.</p> <p>The RMA includes several processes for preparing and amending national direction; the most commonly used being:</p> <ul style="list-style-type: none"> <li>• a Board of Inquiry (BOI) process (s46A(3)(a)) - requires the establishment of an independent board to give public notice of the national direction proposal, consider submissions and hearings, and prepare recommendations for the Minister; and</li> </ul>	

<sup>1</sup> National policy statements provide national direction to local government for matters of national significance relevant to sustainable management.

<sup>2</sup> National environmental standards are regulations enabled by s43 of the RMA prescribing standards, methods and other requirements for land use and subdivision, use of the coastal marine area and beds of lakes and rivers, water take and use, discharges and noise.

<sup>3</sup> National planning standards are regulations enabled by s58B-H of the RMA which may set out the structure, format or content of local and regional plans and policy statements that require national consistency or to support implementation of a national direction.

<sup>4</sup> Section 360 regulations are made under s360 of the RMA and generally address detailed or technical matters and those which require frequent alterations or updating.

- an ‘alternative process’ (s46A(3)(b)) introduced in 2005: run by the Minister and Ministry officials, requiring (as a minimum) public notice of the national direction proposal, adequate time for submissions, and recommendations prepared for the Minister.

Preparation of national planning standards follows a similar process (under s58D-K).

Proposals to prepare and amend all national direction (excluding direction made under section 360 of the RMA) requires an evaluation report (section 32 report) and a further evaluation report in circumstances where the proposal changes post-consideration of submissions (section 32AA report).

Minor changes to national direction can be made without public consultation or evaluation reports in limited circumstances (s44(3), 53(2)(a) and 58H(2)).

### **The proposal for streamlining national direction processes**

The proposal comprises four parts:

- removing the now redundant Board of Inquiry (BOI) process to provide one clear process for national direction
- making it easier to make simple updates to ND where a full ND process would be disproportionate
- removing unnecessary prescription from the ND process
- amending evaluation report requirements to make them more proportionate and less onerous.

These proposals are expected to improve time and cost delays, remove duplication, and ensure a more consistent and proportionate approach is taken to the preparation of national direction. These improvements may also allow national direction to influence local policy making and resource consent decision-making more quickly than the status quo.

The proposal is time critical as it will support delivery of a programme of national direction changes in Phase 2 of the Government’s RMA reform programme.

### **Costs and benefits**

The most significant benefits of the proposal are improved regulatory processes that are quicker, more proportionate, less duplicative and more aligned with typical processes for developing secondary legislation. Increased use of the minor updates process could lead to further cost savings for central government as they would not require any notification costs with potential savings of around ~\$250,000 per proposal. The qualitative rationale for each proposal is described below:

<b>Proposal</b>	<b>Rationale</b>
<b>Removing the BOI process</b>	<p>Despite the intent of the s46A process, the continued presence of the BOI process has given rise to the perception that the alternative process needs to be of a similar scale and rigour to a BOI. This has contributed to over-engineered and costly alternative processes being followed, at the expense of the increased flexibility the process was designed to provide.</p> <p>Removing the BOI sections will leave the s46A process as the main mechanism to develop ND (reflecting what is already occurring in practice) and help streamline and simplify the operation of the RMA.</p>

