Agenda – RM Reform Ministerial Oversight Group Meeting #11 and #12 on 4 October 2021

Date: Monday 4 October 2021, 3.45 – 4.45 pm
Location: 2.1 EW
Chair: Hon Grant Robertson, Minister of Finance
Deputy Chair: Hon David Parker, Minister for the Environment
Attendees: Hon Kelvin Davis, Minister for Māori Crown Relations: Te Arawhiti
Hon Dr Megan Woods, Minister of Housing
Hon Nanaia Mahuta, Minister of Local Government
Hon Poto Williams, Minister for Building and Construction
Hon Damien O'Connor, Minister of Agriculture
Hon Willie Jackson, Minister for Māori Development
Hon Michael Wood, Minister of Transport
Hon Kiritapu Allan, Minister of Conservation, Associate Minister for the Environment and Associate Minister of Culture and Heritage
Hon Phil Twyford, Associate Minister for the Environment
Hon James Shaw, Minister of Climate Change

Time	Agenda item	Lead speaker	Relevant paper
3.45-3.50	**1. Oral update on RM Reform timeframe**	Minister for the Environment	None
3.50-4.05	**2. Governance and decision-making**	Minister for the Environment	Paper 1: Governance and decision-making **(pages 18 to 23)**
4.05-4.20	**3. Māori participation in the system**	Minister for the Environment	Paper 2: Māori participation in the system **(pages 24 to 37)**
4.20-4.30	**4. Regional spatial strategy development and reviews, and geographical scale**	Minister for the Environment	Paper 3: Regional spatial strategy development and review, and Geographical scale. **(pages 38 to 44)**
4.30-4.40	**5. NBA plan development processes**	Minister for the Environment	Paper 4: NBA plan development processes **(pages 45 to 54)**
4.40-4.45	**6. Establishing and implementing the new system**	Minister for the Environment	Paper 5: Establishing and implementing the new system **(pages 55 to 60)**

Attached for noting:

1. Minute from RM Māori Interest subgroup meeting #3 on 13 September 2021 (pages 61-62)
2. Minute from RM Infrastructure subgroup meeting #1 on 8 September 2021 (pages 63-64)
3. Minute from RM Reform Ministerial Oversight Group Meeting #10 on 11 August 2021 (pages 65-71)
4. In-progress action log from previous MOG meetings (pages 72-73)
5. MOG #10 Report-back – Resource consents and property rights in water (pages 74-76)

Attached for supplementary information:

1. Appendix 1: Governance and decision-making [redacted] (pages 77-81)
2. Appendix 2: Māori participation in the system (pages 82-103)
3. Appendix 3: Regional spatial strategy development and reviews, and geographical scale (pages 104-128)
4. Appendix 4: NBA plan development processes (pages 129-132)
5. Appendix 5: [redacted]

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Ministerial Oversight Group (MOG) Meeting #11 and #12 overview

Agenda item	Key messages
1. Oral update on RM Reform timeframe	Ministers will be updated on a revised timeframe for the RM reform work programme and the introduction of Bills to the House.
2. Governance and decision-making Regional level governance arrangements for discussion.	Feedback is sought on key design issues including the options of a larger representative committee or a smaller committee where clusters jointly appoint a representative.
3. Māori participation in the system	This paper provides MOG with recommendations across four key Māori participation in the system areas, as well as supporting information. It also provides supporting material on other Māori participation areas and identifies matters requiring further work that will be reported back to a future MOG. Key recommendations include: • establishing a national entity to provide for Māori participation at a national level • joint committee composition to be worked through region by region • NBA and SPA to require iwi/Māori involvement in RSS and NBA plan development through technical and mātauranga Māori input • NBA providing for integrated partnerships processes, an enhanced Mana Whakahono ā Rohe process that is integrated with transfers of powers and joint management agreements.
4. Regional spatial strategy (RSS) development and reviews, and geographical scale MOG agreement is sought to developing, reviewing and amending RSSs, and the geographic scale of RSS.	Proposals include: • allowing RSS Committees to develop tailored and innovative approaches to engagement with the public and stakeholders, with some statutory minimums on engagement outcomes and process • the powers and duties needed in respect of government agencies and others so that RSS Committees receive the technical support they need • that RSS are reviewed every 9 years, using full engagement processes, but there be a process for allowing full reviews between times subject to RSS Committees adopting a significance policy (the NPF will also be able to direct reviews) and there would also be a process for updates that would not require the full engagement process • that boundaries for RSS be regional/unitary council boundaries, with sub-regional flexibility and ability for cross regional collaboration, the inclusion of the coastal marine area, but there be a report back to a future MOG on the boundaries for the 'Top of the South Island"
5. Natural and Built Environments Act (NBA) plan development processes A MOG discussion and decisions are sought on the proposed approach to plan-making in the NBA. Authorisation is sought for the Minister for the Environment to make further decisions.	The NBA plan development process is proposed to be robust, efficient and inclusive by requiring a process that is responsive and enables high quality decision making: • where possible, resource use conflicts should be resolved through the plan development process, rather than through consents. Direction from the National Planning Framework and Regional Spatial Strategies should assist in minimising these conflicts at NBA Plan level • there should be early and sustained involvement of iwi/hapū/Māori, the community and stakeholders The process should include the following key steps: • a strong initial plan development process that emphasises input from stakeholders • an efficient submissions process prior to hearings • an efficient and robust hearings process • scaled plan change approaches to allow proportionate processes • retention of the private plan changes, but with clear parameters • processes for plans to be regularly monitored and reviewed

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6. Establishing and implementing the new system
 	
The views of the MOG are sought on the non-legislative transition and implementation work programme and decision-making responsibilities.
	Significant support for implementation and transition is critical to the success of these reforms. Related decision-making is proposed as follows:
	• it is anticipated the Minister for the Environment will be empowered to make transition and implementation decisions on the NBA (in consultation with other Ministers where applicable)
	• until Ministerial responsibility for the SPA is determined officials recommend:
	  o that the Strategic Planning Reform (SPR) Board maintains oversight for SPA implementation matters
	  o Ministerial responsibility applies to those ministers represented by member agencies of the SPR Board, with the addition of the Associate Minister for the Environment (Hon Kiritapu Allan)
	  o a final decision on this is be considered at a future MOG
	• timing and sequencing policy decisions for the new system rollout are being progressed separately and will be considered at a future MOG.

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Ministerial Oversight Group (MOG) Meeting #11 and #12 – summary of recommendations

Paper 1: Governance and Decision Making (pages 18 to 23)

Key messages

- key design choices for the joint committees responsible for Regional Spatial Strategies (RSS) and NBA plans.
- the option to provide for a range of joint committee models in legislation to accommodate the diversity of New Zealand's regions. Models outlined include a larger representative committee, a smaller committee where clusters jointly appoint representatives and a model for unitary authorities.
- the idea of mandatory requirements for consultation with constituent parties without requiring formal agreement to support accountability of decision-making.
- discussion on the role of a secretariat to provide both administrative and technical support to committees, and the need to consider their role and function alongside decisions for the committees.

Recommendations

1. **note** that this paper seeks feedback from Ministers on aspects of joint committee structures, and that formal advice will be provided to a future MOG.

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Ministerial Oversight Group (MOG) Meeting #11 and #12 – summary of recommendations

Paper 2: Māori participation in the system (pages 24 to 37)

Key messages

This paper provides MOG with recommendations across four key Māori participation in the system areas, as well as supporting information. It also provides supporting material on other Māori participation areas and identifies matters requiring further work that will be reported back to a future MOG.

Key recommendations include:

- establishing a national entity to provide for Māori participation at a national level
- joint committee composition to be worked through region by region
- Natural and Built Environments Act (NBA) and Strategic Planning Act (SPA) to require iwi/Māori involvement in Regional Spatial Strategies (RSS) and NBA plan development through technical and mātauranga Māori input
- NBA providing for integrated partnerships processes, an enhanced Mana Whakahono ā Rohe process that is integrated with transfers of powers and joint management agreements.

Recommendations

1. **note** this advice is based on direction from the MOG Māori interests subgroup.
2. **note** that decisions on the proposals in this paper are in-principle and subject to modification or refinement as further engagement is undertaken and subsequent decisions.

Seeking Cabinet agreement to engagement on these proposals

3. **note** that in late October 2021, the Minister and Associate Ministers for the Environment will seek Cabinet agreement to regional engagement with iwi/Māori (including PSGEs), and targeted engagement with local government and sector stakeholders (including infrastructure providers) on the proposals in this paper, areas for further work on Māori participation, and potentially other proposals for governance.
4. **note** that the engagement will take place before the end of 2021 and feedback will inform finalising governance and Māori participation proposals.

National entity

5. **agree** that a national entity be established to enable Māori participation at the national level.
6. **agree** that the national entity have functions in:
    a. system oversight/monitoring
    b. input to National Planning Framework development
    c. appointments of any Māori representatives to National Planning Framework board.
7. **agree** that the national entity have a specified role in monitoring Tiriti performance across the Resource Management system.
8. **agree** that the national entity should be set up independently to the Government of the day.

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9. **note** that the national entity will be established in a way as to not usurp the mana of hapū and iwi at place, or negatively impact Crown responsibilities provided through Treaty settlements and other agreements.

10. **note** that subject to agreement, further work will be undertaken on the composition, scope and powers of the national entity including whether the national entity should have a role in dispute resolution for iwi, hapū and/or Māori appointments to joint committees or whether this should be a role for the Māori Land Court.

Joint committee composition

11. **agree** that joint committee composition be worked through region-by-region.

12. **note** that if you agree, officials will seek decisions on joint committee composition on a region-by-region basis and how this is provided for in legislation at a later MOG.

13. **agree** that Treaty partnership committees are enabled to support joint committees to uphold Treaty settlement arrangements, Takutai Moana rights, and existing voluntary Resource Management arrangements.

