

Hon Eugenie Sage

Minister of Conservation

Minister for Land Information

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Minita mō Te Papa Atawhai

Minita mō Toitū Te Whenua

Minita Tuarua mō Te Taiao



30 AUG 2019

Hon. David Parker
Minister for the Environment

Dear David

The Cabinet paper on the comprehensive review of the resource management system (the review) invited Ministers to write to you outlining issues relevant to their portfolios to enable them to be considered as part of the review [ENV-19-MIN-0036 refers].

The issues relevant to the conservation portfolio that I consider to be the most important for the review include: environmental limits, retention of existing caselaw and implementation matters. I elaborate on each of these areas below and I have also identified several specific issues that are related to my role.

Environmental Limits

A failure with the current RMA, and how it is implemented, is the ability to effectively manage cumulative adverse effects on the environment. Ecological bottom lines are needed in many areas of the resource management framework to help address these effects. How to set meaningful ecological bottom-lines that address cumulative adverse effects, in a way that does not simply focus on the activities one-by-one, is a critical issue to address in the review.

In thinking about these bottom-lines, it is important to consider the integration across multiple domains, including freshwater and marine, land use and the atmosphere. I consider that the New Zealand Coastal Policy Statement is a good example of a national direction instrument that seeks integration across domain boundaries by spanning coastal and land margins. Consideration of how to provide for the effects of climate change in a way that promotes ecological resilience and nature-based solutions will also be critical to any new framework within the resource management system.

The impacts of climate change will have a severe impact on New Zealand's indigenous biodiversity. Consideration should be given to how mitigating emissions that cause climate change can be incorporated into a new planning framework. This would enable both the adaptive and mitigation benefits of nature-based solutions to be considered in the planning process. It would be counter-productive to look at only the adaptive benefits of a plan or proposal, while not allowing the potential sequestration benefits to be taken into account.

I also consider that promoting the restoration, maintenance and enhancement of indigenous biodiversity should be one of the central parts of the new framework. It is important to provide for the protection of indigenous biodiversity in urban and rural areas, as well as in the coastal and marine environment.

Retain current caselaw around the purpose and principles as much as possible

There is a body of important caselaw that has been generated around the construction of the RMA. I consider it important that the review considers maintaining existing caselaw so that it is not lost. Resetting the legal interpretation back to a 'fresh slate' would not only be costly for the economy, but also for the effectiveness and speed of implementation of the review outcomes.

Part Two of the RMA provides an important recognition of the relationship between Māori and natural resources. The place of the Treaty of Waitangi and related case law, in any new legislation will need careful consideration, as will any implications of Treaty settlements.

Thinking about implementation

The resource management system in its broadest sense includes institutions, resources to fund activities, processes and incentives operating in the system.

While not seeking to have the broad elements of the natural and built resource management system brought into the scope of the reforms, the institutions that we have to deliver on the reform, the incentives they face, their capability and performance, are all important considerations for the Expert Advisory Group (EAG), officials and Ministers.

Part of this includes providing Ministers the ability to enter appeal proceedings for policy statements, plans and consents, as a matter of public interest and to represent portfolio interests.

Allocation

It is vital that we move from a "first in-first served" approach to an allocation system that applies beyond coastal issues, where scarce natural resources are allocated within environmental limits. This includes looking at current economic instruments within this broader context.

This would include consideration of how to optimise community benefits from the use of the coastal space and water and considering improvements to the system so that is responsive and easily implemented alongside existing coastal planning processes.

As you will be aware, the original work on the RMA coastal regime looked at the option of including allocation in the RMA or keeping it in separate Crown legislation. There are advantages and disadvantages of those alternative approaches that would need to be considered.

In addition, the Department of Conservation has identified some technical changes to the RMA that would improve its workability (for example, ensuring that control over activities in riverbeds are integrated with the Crown's riverbed administration systems). My officials will raise these with the Ministry of the Environment at an appropriate stage of the review. Thank you again for seeking an indication of issues from my portfolio perspective.

I wish the EAG and officials the best with their work and I look forward to further engagement with you as the review progresses.

Yours sincerely,

A handwritten signature in black ink, appearing to read "E M Sage". The signature is written in a cursive, flowing style.

Hon. Eugenie Sage
Minister of Conservation