<p><b>Process for minor amendments</b></p>	<p>The RMA allows minor or technical amendments to be made to national direction without following the standard RMA processes for amending national direction. These provisions are interpreted so narrowly as to almost never be used.</p> <p>Clarifying the situations in which national direction can be amended without following the full process would be more proportionate to the nature of the change.</p>
<p><b>Removing prescription</b></p>	<p>The RMA provides a separate process to s46A to develop national planning standards. While the two processes are substantively the same, the planning standards process is less prescriptive and the drafting is clearer.</p> <p>We propose streamlining the s46A process by aligning it with the planning standards process. The notification provision in s46A(4)(b) would be updated to align with the planning standards process, and the reference to the list of requirements set out in s51 would be removed to clarify the process for national direction and ensure consistency across the RMA.</p>
<p><b>Improving evaluation reports</b></p>	<p>The evaluation report requirements are onerous and duplicative. Officials prepare several documents which overlap significantly with evaluation report requirements (eg, regulatory impact statements, Cabinet papers, briefings and submissions reports). The detailed list of requirements in s32 and s32AA are no longer fit for purpose.</p> <p>An improved and more proportionate process for evaluation reports was considered as part of the NBA. This proposal largely adopts these requirements for the RMA with respect to national direction. Section 32 requirements would be updated and s32AA would no longer apply. S32 and s32AA would continue to apply in other relevant situations.</p>

The most significant cost of the proposal is the potential reduction in opportunities for public participation but we expect this cost to be relatively low (this cost is difficult to quantify). Most of the improvements are expected to remove duplication and improve regulatory process but there may be instances where a national direction proposal is made with more limited opportunity for submissions than may have occurred counterfactually. In our view, this is likely to be in situations where more limited public participation was appropriate and proportional to the nature of the proposed change.

No engagement has been undertaken on the preferred option with Iwi/Māori, Post Settlement Governance Entities (PSGE), stakeholders or the general public due to time constraints. Consultation on a similar proposal to amend the scope of evaluation reports was undertaken as part of the Natural and Built Environment Act 2023 (NBA) (Clause 7, Schedule 5). Submitters generally supported the concept of streamlining evaluation reports and making them less burdensome to produce although some expressed concern that proposals would not be robustly evaluated.

## Limitations and Constraints on Analysis

### Time constraints

Policy decisions were taken relatively quickly by Cabinet to allow for the proposals to be included in RMA Amendment Bill 1.

### Data and evidence

Limited data and evidence was available to assess the proposal and its impact in the time available. Data has been sourced from published material including the Supplementary Analysis Report prepared for the NBA and unpublished Ministry for the Environment data, including organisational experience of all national direction processes.

### Limitations on consultation, testing, and stakeholder engagement

Time constraints have meant there was no time for consultation with local government or the public before these decisions were taken.

The proposal for changing the scope of evaluation reports (proposed s32AB) is similar to Clause 7, Schedule 5 of the NBA which was previously consulted on through the development of the NBA and was considered through the Select Committee process.

Time constraints have not allowed for engagement with PSGEs on how best to uphold Treaty settlement arrangements and Iwi/Māori.

There will be opportunities for public submissions on Bill 1 and for the proposals to be tested further with local government, Iwi/Māori, PSGE and other parties through the Select Committee process.

### Limitations of cost and benefit assessment

The costs and benefits identified in this assessment are largely qualitative in nature.

The analysis of cost savings compared to the status quo has been informed by data available on process costs incurred by the Ministry for the Environment for national direction considered using both BOI and alternative processes. This data does not reflect the total cost to all government agencies and some is dated as no BOI have been held since 2008-10.

### Treaty of Waitangi considerations

Officials have undertaken an analysis of Treaty settlement and other legislative arrangements to assess the impacts of these proposals including BOI provisions. The analysis indicates the proposed changes to national direction to remove the BOI process will not have a significant impact on Treaty settlements and other legislative arrangements. The mechanisms that do apply to national direction will continue to apply to the processes conducted by the Minister (even if the Board of Inquiry does not exist), and/or they can be amended to apply.

It will be important that PSGE are invited to make a submission on any draft national direction to compensate for the fact that they would no longer be able to submit to the BOI (which was part of the context within which the settlements were negotiated). The ability to submit is provided for iwi authorities currently (s46A(4)(a) of the RMA), and ideally should be extended to PSGE. However, the Crown has not undertaken engagement with affected groups who may consider the proposal to be significant. Officials have identified a small number of settlements and other arrangements that will be directly affected. This will require the Crown to discuss the changes with affected groups and seek agreement to any necessary amendments to their legislation following enactment of the amendment bill.