Upholding Treaty settlements and other arrangements

14. **note** that early findings in relation to upholding Treaty settlements and other arrangements include:
    a. the majority of Treaty settlements will not present unsurmountable challenges in terms of legal or policy complexity, although mutual agreement as to what upholding means is needed and implications understood.
    b. agreeing how to uphold Treaty settlements with integrity prior to enacting the Bill will require significant steps, good will and action by the government
    c. statutory acknowledgements are a feature of most settlements and officials are confident there is a solution for upholding these within elements of the new system that could work for all settlements
    d.
    e.

15.

Who makes appointments?

16. **note** that there are different views between iwi/Māori groups on 'who' should have the ability to appoint members to joint committees.

17. **note** that further advice will be provided on:
    a. identifying and recording who makes Māori appointments to joint committees

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b. whether legislation should set appointments processes or whether to enable bespoke processes (eg, through enabling a tikanga or kaupapa Māori appointments process).

Plan development process

18. **agree** that the legislation requires iwi/Māori involvement in plan development through technical and mātauranga Māori input.

19. **note** that further advice will be provided on the plan development process, including on the plan making secretariat engagement processes, including:

    a. roles and participation for iwi/Māori in the plan making secretariat and process for their involvement

    b. what engagement should be undertaken with iwi/Māori at the various stages of the plan development process

    c. how enhanced iwi/Māori involvement in plan development is implemented and funded.

20. **agree** that appropriate weighting and consideration should be given to Māori technical inputs (eg, iwi management plans)

Integrated Partnerships Process

21. **note** that the Resource Management Review Panel's recommended Integrated Partnerships Process was their name for an enhanced Mana Whakahono ā Rohe process that integrates with better transfers of power and joint management agreement (JMAs) provisions.

22. **agree** that the legislation provides for an enhanced Mana Whakahono ā Rohe process that is integrated with transfers of powers and JMAs (an Integrated Partnerships Process)

23. **agree** to recommend to the MOG that power sharing arrangements (transfers of power and JMAs) are better enabled through the Integrated Partnerships Process, with barriers removed.

24. **note** that, subject to agreement, further work will be undertaken on the scope of Integrated Partnerships Processes and mandatory requirements for what must be covered.

Next steps for other Māori participation topics

25. **note** that officials will provide further advice on Māori participation in consenting, compliance monitoring and enforcement, environmental monitoring and funding to enable effective participation across the Resource Management system.

Who participates?

26. **note** that there are different views between iwi/Māori groups in regard to who from Māori should participate in different functions in the Resource Management system and these differences primarily manifest in relation to involvement in governance.

27. **note** that who participates in the Resource Management system is dependant on the function in question therefore a one-size-fits-all approach is not the solution.

28. **note** that officials are working on advice on the matter of who participates in the Resource Management system for a future MOG.

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Ministerial Oversight Group (MOG) Meeting #11 and #12 – summary of recommendations

Paper 3: Regional Spatial Strategy development and reviews and geographical scale (pages 38 to 44)

Key messages

Proposals in this paper include:

- allowing RSS Committees to develop tailored and innovative approaches to engagement with the public and stakeholders, with some statutory minimums on engagement outcomes and process
- the powers and duties needed in respect of government agencies and others so that RSS Committees receive the technical support they need
- that Regional Spatial Strategies (RSS) are reviewed every 9 years, using full engagement processes, but there be a process for allowing full reviews between times subject to RSS Committees adopting a significance policy (the National Planning Framework will also be able to direct reviews) and there would also be a process for updates that would not require the full engagement process
- that boundaries for RSS be regional/unitary council boundaries, with sub-regional flexibility and ability for cross regional collaboration, the inclusion of the coastal marine area, but there be a report back to a future MOG on the boundaries for the 'Top of the South Island"

Recommendations

1. **note** MOG #1 decisions authorised the Deputy Chair (Minister for the Environment) to take further detailed policy decisions beyond those taken by MOG where required to enable drafting, consulting relevant Ministers where appropriate (this applies to any detailed decisions in this MOG paper, which need to be made during drafting)
2. **agree** that the Strategic Planning Act will not include a single prescribed process for public engagement on Regional Spatial Strategy development, allowing Regional Spatial Strategy Committees to devise a process that will work for their region
3. **agree** that the Strategic Planning Act will require the Regional Spatial Strategy Committee to determine the process they intend to use to engage the public when developing a Regional Spatial Strategy and give public notice of this process
4. **agree** that the Strategic Planning Act will require that the engagement process developed by the Regional Spatial Strategy Committee must ensure the following engagement outcomes:
    a. the Regional Spatial Strategy is based on the best available information
    b. the views of all those with an interest in the matters that the Regional Spatial Strategy addresses are sought and considered fairly and with an open mind
    c. the agencies that will be required to implement the Regional Spatial Strategy have had the opportunity to provide input throughout the engagement process on matters that will affect them
    d. the process is Treaty compliant
5. **agree** that the Strategic Planning Act will require that the engagement process to develop a Regional Spatial Strategy includes:
    a. early engagement with the interested parties and the public on the matters that will be covered in the Regional Spatial Strategy

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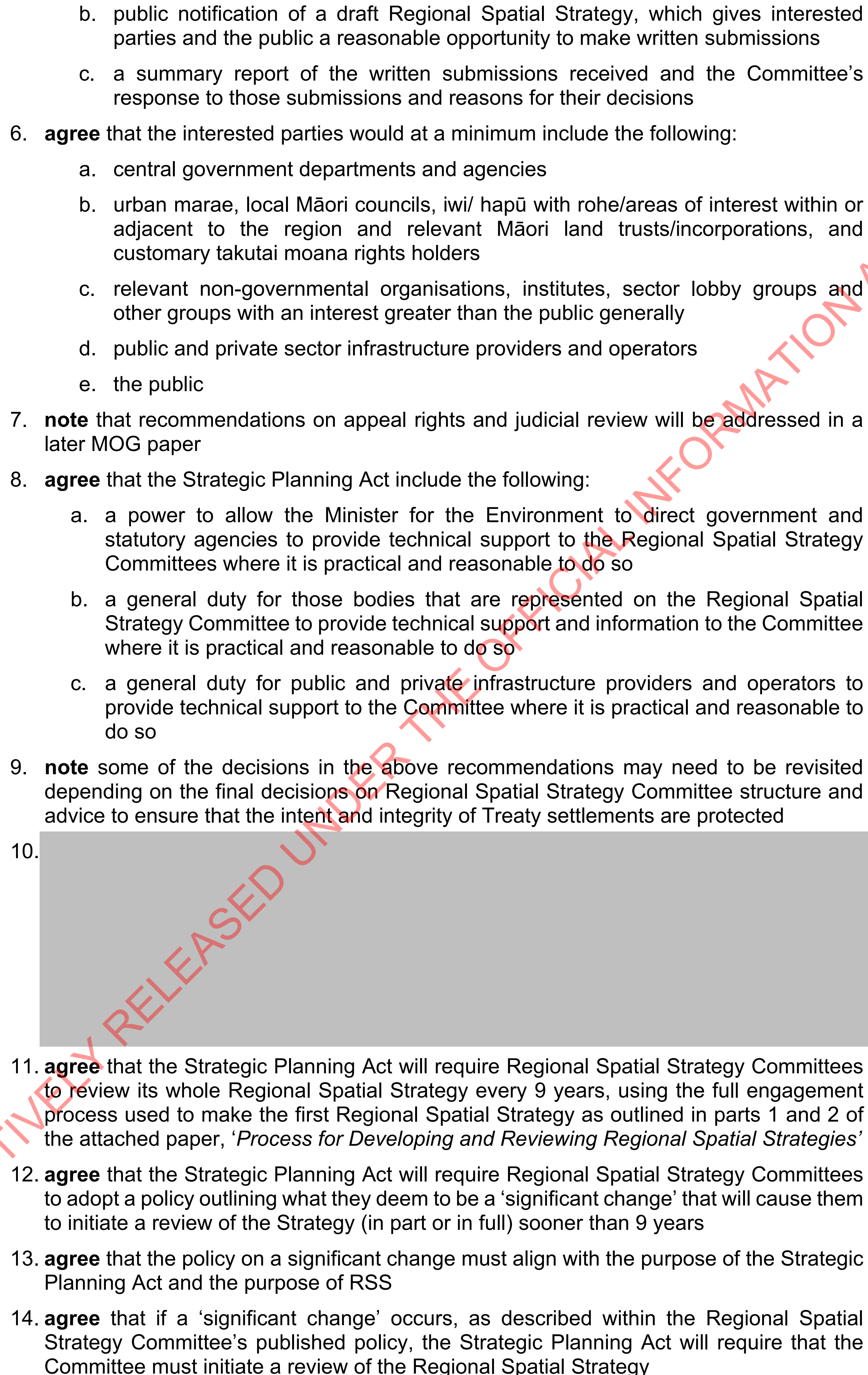
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   b. public notification of a draft Regional Spatial Strategy, which gives interested parties and the public a reasonable opportunity to make written submissions

   c. a summary report of the written submissions received and the Committee's response to those submissions and reasons for their decisions

6. **agree** that the interested parties would at a minimum include the following:

   a. central government departments and agencies

   b. urban marae, local Māori councils, iwi/ hapū with rohe/areas of interest within or adjacent to the region and relevant Māori land trusts/incorporations, and customary takutai moana rights holders

   c. relevant non-governmental organisations, institutes, sector lobby groups and other groups with an interest greater than the public generally

   d. public and private sector infrastructure providers and operators

   e. the public

7. **note** that recommendations on appeal rights and judicial review will be addressed in a later MOG paper

8. **agree** that the Strategic Planning Act include the following:

   a. a power to allow the Minister for the Environment to direct government and statutory agencies to provide technical support to the Regional Spatial Strategy Committees where it is practical and reasonable to do so

   b. a general duty for those bodies that are represented on the Regional Spatial Strategy Committee to provide technical support and information to the Committee where it is practical and reasonable to do so

   c. a general duty for public and private infrastructure providers and operators to provide technical support to the Committee where it is practical and reasonable to do so

9. **note** some of the decisions in the above recommendations may need to be revisited depending on the final decisions on Regional Spatial Strategy Committee structure and advice to ensure that the intent and integrity of Treaty settlements are protected

10.