The specific impacts arising from the proposal for other changes to national direction processes will depend on the circumstances of each application. This includes the aspirations of local iwi and Māori to participate in these processes and relevant Treaty settlement commitments. There is a risk that the proposed changes may reduce participation opportunities for Iwi/Māori. In practice, the process for developing national

direction remains fairly open, allowing Ministers to tailor engagement, consultation and timeframes in a way that are proportionate to the changes being proposed.

The proposals do not diminish or alter the significance given to a number of environmental values under the RMA, including:

- the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga (s6(e))
- kaitiakitanga (s7(a)).

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

### Responsible Manager(s)

*Daniel Foote*

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*Ministry for the Environment*



14 May 2024

### Quality Assurance

Reviewing Agency: Ministry for the Environment

Panel Assessment & Comment:

A quality assurance panel with members from the Ministry for the Environment’s Regulatory Impact Analysis Team and has reviewed the Supplementary Analysis Report, “Streamlining National Direction Processes” produced by the Ministry for the Environment on May 14<sup>th</sup>, 2024. The panel considers that it **partially meets** the Quality Assurance criteria.

The QA panel notes that the Streamlining National Direction Processes Supplementary Analysis Report is convincing, well-written and in response to a defined need, with risks and constraints defined and discussed.

There is, however, a very constrained analysis of options to address the problem, a lack of data and uncertainty with the analysis, particularly with monetised costs and benefits. There is also a lack of adequate consultation, however, there will be opportunity for public participation during the Select Committee process.

It will be important to develop the performance indicators and use these to tangibly review the performance of the proposed changes discussed in the document.

## Section 1: Diagnosing the policy problem

### What is the context behind the policy problem?

#### Resource Management Act 1991

1. The Resource Management Act 1991 (RMA) is New Zealand's primary legislation for managing air, soil, freshwater and the coastal marine area and regulating land use and the provision of infrastructure.
2. The RMA is widely recognised as being too slow and costly and requiring reform. The Government has decided to take a phased approach to reform the resource management system as follows [CAB-24-MIN-0069 refers]:
  - Phase one: repeal the Natural and Built Environment Act (NBA) and Spatial Planning Act (SPA) (now complete).
  - Phase two: introduce a fast-track consenting regime within the first 100 days; make targeted legislative changes to the Resource Management Act 1991 (RMA) by late 2024; develop new, or amend existing, national direction under the RMA; and the Going for Housing Growth work package.
  - Phase three: replace the current RMA with new resource management legislation based on the enjoyment of property rights, while ensuring good environmental outcomes.

#### National direction

3. Under the RMA, central government can set national policy and standards collectively called 'national direction'. It includes national policy statements, national environmental standards, national planning standards, the New Zealand Coastal Policy Statement and regulations under section 360 of the RMA (see Appendix 1 for more details).
4. National direction currently operates as part of a system of around 25 national instruments developed since 2004.
5. The Government has committed to an ambitious and wide-ranging national direction work programme as part of 'Phase two' of its resource management reforms. The commitments include targeted amendments to several instruments, full reviews of several NPS and the creation of entirely new national direction instruments.

#### Processes to evaluate proposals and prepare and amend national direction

6. RMA processes to evaluate proposals and prepare and amend national direction are summarised in Table 1 (see Appendix 2 for further detail about the scope of these sections).

**Table 1: Overview of processes to prepare and amend national direction**

	<b>Evaluation report requirements</b>	<b>Processes to prepare and amend national direction</b>
<b>National environmental standards</b>	Section 32 Section 32AA	Section 44 Section 46A Section 47-51
<b>National policy statements</b>	Section 32 Section 32AA	Section 46A Section 47-51 Section 53
<b>New Zealand Coastal Policy Statement</b>	Section 32 Section 32AA	Section 46A Section 47-51 Section 53
<b>National planning standards</b>	Section 32 Section 32AA	Section 58D - 58F Section 58H

### How is the status quo expected to develop if no action is taken?

7. If no action is taken, existing national direction processes set in the RMA will remain the same.

### What is the policy problem or opportunity?

8. Processes for preparing national direction (national resource management policies and standards) are disproportionate (sometimes making them unnecessarily slow and onerous), duplicative and inconsistent, resulting in unnecessary cost to central government and the resource management system. Inefficiencies in evaluation report and national direction assessment processes contribute to delays in preparing policy for national resource management issues.
9. Four key processes addressed by these proposals have an impact on time and cost delays in advancing national direction.
  - a. Firstly, the BOI process has not been used since 2008-10 as it is considered too costly, onerous and prescriptive. These provisions are now redundant. Despite the intent of the 'alternative' s46A process, the continued presence of the BOI process may have given rise to the perception that this process needs to be of a similar scale and rigour to a BOI. This could have contributed to over-engineered and costly alternative processes being followed, at the expense of the increased flexibility the process was designed to provide. Removing the BOI sections will remove redundancy from the primary statute and helps streamline and simplify the operation of the RMA.
  - b. Secondly, the processes available for making minor updates to national direction are interpreted so narrowly as to be rarely used. This has resulted in unnecessary use of the more costly and time-consuming alternative process which is not proportionate to the effects of minor updates.
  - c. Thirdly, the RMA provides a separate process to s46A to develop national planning standards. While the two processes are substantively the same, the planning standards process is less prescriptive and the drafting is clearer. We propose streamlining the s46A process by aligning it with the planning standards process. The notification provision in s46A(4)(b) would be updated to align with

the planning standards process, and the reference to the list of requirements set out in s51 would be removed to clarify the process for national direction, remove prescription and ensure consistency across the RMA.

- d. Finally, evaluation reporting processes in s32 and s32AA of the RMA are onerous, costly and time consuming to prepare. The Randerson Panel<sup>5</sup> recognised the general importance of the assessment required by s32 but considered the requirements to be too onerous and having departed from their intended purpose. Officials prepare several documents which overlap significantly with evaluation report requirements (eg, regulatory impact statements, Cabinet papers, briefings and submissions reports). The detailed list of requirements in s32 and s32AA are no longer fit for purpose. This proposal is for an improved and more proportionate process for evaluation reports (similar to that considered as part of the NBA).

### **What objectives are sought in relation to the policy problem?**

10. There are three objectives in relation to the policy problem:
  1. less costly and onerous processes for national direction preparation and amendment
  2. removing unnecessary inconsistency, duplication and redundancy from the regulatory process
  3. more proportionate processes.

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<sup>5</sup> New Directions for Resource Management in New Zealand, Report of the Resource Management Review Panel, June 2020



## Section 2: Deciding upon an option to address the policy problem

### Focus of this Supplementary Analysis Report

11. This SAR assesses four proposals to streamline national direction preparation and amendment processes and considers their high-level costs and benefits. The assessment is largely qualitative due to considerable challenges in quantifying these values.
12. A Regulatory Impact Statement (RIS) has been prepared for Bill 1 and a separate SAR has been prepared for amending the consenting pathway for coal mining in or around wetlands and significant natural areas where there is a functional or operational need and significant benefits.

### What scope will the proposal be considered within?

13. The scope of the proposal was limited by policy decisions taken at Cabinet and by the Minister Responsible for RMA Reform.
14. We did not undertake any analysis of non-regulatory options as national direction processes prescribed in the RMA require a legislative response to amend.
15. The scope of the proposal was not informed by any stakeholder or iwi engagement due to speed at which Ministerial decisions were required to ensure inclusion in Bill 1. However, the proposed reduced scope of s32 evaluation reports and removal of s32AA reports have previously been consulted on as part of the development of the NBA.