11. **agree** that the Strategic Planning Act will require Regional Spatial Strategy Committees to review its whole Regional Spatial Strategy every 9 years, using the full engagement process used to make the first Regional Spatial Strategy as outlined in parts 1 and 2 of the attached paper, '*Process for Developing and Reviewing Regional Spatial Strategies*'

12. **agree** that the Strategic Planning Act will require Regional Spatial Strategy Committees to adopt a policy outlining what they deem to be a 'significant change' that will cause them to initiate a review of the Strategy (in part or in full) sooner than 9 years

13. **agree** that the policy on a significant change must align with the purpose of the Strategic Planning Act and the purpose of RSS

14. **agree** that if a 'significant change' occurs, as described within the Regional Spatial Strategy Committee's published policy, the Strategic Planning Act will require that the Committee must initiate a review of the Regional Spatial Strategy

15. **agree** that after initiating a review, if the Regional Spatial Strategy Committee decides an amendment is needed (to all or part of the Regional Spatial Strategy) then it must follow the full public engagement processes required when developing a Strategy
16. **agree** that if, after initiating a review, the Regional Spatial Strategy Committee decides a change is not needed then it does not require public participation
17. **agree** that, if the review only pertains to part of a Regional Spatial Strategy, it does not re-open the whole Strategy for review
18. **agree** that the Regional Spatial Strategy Committee will give public notice whenever it reviews a Regional Spatial Strategy, regardless of whether an amendment was made. Where the review relates to only part of a Strategy, the Committee will record how it has concluded that the rest of the Strategy is not impacted
19. **agree** that the Strategic Planning Act will provide Regional Spatial Strategy Committees with discretion to update their Regional Spatial Strategy for minor amendments and technical corrections without triggering any public engagement requirements
20. **agree** that there is a specific clause in the Strategic Planning Act stating the Regional Spatial Strategy must be reviewed or amended, if the NPF says so, to give effect to the NPF as relevant
21. **agree** that if a significant change triggers a review, or if a minor amendment is needed, that will affect a cross-boundary issue, the collaborating Regional Spatial Strategy Committees will discuss how to jointly undertake the review or amendment in line with the engagement outcomes required under the SPA
22. **agree** that the Strategic Planning Act include that public notice must be given of a completed Regional Spatial Strategy and amendments, including information regarding where the amended Regional Spatial Strategy can be viewed
23. **agree** that the boundaries for mandatory Regional Spatial Strategy will be regional council/unitary authority boundaries and therefore align with the geographical boundaries of NBA Plans
24. **agree** that Regional Spatial Strategy content can reflect the circumstances of the region, including focusing on specific parts of a region where significant change is happening, anticipated, or required
25. **agree** to include in the Strategic Planning Act a statutory process for collaboration on cross-boundary issues by way of cross-regional committee
26. **agree** the statutory process may be initiated, either by the Minister for the Environment, with input from or consultation with other Ministers, or by the relevant Regional Spatial Strategy Committees
27. **agree** that the cross-regional strategy developed by the cross-regional committee will be added into each separate Regional Spatial Strategy without further consultation being required and without creating a planning hierarchy
28. **agree** that Regional Spatial Strategy boundaries using regional council boundaries will extend to the 12-nautical mile limit of the territorial sea
29. **agree** that no Regional Spatial Strategy is required for the Chatham Islands
30. **agree** that the Strategic Planning Act will not apply to offshore islands for which the Minister of Conservation has the role of a local authority under the current RMA
31. **agree** that offshore islands administered by the Minister of Local Government will, because of the chosen Regional Spatial Strategy boundaries, be included within a Regional Spatial Strategy, where any relevant matters identified by the Committee would be addressed
32. **agree** that officials will report back on the appropriate geographical boundaries for Regional Spatial Strategy and Natural and Built Environment Act Plans in the 'Top of the

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South' (Nelson/Tasman/Marlborough, ie, 'Te Tau Ihu') to a future MOG for decision as further work and engagement is ongoing

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Ministerial Oversight Group (MOG) Meeting #11 and #12 – summary of recommendations

Paper 4: NBA plan development processes (pages 45 to 54)

Key messages

The NBA plan development process is proposed to be robust, efficient and inclusive by requiring a process that is responsive and enables high quality decision making:

- where possible, resource use conflicts should be resolved through the plan development process, rather than through consents. Direction from the National Planning Framework (NPF) and Regional Spatial Strategies (RSS) should assist in minimising these conflicts at NBA Plan level
- there should be early and sustained involvement of iwi/hapū/Māori, the community and stakeholders

The process should include the following key steps:

- a strong initial plan development process that emphasises input from stakeholders
- an efficient submissions process prior to hearings
- an efficient and robust hearings process
- scaled plan change approaches to allow proportionate processes
- retention of the private plan changes, but with clear parameters
- processes for plans to be regularly monitored and reviewed

Recommendations

1. **agree** to an NBA plan making process that:
    a. facilitates better public participation during policy development, seeks engagement early in the process and ensures feedback received has weight throughout the plan development process
    b. has an early and sustained role for iwi/hapū/Māori in the plan development process that recognises iwi/hapū/Māori as experts and kaitiaki of their own rohe
    c. includes a requirement for those preparing the plan to invest in innovative ways, methods, and techniques to engage, seek and facilitate widespread community feedback, including from disabled people, people with language barriers, youth, etc
    d. has a role for local place-making
    e. is easy for plan users to navigate and participate in
    f. avoids relitigation of matters settled higher up in the system
    g. refines policy through submissions
    h. results in a robust plan through the use of an Independent Hearings Panel (IHP).
2. **agree** that there will be three phases of plan development: policy development, submissions, hearings
3. **agree** that some of the stages in the NBA plan development process will be time limited and further advice will contain this detail

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Policy development phase

4. **agree** that the plan preparation phase provides certainty for mana whenua and customary marine title groups on their involvement in the plan development process, focusing on ongoing engagement, efficient and effective methods for jointly drafting provisions and provides clear dispute resolution mechanisms
5. **agree** that the plan preparation process must include the identification and notification of major regional policy issues, including matters directed by legislation, the National Planning Framework, and the Regional Spatial Strategy
6. **agree** that during plan development there is a statutory requirement to consult with government departments and ministries, local authorities and infrastructure groups ('requiring authorities')
7. **note** that there is an expectation that the statutory requirement to consult would also include Māori groups, and further advice on this will be provided later
8. **agree** that during the plan development process there are opportunities for any party to register their interest to be consulted on the development of plan provisions
9. **agree** that submissions received in advance of the notified plan (during the plan development process such as from hui, workshops and community events) are formally recorded and have weight through the NBA plan development process
10. **agree** that a process is set up to ensure the NBA plan gives effect to the National Planning Framework
11. **agree** that plan provisions be evaluated using a process which is efficient, proportional, responds to environmental outcomes, ensures development occurs within environmental limits, supports good decision making and includes explicit links to plan monitoring provisions

Submissions Phase

12. **agree** that the plan committee:
    a. is not required to summarise submissions
    b. may request further particulars from a submitter
    c. may commission reports to obtain further information
13. **agree** that the substantive matters and associated information are presented during the submission phase by requiring submitters to provide details of what they want, and to provide supporting material explaining their request
14. **agree** that anybody can make a primary submission
15. **agree** that officials will consider limiting the ability to make a secondary submission to certain parties
16. **agree** that no new information is presented to the IHP, beyond what is provided during the submissions phase

Hearings phase

17. **agree** that the plan process use an IHP to hear submissions and make recommendations to the NBA plan committee
18. **agree** to an IHP process that is easy for people to participate in, is not unnecessarily formal and excludes cross-examination
19. **agree** to officials developing further policy on appeals based on the Panel's recommendations and the Auckland Unitary Plan model
20. **note** final recommendations on appeals will be provided after decisions on governance structure have been made

NBA plan review

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21. **agree** that NBA plans will be reviewed on a cyclical basis in response to plan and other forms of monitoring, with initiation of a full review of NBA plans being required within a fixed number of cycles

NBA plan changes

22. **agree** to a scale of plan change approaches being incorporated in the system to enable to the process to be proportionate to the change
23. **agree** that private plan changes are possible but restricted in when and in what circumstances that may occur

Next steps

24. **authorise** the Minister for the Environment to make further policy decisions on the details of the NBA plan development process, plan reviews and plan change process, including the process for private plan changes
25. **authorise** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to implement the decisions set out above (including delegated decisions) through a Bill
26. **note** that officials will undertake further policy work on the Minister of Conservation's role in the plan development process within the coastal marine area
27. **note** that officials will advise a future MOG on appeals after further decisions on plan making, legal weight of regional spatial strategies and governance have been made
28. **note** that further decisions on plan development need to be made in conjunction with decisions on governance arrangements
29. **note** that detailed decisions on iwi/hapū/Māori participation in plan making need to be made in conjunction with decisions on wider Māori participation in the wider system.