### What options were considered by Cabinet?

16. On 15 April 2024 Cabinet agreed to include amendments to speed up the process to develop or amend national direction in Bill 1. Cabinet authorised the Minister Responsible for RMA Reform to make further policy and drafting decisions in relation to these amendments [CAB-24-MIN-0121.01 refers].
17. The Minister for the Environment subsequently refined the scope of the options to focus on the following four proposals:
  - a. removing the now redundant Board of Inquiry (BOI) process to provide one clear default process for national direction
  - b. making it easier to make simple updates to national direction where a full national direction process would be disproportionate
  - c. removing unnecessary prescription from the national direction process
  - d. amending evaluation report requirements to make them more proportionate and less onerous.

### What impacts will this proposal have?

18. Impacts of each of the four proposals on government, Iwi/Māori, local government and stakeholders are assessed below.

#### **Removing the Board of Inquiry (BOI) process to provide one clear default process for national direction**

19. The proposal would remove BOI processes for considering proposals for national direction from s46A(3)(a) and s47-51 of the RMA and make other minor consequential changes.

20. The proposal to remove BOI processes would reflect current practice as they have not been used for national direction proposals since 2008-2010 due to the rigidity, time, resource and cost associated with using a BOI.

*Key risks and benefits*

<b>Risks</b>	<b>Benefits</b>	<b>Consistency with objectives</b>
<p>There is a risk that removal of the BOI, and exclusive use of the alternative process, may reduce participation opportunities for Iwi/Māori, local government and the public and not provide sufficient time and scope for mana whenua submitters to address concerns of significance to Māori.</p> <p>This risk is considered minor as the proposal does not explicitly reduce participation and is flexible enough to be applied proportionately to the nature of the changes being proposed.</p>	<p>The alternative process provides a more proportionate, timely and efficient process while still enabling input from Iwi/Māori, local government and the public.</p> <p>The continued presence of the BOI process may have given rise to the perception that the alternative process needs to be of a similar scale and rigour to a BOI. This could have contributed to over-engineered and costly alternative processes being followed. Removing the BOI sections will remove redundancy from the primary statute and helps streamline and simplify the operation of the RMA.</p> <p>It could provide moderate cost savings to central government by enabling a more flexible process for preparing national direction more aligned other secondary legislation processes.</p>	<p>Meets objective 1 Meets objective 2 Meets objective 3</p>

**Making it easier to make simple updates to national direction where a full national direction process would be disproportionate**

21. The proposal would increase the scope of circumstances where minor updates can be made to existing national environmental standards in s44(3)(b) and national policy statements (s53(2)(a)) and national planning standards (s58H(2)) without going through the full notice and submission processes of s46A.
22. This proposal would enable timely updates to national direction to be made to reflect changes in other legislation, New Zealand Standards, international protocols and agreements and Emissions Reduction Plans. All of these processes are developed using a consultative process involving public submissions.

23. This proposal would also enable extensions of implementation timeframes for national direction to be made without going through the full notice and submission process of s46A.

*Key risks and benefits*

<b>Risks</b>	<b>Benefits</b>	<b>Consistency with objectives</b>
<p>There would be potential risks regarding reduced opportunity for participation in national direction processes. This risk is considered minimal as a public consultation process would be a disproportionate cost relative to the nature of the changes allowed through this proposal. In most cases, the substance of any national direction change that can use this process, will have been finalised through a separate consultative process.</p> <p>Perhaps Iwi/Māori, local government and the public may not be as actively engaged in other processes (ie, NZ standards preparation).</p>	<p>The proposal would result in time and cost savings for central government in following a 'full' national direction process in cases where such a process is disproportionate to the nature of the change. This would largely eliminate the time and cost associated with evaluation reporting, public consultation processes, and submission analysis.</p> <p>The proposal would provide some alignment with the process for implementing national planning standards in s58H(2A) without following standard processes.</p>	<p>Meets objective 1</p> <p>Meets objective 3</p>

**Removing unnecessary prescription from the national direction process**

24. The proposal would amend the notice provision in s46A(4)(b) to clarify that the adequacy of time and opportunity for submissions in s46A alternative process relates to what the Minister determines is appropriate.
25. This would result in better process alignment between s46A(4)(b) and s58D(3)(d) for national planning standards which also refers to Ministerial discretion to what is appropriate.

*Key risks and benefits*

<b>Risks</b>	<b>Benefits</b>	<b>Consistency with objectives</b>
<p>The risk that there will not be adequate time and opportunity for submissions for alternative national direction processes. However, this risk is considered minimal as it is no different to the status quo as minimum timeframes are not</p>	<p>The risks of process challenge in s46A regarding 'adequate time and opportunity' for submissions would be reduced.</p> <p>Amendments would better align with s58D(3)(d) for</p>	<p>Meets objective 2</p>

prescribed. Current practice is that generally 2-3 months' notice is given for making submissions and practice is not expected to change.	national planning standards and legitimise current practice.	
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### **Amending evaluation report requirements to make them less onerous and more proportionate**

26. The proposal would introduce new evaluation reporting requirements for national direction proposals into s32AB. It would also remove the requirement to prepare and publish a s32AA further evaluation report for national direction proposals. The detailed list of requirements in s32 and s32AA are no longer considered fit for purpose.
27. Evaluation reports for national direction would require a narrower scope of assessment compared to the status quo. They would require a broad assessment of consistency with the Act's purpose, reasonably practical alternative options and broader environmental and economic impacts but would not require quantification of costs and benefits or an assessment of cultural effects anticipated from implementation of the proposal.
28. This requirement would be similar to that included in the NBA. Submitters to the NBA generally supported the concept of streamlining evaluation reports and making them less burdensome to produce although some expressed concern that proposals would not be robustly evaluated.

#### *Key risks and benefits*

<b>Risks</b>	<b>Benefits</b>	<b>Consistency with objectives</b>
<p>The proposals for changes to evaluation reports are similar to those included in the NBA. Some submitters on the NBA expressed concern that proposals would not be as robustly evaluated.</p> <p>This risk is considered minimal as the scope of the proposed s32AB evaluation report is considered comprehensive while providing more flexibility than the status quo.</p> <p>Existing s32 requirements also overlap significantly with documents officials prepare in relation to national direction (eg, regulatory impact statements, Cabinet papers, briefings and submissions)</p>	<p>Benefits to central government are associated with time and cost savings with a more proportionate evaluation report scope, and no longer requiring s32AA evaluation reports.</p>	<p>Meets objective 1</p> <p>Meets objective 2</p>

<p>reports). These documents will continue to be prepared.</p> <p>Removal of the explicit reference to assessment of cultural effects from the evaluation report may reduce the level of impact analysis on matters considered important to Iwi/Māori. However, the Crown would continue to consider submissions from Iwi/Māori and s6(e), 7(a) and 8 matters of the RMA (ie, including the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga, kaitiakitanga and take into account the principles of the Treaty of Waitangi) which would assist to mitigate this risk.</p>		
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### Climate implications policy assessment (CIPA)

29. The Ministry for the Environment (MfE) Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

### What are the marginal costs and benefits of the option?

30. The aim of the analysis in Table 2 is to recognise high-level costs and benefits. These are largely qualitative. We have provided some indicative monetised benefits based on the cost of previous national direction processes, but these are indicative only. Depending on the nature of the proposed changes, national direction processes can vary substantially.
31. Overall, introducing these changes quickly has the potential to benefit the processes for around 20 national direction instruments that are expected to be amended in the next 18 months.