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Ministerial Oversight Group (MOG) Meeting #11 and #12 – summary of recommendations

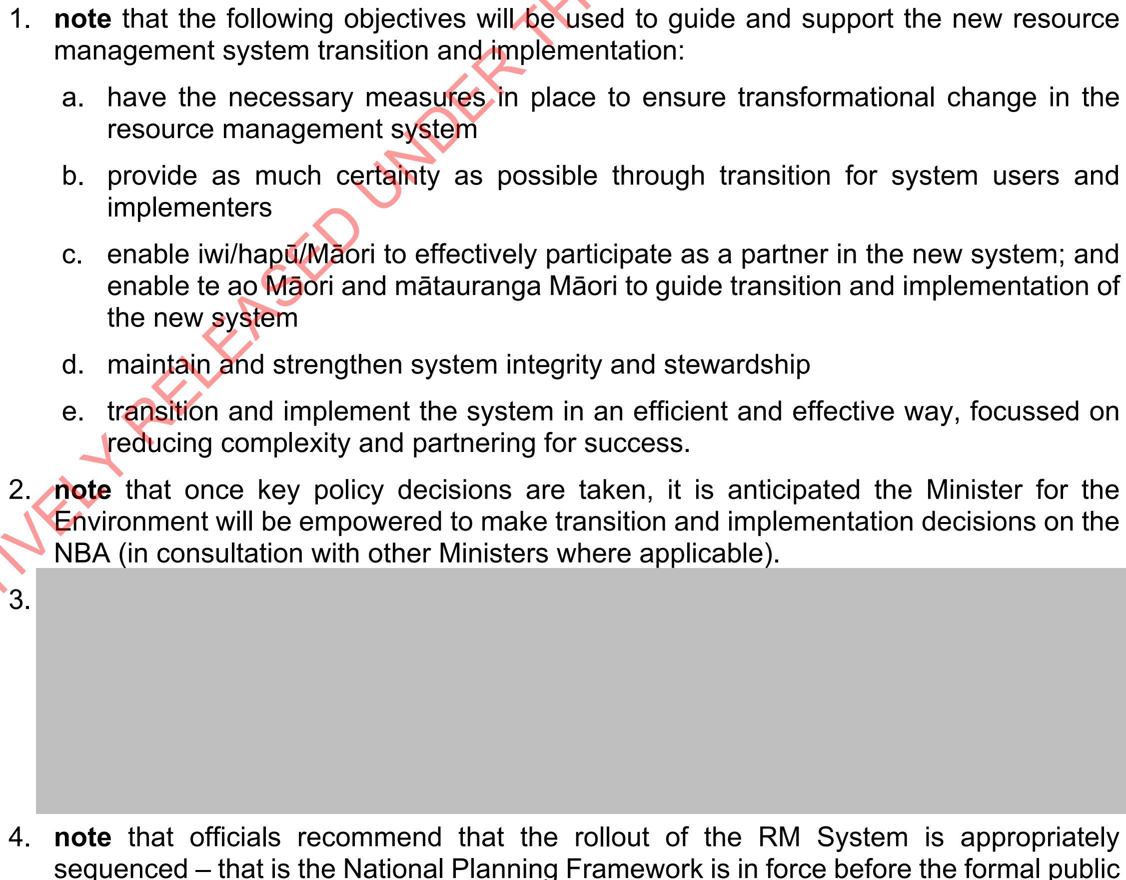
Paper 5: Establishing and implementing the new system (pages 55 to 60)

Key messages

Significant support for implementation and transition is critical to the success of these reforms. Related decision-making is proposed as follows:

- it is anticipated the Minister for the Environment will be empowered to make transition and implementation decisions on the Natural and Built Environments Act (in consultation with other Ministers where applicable)
- until Ministerial responsibility for the Strategic Planning Act (SPA) is determined, officials recommend:
  - that the Strategic Planning Reform (SPR) Board maintains oversight for SPA implementation matters
  - Ministerial responsibility applies to those ministers represented by member agencies of the SPR Board, with the addition of the Associate Minister for the Environment (Hon Kiritapu Allan)
  - a final decision on this is be considered at a future MOG
- timing and sequencing policy decisions for the new system rollout are being progressed separately and will be considered at a future MOG.

Recommendations

1. **note** that the following objectives will be used to guide and support the new resource management system transition and implementation:
   a. have the necessary measures in place to ensure transformational change in the resource management system
   b. provide as much certainty as possible through transition for system users and implementers
   c. enable iwi/hapū/Māori to effectively participate as a partner in the new system; and enable te ao Māori and mātauranga Māori to guide transition and implementation of the new system
   d. maintain and strengthen system integrity and stewardship
   e. transition and implement the system in an efficient and effective way, focussed on reducing complexity and partnering for success.
2. **note** that once key policy decisions are taken, it is anticipated the Minister for the Environment will be empowered to make transition and implementation decisions on the NBA (in consultation with other Ministers where applicable).
3. 
4. **note** that officials recommend that the rollout of the RM System is appropriately sequenced – that is the National Planning Framework is in force before the formal public

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consultation on any Regional Spatial Strategies, and similarly the RSSs are in force before the Natural and Built Environment Act Plans are formally publicly consulted on. Officials will provide further advice on this issue.

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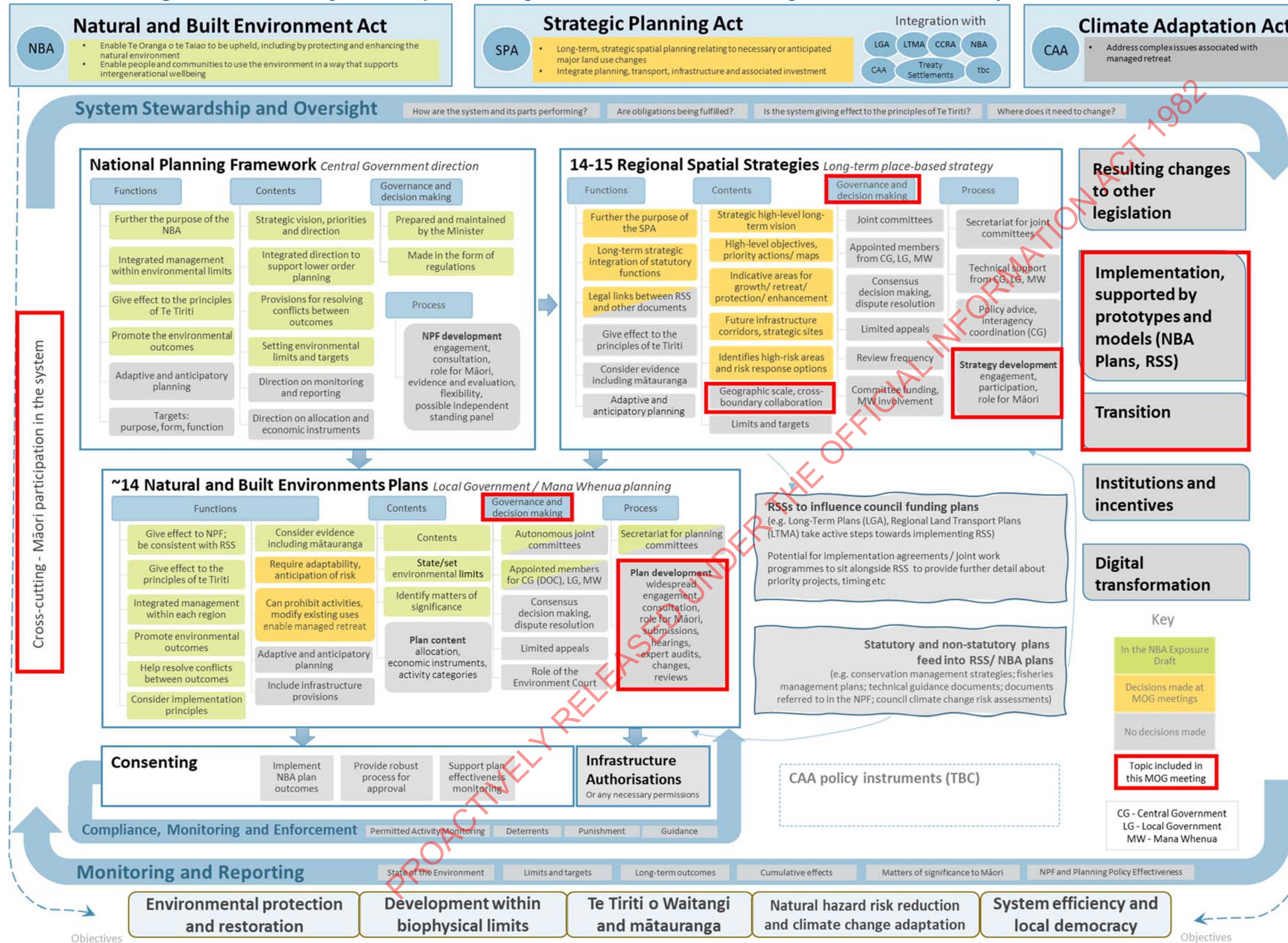
Resource Management Reform System Map: indicating where MOG #11 and #12 agenda items sit in the system



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Paper 1: Governance and decision-making at the regional level

The two supporting documents in Appendix 1 supplement this paper: number of local authorities and iwi per region *(Appendix 1, supporting document 1, pages 77-79); and* supplementary paper provided by DIA *(Appendix 1, supporting document 2, pages 80-81).*

Purpose

1. The purpose of this paper is to support discussion on key aspects of governance and decision-making by joint committees for:
   a. regional spatial strategies under the Strategic Planning Act (SPA)
   b. plans under the Natural and Built Environments Act (NBA).
2. Governance arrangements are a combination of decision-making (autonomy and consensus), dispute resolution, membership, and selection. There are two broad options being considered for both SPA joint committees and NBA plan committees:
   a. a larger representative committee
   b. smaller committee where clusters jointly appoint a representative.
3. Officials are also looking at whether a different model is required for unitary authorities.
4. The paper builds on the MOG #9 discussion on governance and decision-making at the regional level. Officials are seeking Ministers' feedback on the key design issues and are not seeking detailed decisions at this stage. Officials will be reporting back with further advice to a future MOG.
5. It is noted that discussions on Māori participation in the system will inform governance decisions.
6. Officials would appreciate views on the following:
   a. including a range of joint committee models in the legislation to accommodate the diversity of New Zealand's regions, noting that this could include a larger committee model, a smaller committee model where clusters jointly appoint a representative and a model for unitary authorities
   b. the importance of strategies and plans being viewed as legitimate, for example through introducing an additional time-bound step to seek approval or input from councils and mana whenua before decisions are made (less autonomy)
   c. the role of the secretariat in providing both administrative support and technical input to the development of strategies and plans, including the proposal from the Department of Internal Affairs (DIA) for the secretariat to be delegated decision-making on technical matters.
7. In-principle decisions on Māori participation in the system are also sought through *Paper 2: The role of Māori in the system*. This advice is proposed to be refined through further engagement with Māori and further advice developed on specific functions or elements in the system.
8. Appendix 1, supporting document 1 (pages 77-79) provides information on local authorities and iwi by region; Appendix 1, supporting document 2 (pages 80-81) provides a supporting paper for discussion provided by DIA.