**Table 2: Marginal cost and benefit analysis**

<b>Affected groups</b> <i>(identify)</i>	<b>Comment</b> <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	<b>Impact</b> <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	<b>Evidence Certainty</b> <i>High, medium, or low, and explain reasoning in comment column.</i>
<b>Additional costs of the preferred option compared to taking no action</b>			
Central government departments (as regulators)	None expected other than those associated with making the legislative change to give effect to this proposal.	Low - costs will be met from agency baseline but are not expected to be material	High - costs of legislative change to the RMA are met by MfE.
Environmental Protection Agency (EPA)	No additional costs	None	High - the EPA has not administered a BOI process for national direction.
Local Government	Some on-going reduced opportunities for Māori and public participation and the ability of affected parties to influence the outcome.	Low - proposals seek to recognise that existing BOI requirements are unnecessarily costly and time consuming which is disproportionate to the matters affected (i.e. minor amendments etc).	Medium - a small number of system participants may consider it a significant lost opportunity.
General public as part of current generation			
General public as part of future generation			
Iwi/Māori			
<b>Total monetised costs</b>		Low costs	
<b>Non-monetised costs</b>		Low	
<b>Additional benefits of the preferred option compared to taking no action</b>			
Central government departments (as regulators)	On-going benefits associated with streamlined, less duplicative and less onerous regulatory processes, including in relation to evaluation reports and minor changes.	Moderate  Under the alternative process, total costs for a national direction process can be as high as ~\$6m <sup>6</sup> , which includes estimated government staff time.  It is difficult to determine what	High certainty that some cost savings for central government are expected. Low certainty as to their extent.  Even if potential costs savings could be known for any given national direction process, the total cost savings from these proposals would

<sup>6</sup> Based on costs incurred in developing the NPS for Urban Development in 2020

		<p>percentage of these costs could be saved but a small proportion of these costs are likely to be saved for each national direction process.</p> <p>Costs savings of ~\$250,000 per minor amendment as standard processes would be exempt.</p> <p>Potential cost savings in judicial reviews due to legislative processes being more consistent and less prescriptive.</p>	<p>depend on the extent to which national direction is amended in future. This cannot be known, although several amendments are expected to occur next year.</p>
Environmental Protection Agency (EPA)	No benefits as the EPA has never administered the national direction BOI process.		High - the EPA has not administered a BOI process for national direction
Local Government	Ongoing benefits of time and cost savings with not having to appear at Board of Inquiry, more fit-for-purpose evaluation reports.	Minimal	High confidence that these benefits are expected to be minimal.
General public as part of current generation			
General public as part of future generation			
Iwi/Māori			
<b>Total monetised benefits</b>		Moderate	
<b>Non-monetised benefits</b>		Moderate	

## Section 3: Delivering an option

### How will the new arrangements be implemented?

32. The new processes will come into effect once the Resource Management (Freshwater and Other Matters) Amendment Bill is enacted. These changes will apply to any future national direction processes progressed by the Government.
33. The Ministry for the Environment will lead implementation of the proposal by applying the new national direction process requirements to the preparation or amendment of any national direction instrument in future.

### How will the new arrangements be monitored, evaluated, and reviewed?

34. The Ministry for the Environment will develop performance indicators as part of its regulatory stewardship function. These system indicators are not intended to measure

every aspect of the legislation but should enable the performance of the legislation to be traced in a tangible way.

35. Some initial system indicators to be collected quarterly for this interim period are:
  - the total number of new and amended national direction instruments prepared using modified processes
  - the time taken to prepare and amend national direction instruments compared to the status quo
  - the total number of minor amendments to national direction using exemptions from standard processes (i.e. s46A)
  - cost savings and benefits to central government and the resource management system.
36. The time and cost of any upcoming national direction processes could be compared to national direction changes the Ministry has undertaken in the past. For this interim period, we propose that the initial system indicators and overall performance of the legislation will be monitored by the Chief Executive of MfE.



## Appendix 1: Overview of National Direction Instruments

**National Environmental Standards (NES)** have a purpose and scope set out in s43-43A of the RMA. They describe technical and non-technical standards, methods or requirements for land use and subdivision, use of the coastal marine area and beds of lakes and rivers, water take and use, discharges, noise and monitoring. NES may also incorporate by reference standards, requirements or recommended practices of international organisations (ie, international standards) and other written material that address technical matters and is too large or impractical to include in the standard. Rules in local plans must be consistent with NES but they do not directly affect resource consents.