What the Panel said

9. The Panel recommended that plans under the NBA, and regional spatial strategies under the SPA, should be developed by regional joint committees.
10. The Panel considered that a joint committee model would create greater requirements for partnership between central and local government and mana whenua, and that this

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would improve capability and capacity in the system and ensure decision-makers have incentives to achieve good environmental outcomes.

11. Joint committees would involve mana whenua in decision-making on strategies and plans at the regional level. The Panel envisaged that this would enable a more effective strategic role for Māori in the system.

12. The table below summarises the key features of the Panel's committee models for the two Acts.

Key features of SPA and NBA committees		
Feature	**SPA committee**	**NBA plan committee**
Legal structure	A joint committee (not under the LGA).	A joint committee (not under the LGA).
Member-ship	Local authorities (represented by officials), mana whenua, central government officials, proposed independent chair.	Local authorities, mana whenua, Minister of Conservation appointee. Silent on independent chair.
Plan and decision-making process	Committee develops strategy with stakeholder involvement, and holds autonomous decision-making rights on the strategy (with intent to aim for consensus decision-making), appoints an independent reviewer and responds to recommendations.	Committee engages with public and stakeholders on discussion document (not a draft plan), develops plan, an Independent Hearings Panel (IHP) hears submissions and makes recommendations, and committee holds autonomous decision-making rights (with intent for consensus decision-making).
Secretariat	Administrative and technical support for strategy drafting.	Draft discussion document, draft plan, undertake policy analysis, co-ordination of public engagement, commission expert advice, administration support to joint committee. IHP supported by own secretariat to provide independent technical and professional advice on plan.
Dispute resolution	Mediation, with default to Minister if committee cannot agree.	Mediation, with default to Minister if committee cannot agree.

13. The Panel recommended that joint committees have autonomous decision-making rights on the plans. This would enable joint committees to operate more efficiently and effectively than if local authorities retained ultimate decision-making powers, and joint committees would be better placed to build consensus and make difficult choices.

14. The Panel recommended that each constituent territorial authority in the region would be represented on NBA plan committees but not necessarily on SPA committees, as some regions have large numbers of territorial authorities and mana whenua.

Key design considerations

The SPA and NBA joint committees perform different roles

15. The function of the joint committees, and in particular, the nature of the decisions being made should inform choices about governance models. The SPA committees and NBA plan committees will be making different types of decisions:

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a. developing regional spatial strategies will require SPA committees to make decisions that are long-term and strategic, informed by evidence and that reflect community aspirations and values

b. developing NBA plans will require NBA plan committees to make decisions that are regulatory, translating outcomes and limits into plan provisions for a region informed by evidence. The nature of the decisions has a direct impact on people's private property rights.

16. Although the nature of the decisions would differ between strategies and plans, both would be informed by evidence and be supported by a secretariat. Officials consider that there would be efficiencies in having the same secretariat to enable sharing of evidence and institutional knowledge across both processes. The main difference between the two processes is the role of central government, where central government will likely have a lesser role in the development of NBA plans.

17. However, having one committee overseeing both processes may limit both local authority and hapū/iwi/Māori ability to spread workloads between the available people, and to provide opportunities for different local authorities and iwi to participate in governance processes. Officials suggest the legislation is silent on this matter to allow individual regions to work out solutions appropriate to their regions.

Strategies and plans must have the support of local authorities and hapū/iwi/Māori if they are to be successfully implemented

18. The Panel recommended that the joint committees should be fully autonomous and would make final decisions on the plan without seeking approval from constituent local authorities. Regional spatial strategies and NBA plans will gain support where decision-makers are seen to be accountable and decision-making processes are transparent and inclusive.

19. This might mean providing a role for local authorities and mana whenua groups in approving plans and strategies to help achieve accountability and local democratic oversight, or setting mandatory requirements for consultation with constituent parties without requiring formal agreement. This would run counter to the Panel's recommendation, but officials consider that the issue of legitimacy needs to be given careful attention as governance models and processes are further developed.

20. Officials recognise the importance of the efficiency objective for the reform programme. Two key areas for consideration are that:

a. efficiency must be considered across the whole system, including implementation and appeals. Focusing on the efficient operation of joint committees runs the risk of shifting time and cost elsewhere in the system. For example, plans that are not perceived to be legitimate could result in more time spent at the appeals stage

b. efficiency gains from having smaller (and less representative) committees could be impacted by the need for additional structures and processes for enabling local democracy and participation and meeting Te Tiriti obligations.

A one size-fits all committee model is unlikely to meet the diverse needs of the regions

21. Regional diversity means there is unlikely to be a one-size-fits-all approach to governance set out in the legislation. For example, successful governance arrangements for Auckland Council would likely be different from those that would work best in the Waikato region. Officials are looking to achieve a balance between flexibility and certainty in the legislation by using principles (based on differing models) and then secondary instruments to develop regionally-specific arrangements. This will better support variations in the numbers of councils across regions, numbers of iwi and hapū, and existing Treaty settlements and other interests and arrangements.

22. Appendix 1, supporting document 1 (pages 77-79) sets out a table with the numbers of local authorities and iwi areas of interest (as sourced from the Te Kāhui Māngai website).

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The role of the secretariat must also be considered when designing the functions of the joint committees

23. An important consideration is the appointment and role of the secretariat to support the joint committees. If the secretariat provides both technical and administrative support, in effect the secretariat would undertake the drafting of the strategy and plan on behalf of the committee.

24. DIA have provided a supporting paper (Appendix 1, supporting document 2, pages 80-81) which proposes an alternative governance model which separates the political leadership of the committee from the plan-making functions. Under this model the committee would set the high-level strategic direction and priorities of a strategy or plan, potentially through a charter, with the secretariat being mandated to prepare the detailed plan. DIA suggest that this approach could support political accountability of the plan where the committee is making decisions that are political in nature with technical decisions being left to the secretariat to decide.

25. Officials are undertaking further work on the secretariat, including the form the secretariat would take and membership. Our initial view is that it is unlikely that the primary legislation will set out the level of specificity suggested by DIA, and it will be important for regions to determine how they wish to operate.

SPA committees

It is not appropriate for local authorities to be represented by officials on SPA committees

26. Decisions for spatial strategies are inherently political, reflecting aspirations for regions and community values. For example, identifying areas of potential managed retreat, areas where development should not occur, and potential corridors for infrastructure are all matters that, while informed by evidence, typically attract high levels of public interest and debate.

27. In that light, the Panel's recommendation that regional spatial strategies be developed by committees comprised of officials seems inconsistent with expectations of local democracy. We have received unanimous feedback on the unsuitability of local authority officials on SPA committees, with concerns raised that it would create a conflict of interest with officials' legal obligations to act in the best interests of their employer and politicises roles that are meant to be politically neutral.

28. A lack of elected member representation on SPA committees together with the Panel's recommendations for autonomous decision-making and a lack of appeal rights could prove problematic. As a result, local authorities may be reluctant to commit to regional spatial strategies and at worst, could turn local authorities into judicial review litigants.

Two options are being considered for SPA joint committees

29. Officials are looking at two options for committee models:
    a. larger group of representatives (including elected council representatives and mana whenua representatives)
    b. a smaller committee with members appointed by clusters of local authorities and clusters of mana whenua.

30. The process to develop the regional spatial strategy relies on the strategy committee being more involved than the NBA plan committees as, unlike the NBA process, the process to develop the strategy is not proposed to be supported by an Independent Hearings Panel (IHP). The key decision points would be:
    a. engagement on issues and options
    b. consulting on the draft strategy
    c. deciding to hear submissions and amending the strategy
    d. approving strategy (depending on autonomy).

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The role of the proposed Crown representative on the SPA committee is unclear

31. Potential Crown interests on a SPA committee include:
    a. interests in outcomes as a landowner and service provider
    b. interests in outcomes from a national policy perspective
    c. ensuring SPA committees and strategies fulfil Treaty principles and obligations.

32. Officials consider that the role of the Crown representative should be clear. Consideration should also be given to whether competing or conflicting interests between Crown agencies should be exposed for regional debate and solution or resolved in Wellington with a single Crown view presented to the region.

33.

NBA plan committees

The Panel recommended that all constituent local authorities should be represented on NBA plan committees

34. NBA plans set rules that directly affect local communities and property rights. Local communities and mana whenua will expect to be consulted and engaged with on the plans. Local councils will need to buy into the plans because they will be responsible for implementing them.

35. Officials consider that a committee where all local authorities are represented, as envisaged by the panel, would be the best approach for building accountability and legitimacy into the plan process. This would mean that NBA plan committees may be made up of a larger number of representatives than SPA committees. In some regions (eg, Waikato), committees could be relatively large, with up to 12 local authorities plus mana whenua representation. However, efficient operation could be supported through sub-committees and other arrangements, and decision-making will be supported by the IHP recommendations.

The Panel did not specify whether representatives should be officials, elected members or nominated representatives

36. Most joint committees or co-governance arrangements within local government include political representative appointments with supporting structures for technical advice. One example is the Te Tai Poutini Plan Committee. This is a fully autonomous group set up to deliver the West Coast Combined Plan. Representation includes the mayor, one councillor from each of the three district councils, the chairperson (a councillor from the regional council), and two rūnanga appointees.

37. As with SPA committees, it would not be appropriate for officials to represent local authorities on NBA plan committees.

38. Political representatives would need to be supported by technical advisors. The Panel envisaged that this would be provided by the secretariat function.

An alternative approach would be a smaller jointly appointed committee

39. This approach could address the problem of committees becoming too large and unwieldy. Local authorities and mana whenua would each appoint a smaller number of representatives to the committee. The appointees could either be chosen for technical skills and expertise, creating a smaller committee of technical experts, or a 'mixed-model' approach could be used, where both elected representatives and appointees with technical skills are chosen by the committee. This model would create a balance of skills, local knowledge and representation which could support efficiency and effective working. Any model that did not involve representation from all local authorities would need to include structures and processes to support accountability and legitimacy.