**National policy statements (NPS)** have a purpose and scope outlined in s45-45A of the RMA. They enable central government to prescribe objectives and policies for matters of national significance which are relevant to achieving the sustainable management purpose of the RMA. NPS guide decision-making at the national, regional and district levels and can significantly affect resource management practices. Regional policy statements, regional plans and district plans are required to give effect to (implement) all national policy statements.

**New Zealand Coastal Policy Statement (NZCPS)** is a national level policy with a purpose set out in s56 of the RMA of stating the objectives and policies to achieve the Act's purpose in relation to the coastal environment of New Zealand. It is the only mandatory national level policy statement in the RMA and is prepared and issued by the Minister of Conservation.

**National planning standards** have a purpose and scope set out in s58B and 58C of the RMA. National planning standards currently set out requirements relating to the structure, format, or content of regional policy statements and plans and can also be used to address any matter that the Minister considers requires national consistency.

**Section 360** regulations generally address matters of detail or implementation, of a technical nature or those likely to require frequent alterations or updating.

Councils implement national direction in various ways through their functions under the RMA, including developing regional policy statements, regional and district plans, and issuing and monitoring resource consents.

## Appendix 2: Overview of key sections of the RMA relevant to proposal

**Section 32 Requirements for preparing and publishing evaluation reports**, sets out evaluation reporting requirements for a proposal and applies to making and amending local and regional plans and policy statements, national environmental standards, national policy statements and national planning standards. The reporting requirements include examination of how efficiently and effectively the proposal meets the RMA purpose, consideration of other reasonably practical options and an assessment of the benefits and costs of environmental, economic, social and cultural effects anticipated from the proposal. Section 32(3) contains specific requirements for examining amending proposals to change existing instruments.

**Section 32AA Requirements for undertaking and publishing further evaluations**, sets out the requirements for further evaluation reporting on changes to a proposal after considering submissions documented in a s32AA report<sup>7</sup>.

**Section 46A Single process for preparing national direction**, sets out the process for making national environmental standards and national policy statements separately or combined. It contains two processes for preparing these types of national direction being:

- a. a process in s47-51 which requires public notice and a Board of Inquiry to consider the proposal, submissions and hold a hearing; and
- b. an alternative process in s46A(4) which requires that the Minister give notice of a proposal to the public and iwi authorities and that those notified are given 'adequate time and opportunity' to make a submission. A report and recommendations must be made to the Minister on submissions and the national direction but no hearing is held.

**Section 44 Restriction on power to make national environmental standards**, contains a range of process requirements with cross references to s32 and s46A and requirements for considering recommendations made to the Minister. Section 44(3) sets out exemptions from following the processes for preparing national direction in s46A in circumstances where the effects are no more than minor or the proposal corrects errors or makes similar technical alterations.

**Section 53 Changes to or review or revocation of national policy statements**, references back to the processes in s46A(1) and provides exemptions from following these processes in circumstances where an amendment has a minor effect or corrects a minor error.

**Sections 58D-K** set out the process for preparing national standards. Section 58D requires preparation of a draft planning standard and an evaluation report in accordance with s32, public notification of a draft and gives discretion for the Minister to establish a process that the Minister considers gives the public, local authorities and iwi authorities adequate time and opportunity to make a submission on the draft. It also requires a report and recommendations to be made to the Minister on submissions and the draft.

**Section 58H Changing, replacing or revoking national planning standards**, applies the same process for changing national planning standards as for preparing them in s58D with exemptions from this process available in circumstances where the changes have no more than a minor effect or correct errors or make similar technical alterations. Section 58H(2A) enables the Minister to change the period for compliance with certain standards from 3 - 5 years without following standard processes.

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<sup>7</sup> Guide to section 32 of the Resource Management Amendment Act 1991.