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Partner and stakeholder feedback

40.

41. Feedback from Local Government to date has included:

    a. a range of views on whether council appointees should be elected representatives or selected on the basis of their skills

    b. the need for territorial authorities to participate in decision-making

    c. the importance of the consultation process in supporting legitimacy

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45. Partnership with hapū/iwi/Māori is important throughout both the process for developing strategies and plans, and for making decisions. This can be provided for through a combination of mechanisms and approaches that relate to each component of the governance arrangements.

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Recommendations

It is recommended that the Ministerial Oversight Group:

1. **note** that this paper seeks feedback from Ministers on aspects of joint committee structures, and that formal advice will be provided to a future MOG.

Paper 2: Māori participation in the system

Key messages

1. This paper provides Ministerial Oversight Group (MOG) with recommendations from the MOG Māori Interests subgroup (subgroup) across four key areas for Māori participation in the Resource Management system (the system), as well as supporting information. Minutes from the subgroup are attached which reflect where discussions have landed. Work to date is based on the direction provided so far.
2. Officials have made some additional supporting recommendations that progress or provide more substance to the subgroup recommendations in key areas and have identified matters requiring further work that will be reported back to a future MOG.
3. Key recommendations include:
    a. establishing a national entity to provide for Māori participation at a national level
    b. joint committee composition to be worked through region by region
    c. Natural Built Environments Act (NBA) and Strategic Planning Act (SPA) requiring iwi/Māori involvement in NBA and Regional Spatial Strategies (RSS) plan development through technical and mātauranga Māori input
    d. NBA providing for Integrated Partnerships Processes (IPP), an enhanced Mana Whakahono ā Rohe process that is integrated with transfers of powers and joint management agreements.

Purpose

4. The paper seeks in-principle agreement to options and proposals for Māori roles and participation relating to:
    a. a national level entity
    b. joint committee composition
    c. plan development
    d. the IPP (enhanced Mana Whakahono ā Rohe).
5. The paper also provides key messages and next steps on:
    a. who participates in the system, and how they are identified and recorded
    b. upholding Treaty settlements and other arrangements
    c. alignment with Māori participation through other government reforms
    d. implications of NBA governance decisions on options for addressing Māori freshwater rights and interests.
6. In late October 2021, the Minister and Associate Ministers for the Environment will seek Cabinet agreement to regional engagement with iwi/Māori (including PSGEs (Post Settlement Governance Entities)) and targeted engagement with local government and sector stakeholders (including infrastructure providers) on:
    a. the proposals in this paper,
    b. areas for further work on Māori participation, and
    c. potentially other proposals for governance.

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7. The MOG Māori interests subgroup (subgroup) met on 2 August 2021 and 13 September 2021 to discuss Māori participation in the system. The first subgroup considered a range of possible options for Māori participation in the system and the second subgroup considered a refined set of key choices and options for Māori participation. The subgroup recommendations to MOG are outlined in this paper.

Status quo under the current system

8. The Resource Management Review Panel (the Panel) identified that:

    a. Māori involvement in the system has tended to be at the 'bottom end' (ie, consenting and consultation on near-final plans).

    b. there has been limited use of the existing Resource Management Act 1991 (RMA) mechanisms for Māori participation, and inconsistent involvement in more strategic aspects of the system such as planning.

    c. Local authorities and applicants for resource consents can find it difficult to know who holds mana whenua in an area and therefore which mana whenua groups to engage with.

9. Iwi/Māori groups also identified limited Māori input into direction-setting for plans, limited use of Iwi Management Plans (IMPs) and other iwi/Māori generated planning content, and lack of incentives and barriers to use of section 33 (transfer of powers), section 36B (joint management agreements) and Mana Whakahono-ā-rohe agreements.

10. Most significant legislated roles for Māori participation are negotiated in Treaty settlements initiated by iwi (eg, Waikato River, Hawkes Bay Regional Planning Committee, Te Awa Tupua) or via local government arrangements including, for example, the Independent Māori Statutory Board in Auckland, the joint management agreement between Ngāti Porou and Gisborne District Council and the Te Waihora co-governance agreement between Ngāi Tahu, local authorities and the Department of Conservation.

11. The Waitangi Tribunal noted in Wai 262, "the fact that historical Treaty settlements have become the principal vehicle for protecting mātauranga Māori and taonga leads to inevitable inconsistencies". There is an opportunity through RM reform to provide for better, more strategic and more consistent Māori participation in the system.

Panel's recommendations

12. The Panel recommended that "a more effective strategic role for Māori in the system should be provided for, including representation of mana whenua on regional spatial planning and joint planning committees".

13. The Panel made a number of more detailed recommendations, including:

    a. provision for Māori in the development of, and decision-making on, a NPS or NES (ie, the National Planning Framework (NPF))

    b. the Minister for the Environment providing national direction developed with Māori on how to incorporate Māori perspectives and mātauranga Māori into the environmental monitoring system

    c. a National Māori Advisory Board be established to monitor the performance of central and local government in giving effect to Te Tiriti and other functions including: participating in the developing of Te Tiriti national direction, advising central and local government on Te Tiriti matters, and maintaining records of mana whenua groups in the areas of local authorities

    d. representation of mana whenua on regional spatial planning and joint planning committees. They did not address composition or how mana whenua members should be appointed

    e. a new IPP to address the fragmentation and underuse of transfer of power provisions, joint management agreements, and Mana Whakahono ā Rohe arrangements in the current RMA and to provide a consistent approach to settled

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and non-settled mana whenua to foster partnerships with local authorities throughout the resource management system.

Previous Ministerial Oversight Group decisions

14. Several relevant MOG decisions have been made at the national level of the system:
    a. as a reform outcome, that the process and substance of the NPF and plan-making decisions give effect to the principles of Te Tiriti and reflect te ao Māori, including mātauranga Māori (MOG #1)
    b. the NPF will be issued as secondary legislation, meaning that it will be agreed by Cabinet (MOG #3)
    c. there will be a range of monitoring and oversight functions at the national level including mechanisms to monitor how the system gives effect to the principles of Te Tiriti (MOG #10).
15. A set of principles and key questions were agreed to guide engagement on the design of governance and decision-making options for the NBA and SPA, including:
    a. 'give effect to the principles of Te Tiriti o Waitangi and uphold the integrity of relevant Treaty settlements and agreements under the RMA between councils and Māori. In relation to Treaty settlements:
        i. uphold all undertakings in negotiated Treaty settlements
        ii. uphold all agreements in current Treaty negotiations being undertaken
        iii. ensure that any future Treaty settlement negotiations will be undertaken on the same equitable basis as all Treaty settlements undertaken prior to the development of the NBA and SPA'.
16. MOG also "invited officials to come back with further advice on how to most appropriately reflect relevant Te Tiriti obligations (including settlements) in the SPA in the context of Te Tiriti related decisions made by the MOG on the NBA and on whether Te Oranga o te Taiao (or other te ao Māori concept agreed to for the NBA) has implications for the SPA" (MOG #7 minute).
17. This further advice is intended to be provided to a future MOG. Initial analysis indicates that a Treaty clause in the SPA that is different to that in the NBA would be likely to undermine the overall reform objective of giving effect to the principles of Te Tiriti o Waitangi and may make it difficult for Māori to trust that the RM reforms have a genuine commitment to improving the way the RM system gives effect to the principles of Te Tiriti.

Proposals

National entity

18. It is proposed that a national entity be established to enable Māori participation at the national level. The national entity would have functions relating to:
    a. system oversight/monitoring
    b. input to NPF development
    c. appointments of any Māori representatives to the NPF board
19. This approach broadly aligns with the Panel's proposal for a National Māori Advisory Board, which they proposed would have various functions in the above areas. The Panel also recommended the provision for Māori in the development of, and decision-making on, national direction, though did not specify whether the appointments of any Māori representatives to the Board of Inquiry would be made by the national entity.
20. If a national entity were established as recommended, there are a number of second-order questions about the scope of functions and appointments/membership that flow on from the first-order decision to establish the national entity.
21. In relation to the scope of functions:

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a. System oversight and monitoring covers how the RM system and legislation is being implemented and performing (regulatory stewardship). It also includes how system performance is monitored and assessed, how Ministers intervene in the system, how accountability and impartial advice can be provided through independent oversight and how well the system gives effect to the principles of Te Tiriti. Should the functions of the national entity be limited to just monitoring Te Tiriti performance, or go wider and cover other functions in system oversight and monitoring? If wider, which functions would the national entity be best placed to perform compared to other institutions?

b. NPF development[1] – should this involve active participation or be advisory? Should this involve providing direct input, or an appointments process to provide technical, te ao Māori and mātauranga Māori inputs into the NPF development process? Is there specific content in the NPF that the national entity should/should not have input into? What should the role be of the national entity in relation to limits and targets?

c. Should the national entity have a role in dispute resolution for iwi/Māori appointments to joint committees, or should this be an explicit role for the Māori Land Court[2]?

d. Should the national entity be strictly advisory/recommendatory or should it have some powers in relation to some functions? If the national entity identified poor Tiriti performance in relation to a central and local government or joint committee process or other matter, what would be the remedies and consequences?

22. Further work is required on appointments/membership:

a. Should the entity be a partnership entity with both Māori and Crown appointees, or should it be a solely Māori entity?

b. How should Māori appointments be made to the national entity? There are three primary options:

   i. national organisations who have the ability to appoint one or more members?

   ii. an electoral college-type model (such as the Te Kawai Taumata for Te Ohu Kaimoana), which would draw membership from a broader array of parties?

   iii. tikanga/kaupapa Māori approach, enabling Māori self-determination of the appointments process.

c. Noting that appointments/memberships would be dependent on decisions on the scope of functions, what expertise criteria should be required (if any), for membership of the entity and/or any technical support the entity may require?

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23. Questions on scope of functions and appointments/membership are interrelated. For example, a broader range of functions that cover both the kāwanatanga and rangatiratanga spheres are more likely to lend to a partnership-based national entity.
24. In establishing the national entity, it will be important to ensure it is established in a way as to not usurp the mana of hapū and iwi at place, or negatively impact Crown responsibilities provide through Treaty settlements and other agreements.
25. There are a number of lessons we can draw on from other national entities that have been established in recent times (eg, Taumata Arowai, Te Mātāwai, National Māori Health Authority). One learning is that, like all institutions, national entities take time to establish their own tikanga and processes. Another is that often interim entities are established initially with a transition to the properly appointed entity.
26. One risk to highlight is that there is an expectation that a draft NPF would go through the Board of Inquiry process around the time the NBA is enacted. This means that the NPF development process will need to begin in early 2022 (with scoping planned to start next month). The process would begin prior to the NBA being enacted (with the NBA providing the legislative basis for the establishment of the national entity). We intend to provide further advice on this matter, but we have identified two potential options to address this risk:
    a. establish an interim entity to input on the first iteration of the NPF; and
    b. establish a different process for engaging with iwi/Māori on the first iteration of the NPF.
27. Additionally, in developing the NPF we will also have to consider who to engage with "at place", and how to identify and engage these groups to ensure any national body with functions in relation to NPF and system oversight is not usurping the mana of iwi, hapū, and Māori at place.
28. There are a number of potential institutions, either established or proposed, to undertake system oversight, monitoring and/or national policy matters in the future system and related areas. There is a broader question around whether an approach of separate institutions (and the specialisation they would bring), or a single institution (and the integration and economies of scale it would bring), is a better approach.
29. Officials consider that further work needs to be undertaken on answering the second-order questions above drawing learnings from the establishment of other national entities. We propose to report back at a future MOG on these matters.
30. However, there are a couple of areas where officials consider sufficient work has been undertaken to make recommendations.
31. The first of these is that we recommend that the national entity have a role in monitoring of Te Tiriti performance. This is a clear gap in the current system and was identified by the RM Review Panel as a key function for the new entity they proposed.
32. The second area is that the national entity should be set up independently of the Government of the day. This is consistent with other entities set up that have, as part of their purpose, providing advice/recommendations on how to improve the performance of government agencies. Independence is important to enable the national entity to effectively monitor the Tiriti performance of government agencies and to mitigate any perceptions that the national entity is being influenced by the Crown in making its recommendations or otherwise undertaking its functions.
33. Subject to agreement, further work will be undertaken on the scope and powers of the national entity including whether the national entity should have a role in dispute resolution for iwi/Māori appointments to joint committees, or whether this should be a role for the Māori Land Court.

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Joint committee composition

34. It is proposed that joint committee composition be worked through on a region-by-region basis to reflect the individual circumstances of iwi/Māori bodies and councils in the region. If agreed, decisions will be sought on joint committee composition on a region-by-region basis and how this is provided for in legislation at a later MOG.

35. Region-by-region arrangements may take longer to work through, though to an extent this work would be required in any case to uphold Treaty settlement and other existing RM arrangements. Region-by-region arrangements are more likely to result in arrangements that are fit-for-purpose, improve functionality, and increase trust and confidence in the new system, both in terms of Treaty compliance and in respect of representation of local communities more broadly.

36. Composition is only one part of what could contribute to Tiriti consistent governance arrangements. Any decisions on direct iwi, hapū and/or Māori representation on joint committees should also consider how partnership and roles for Māori are provided for through other components of the governance arrangements and plan making process including:

    a. committee decision-making
    b. plan approval
    c. dispute resolution
    d. selection and appointments
    e. plan development including the role of iwi, hapū and/or Māori in any secretariat.

37. It is proposed that Treaty partnership committees[3] are enabled to support joint committees to uphold Treaty settlement arrangements, Takutai Moana rights, and existing voluntary RM arrangements at the regional level. Whether or not this mechanism is utilised in regards to upholding particular Treaty settlement arrangements will need to be worked through with PSGEs.

38. In the case of Treaty settlement arrangements, unless otherwise agreed with the relevant PSGEs, statutorily established joint committees, strategy and advisory groups should retain their existing membership. In some cases, changes to membership or other aspects of the arrangements to uphold the integrity of those arrangements may be discussed. In other cases, depending on the settlement provisions, joint committees may be required to implement the decisions of groups established through Treaty settlements. This is consistent with the intent that Treaty settlement arrangements will be upheld.

39. Other Treaty partnership committees could be composed of local authorities and/or committee members and representatives of iwi/Māori representative groups. Treaty partnership committees could provide advice to the joint committee and secretariat on matters related to their resource management arrangements. Further exploration of these ideas will be provided to a future MOG.

Plan development process, including secretariat

40. It is proposed that the NBA and SPA require iwi/Māori involvement in plan and strategy development through technical input. Enhanced participation in plan development is required to achieve the shift of Māori participation to more strategic elements of the system.

41. Iwi/Māori groups have advised that this is a crucial aspect of Māori participation and is necessary to ensure robust plan development and iwi/Māori input is efficiently and effectively incorporated into plans.

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[3] Note previous material used the term 'sub-committees' however this term is seen as problematic given the perception of 'sub' being subordinate and the mana and status of many of the existing arrangements as being the primary committees for the area and/or topic that they relate to.

42.

43. Further advice will be provided on the plan development process, including on the plan making secretariat (which will draft the plan and strategy documents) and engagement processes, including:

    a. roles and participation for iwi/Māori in the plan making secretariat and process for their involvement

    b. what engagement should be undertaken with iwi/Māori at the various stages of the plan development process

    c. how enhanced iwi/Māori involvement in plan development is implemented and funded. This advice will be considered in the wider context of funding the whole system

    d. the level of prescription required within the NBA and SPA legislation to enable a consistent approach to how iwi/Māori can inform the content of the NPF, NBA Plans and RSS documents

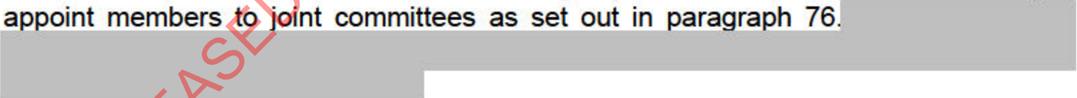
    e. appropriate weighting and consideration should be given to Māori technical inputs (eg, mātauranga Māori frameworks, iwi management plans, cultural values assessments or statements, cultural indicators etc)

    f. links to upholding Treaty settlement and existing RM arrangements.

Who makes iwi, hapū and/or Māori appointments to joint committees?

44. Officials will provide further advice on whether legislation should set appointments processes that are fixed in primary legislation or whether to enable bespoke and self-determined processes (eg, through tikanga or kaupapa Māori appointments process).

45. Officials will also provide advice on Māori appointments processes including statutory timeframes, decision-making considerations for appointors, dispute resolution and resourcing.

46. There are different views between iwi/Māori groups on 'who' should have the ability to appoint members to joint committees as set out in paragraph 76. 

Upholding Treaty settlements and other Agreements

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54. The value and application of the IPP (discussed below) to addressing Treaty settlement matters will be a key consideration.

Integrated Partnerships Process arrangements (IPP)

55. It is proposed that the legislation provides for an enhanced Mana Whakahono ā Rohe process that is integrated with transfers of powers and joint management agreements (JMAs). Transfers of power and JMAs can be better enabled through the enhanced Mana Whakahono ā Rohe process with barriers removed.

56. A mechanism is required that provides a pathway for local government and iwi, hapū and Māori groups to agree appropriate iwi, hapū and Māori representation and participation for different functions and processes within the system at a regional and local scale, including agreements on how they are funded.

57. The Panel's proposed IPP arrangements, that provides for an enhanced Mana Whakahono ā Rohe process integrated with transfers of powers and JMAs, is a tool that can help give effect to new strategic roles for Māori across the system. The intent is not to add unnecessary complexity to the system, but to provide a clear and consistent process, matters to be considered and pathways for dispute resolutions to enable local government and iwi, hapū and Māori partnerships to occur.

58. Legislation should provide enough clarity on the requirements for Māori participation in plan development so that IPP arrangements are an agreement used to agree representation and funding but can also be used to recognise and enable unique place-based arrangements. Most groups should have guidance from legislation to understand their role in the development of plan content, involvement in functions, process, governance, and decision-making.

59. The IPP could confirm how local government and iwi, hapū and Māori will work together to agree:

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a. how they work together on RSS and NBA plan making, nomination of representatives to joint committees, resource consents, compliance monitoring and enforcement

b. how power sharing arrangements (transfers of powers and joint management agreements) can be implemented

c. how content of iwi management plans, existing arrangements including Treaty settlements will be upheld in different processes.

60. In most cases this should be an agreement between local government and iwi, hapū and Māori to formalise how they will work together based on roles recognised through legislation. IPP is a tool that could also enable other system institutions, such as the joint committees to enter into these arrangements. This will enable integration across the various system institutions.

61. The IPP could allow for regional or local variations on how different parts of a plan may be implemented at a local scale. At a regional level, the IPP arrangement may simply confirm working arrangements, a mandate to collaborate on plans, nominations for joint committees, and secretariat functions. At a local level, the arrangement may involve more complex negotiations, but these can be made simpler if decisions have already been made and set out in RSS and combined plans.

62. It is likely that in a new system IPP arrangements would need to be agreed at the start of each new process with the appropriate representatives. It can be used as a tool to enable regional flexibility to document the detailed arrangements in the way joint committees and their secretariats are appointed and implemented.

63. Subject to agreement, further work will be undertaken on the scope of IPP arrangements and mandatory requirements for what must be covered.

Seeking Cabinet agreement to engagement on these proposals

64. In late October 2021, the Minister and Associate Ministers for the Environment will seek Cabinet agreement to regional engagement with iwi/Māori (including PSGEs), and targeted engagement with local government and sector stakeholders (including infrastructure providers) on the proposals in this paper, areas for further work on Māori participation, and potentially other proposals for governance.

65. The engagement will take place before the end of the 2021 calendar year and feedback will inform finalising governance and Māori participation proposals.

66.

Treaty impact analysis

67. This paper covers the majority of relevant Treaty impacts in the analysis on each topic. This section summarises the key points from a Treaty impacts perspective and makes an overall assessment of whether the proposals will contribute to a more Treaty consistent system.

68. Key Treaty impacts matters to note are:

a. any national level Māori or partnership entity should not usurp the mana of iwi and hapū.

b. Treaty settlement arrangements that have an impact at the national level, must be upheld.

c. the proposal for a national level entity is consistent with feedback received from iwi / hapū / Māori and is broadly consistent with (although expands the scope of) the recommendation of the Waitangi Tribunal for a water commission in the WAI2358 stage 2 report.

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d. the proposed region-by-region approach to determining governance arrangements and the inclusion of Treaty partnership committees for RSS and NBA plans will support Treaty settlement arrangements and Takutai Moana rights and interests, including those associated with freshwater to be upheld.

e. while the proposals do not meet the request of iwi, hapū and Māori for 50:50 governance, they substantially advance governance roles for iwi, hapū and Māori.

f. the IPP proposals respond to findings from the Waitangi Tribunal regarding barriers to the use of existing participation mechanisms.

g. the IPP provides a mechanism to support established good practice in iwi / hapū council relationships and enables a focus on rights and interests in freshwater and other natural taonga at the local level.

69. Overall, the proposals outlined in this paper will contribute to a more Treaty consistent system. Where there are further decisions to be made on the specific options to progress, we will complete further analysis of the Treaty impacts of those options.

Updates and next steps for other Māori participation topics

Consenting

70. NBA consenting changes will result in a significant shift in the system which necessitates realignment of Māori participation away from reactively responding to consents to proactively engaging upfront on plan development. Nonetheless, Māori participation in the consents process will be an important element of the future system. Plans will need to specify when consents will and will not be notified. Māori participation up front in the process will reduce costs and is more efficient and effective for all involved.

71. Considerable efficiency and certainty can be gained for both Māori participating in the system and for those administering the system, by focusing effort on plan development so that expectations are clearly articulated in the NBA plan. Māori participation at pre-lodgement stage can create efficiencies for system users and reduce (but not remove) the effort required for Māori participation as submitters at notification and appeals stage. The level of prescription both in the system and legislation are decisions that are still to be sought.

72. The IPP arrangements that sit alongside NBA plans can help to provide certainty on who to engage on NBA plan and consenting matters and can include more detailed arrangements that may be location specific, for example, joint management arrangements. The value of the IPP to Treaty Settlement arrangements will be considered in detail at a subsequent MOG.

73. Further advice will be provided at a future MOG and/or MOG Māori interests subgroup.

Other topics

74. Decisions on Māori roles in participation in Compliance, Monitoring and Enforcement and environmental monitoring will be considered at a future MOG, as well as decisions regarding funding for Māori participation.

75. Māori participation at all levels of the system will continue to be considered as part of giving effect to the principles of the treaty and upholding Te Oranga o te Taiao across all matters of the new system and integrated into the decisions sought on those matters.

Who participates?

76. There are different views between iwi/Māori groups in regard to who from Māori should participate in different functions in the system.

a.

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b.

77. For some functions in RM contexts there is no debate. The general right for Māori, whether as groups, landowners or as individuals, to participate under Article 3 is not in question. Nor are rights guaranteed through Treaty settlements or under the Takutai Moana Act/Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act. It is primarily in relation to governance where there are different views.

78. Officials consider there are two core considerations for evaluating 'who' should be acknowledged in different RM contexts. These being:

    a. the innate whakapapa relationships to te taiao (and the resulting kaitiakitanga obligations) are through kinship groups, this should be reflected in kinship groups having a special place regarding natural resources and the natural environment.

    b. Te Tiriti (including Article 2) acknowledges rights and interests beyond just iwi and hapū, and those rights and interests may be unable to be given effect to without the involvement of a broader range of groups in certain system functions.

79. These considerations must also be looked at alongside other criteria such as: integrated management across natural and built systems; subsidiarity/capacity; and, ensuring Takutai Moana rights, Treaty settlement and other resource management arrangements are upheld.

80. Officials note that who participates is going to change depending on the function in question and that a one-size-fits-all approach is not the solution.

81. There is also the matter of what terminology should be used to describe who participates. The MOG Māori Interests subgroup noted an initial preference to use the existing term of 'tangata whenua' but expand the definition to 'create an inclusive and expansive list' that would include (landowners, hapū, Māori community committees, PSGEs etc).

82. Overall, Officials consider there is further work required on this topic and we intend to provide advice at a future MOG.

83. Key questions regarding who participates that will be covered in further work include:

    a. to what extent should 'who' participates be set out in the legislation or be self-determined by Māori through tikanga or kaupapa Māori processes?

    b. what structures (eg, subcommittees) could be put in place to ensure who participates works in concert with the two core considerations noted above?

    c. whether to retain existing RMA terminology or use new terms, and how should any terms be defined (if they should be defined at all)?

    d. noting the underlying issue of councils/applicants being unsure about who to talk to from Māori about particular RM matters, and that definitions will not resolve this issue, what mechanism could be put in place to help councils/applicants or prescribe processes to ensure councils/applicants put in the work to find out who to talk to?

Impacts on addressing Māori rights and interests in freshwater

84. Ministers have made a commitment that the work on the resource management reform will not preclude any options for the Māori freshwater rights and interests work programme.

85

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Engagement

Central Government Agencies

86. Agencies were generally supportive of the direction of the proposals although this was qualified by the need to see further detail on the proposals including how Māori participation is implemented and funded.

Local government

87. Māori participation has been discussed with the Local Government Chief Executives Forum. The forum raised the following issues:
    a. concern that, as the Crown is the Treaty partner and local government is not the Crown, that the Crown needs to shoulder at least some of the responsibility to fund Māori participation in the system.
    b. to effectively address who participates from iwi, hapū and/or Māori, mechanisms will be needed to provide clarity for local government and Māori on who participates in each role for Māori within the system.

88.

Recommendations

It is recommended that the Ministerial Oversight Group:

1. **note** this advice is based on direction from the MOG Māori interests subgroup.

note that decisions on the proposals in this paper are in-principle and subject to modification or refinement as further engagement is undertaken and subsequent decisions

Seeking Cabinet agreement to engagement on these proposals

2. **note** that in late October 2021, the Minister and Associate Ministers for the Environment will seek Cabinet agreement to regional engagement with iwi/Māori and targeted engagement with local government and sector stakeholders (including infrastructure providers) on the proposals in this paper, areas for further work on Māori participation, and potentially other proposals for governance.
3. **note** that the engagement will take place before the end of 2021 and feedback will inform finalising governance and Māori participation proposals.

National entity

4. **agree** that a national entity be established to enable Māori participation at the national level.
5. **agree** that the national entity have functions in:
    a. system oversight/monitoring
    b. input to National Planning Framework development
    c. appointments of any Māori representatives to National Planning Framework board.

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6. **agree** that the national entity have a specified role in monitoring Tiriti performance across the Resource Management system.
7. **agree** that the national entity should be set up independently to the Government of the day.
8. **note** that the national entity will be established in a way as to not usurp the mana of hapū and iwi at place, or negatively impact Crown responsibilities provided through Treaty settlements and other agreements.
9. **note** that subject to agreement, further work will be undertaken on the composition, scope and powers of the national entity including whether the national entity should have a role in dispute resolution for iwi, hapū and/or Māori appointments to joint committees or whether this should be a role for the Māori Land Court.

Joint committee composition

10. **agree** that joint committee composition be worked through region-by-region.
11. **note** that if you agree, officials will seek decisions on joint committee composition on a region-by-region basis and how this is provided for in legislation at a later MOG.
12. **agree** that Treaty partnership committees are enabled to support joint committees to uphold Treaty settlement arrangements, Takutai Moana rights, and existing voluntary Resource Management arrangements.

Upholding Treaty settlements and other arrangements

13. **note** that early findings in relation to upholding Treaty settlements and other arrangements include:
    a. the majority of Treaty settlements will not present unsurmountable challenges in terms of legal or policy complexity, although mutual agreement as to what upholding means is needed and implications understood.
    b. agreeing how to uphold Treaty settlements with integrity prior to enacting the Bill will require significant steps, good will and action by the government
    c. statutory acknowledgements are a feature of most settlements and officials are confident there is a solution for upholding these within elements of the new system that could work for all settlements
    d. there are a small number of settlements officials think will be particularly complex to uphold as they establish broad ranging decision-making and plan-making powers, and/or apply to decision making across multiple Acts
    e. if any inconsistencies are identified between previous or upcoming MOG decisions and the ability to uphold Treaty settlement arrangements, those MOG decisions may need to be revised in order to enable Treaty settlements to be upheld.
14. **note** that officials will provide further advice at MOG #13, including:
    a. where in the SPA and NBA elements of the new system changes or protections will be needed to uphold settlements and other existing arrangements and mechanisms
    b. options for how settlement redress types can be upheld for discussion with PSGEs
    c. how regional variations could and should be accommodated
    d. the need for a strategy, narrative and resourcing to support settlement engagement
    e.

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Who makes appointments?

15. **note** that there are different views between iwi/Māori groups on 'who' should have the ability to appoint members to joint committees.

16. **note** that further advice will be provided on:

    a. identifying and recording who makes Māori appointments to joint committees

    b. whether legislation should set appointments processes or whether to enable bespoke processes (eg, through enabling a tikanga or kaupapa Māori appointments process).

Plan development process

17. **agree** that the legislation requires iwi/Māori involvement in plan development through technical and mātauranga Māori input.

18.

19. **agree** that appropriate weighting and consideration should be given to Māori technical inputs (eg, iwi management plans)

Integrated Partnerships Process

20. **note** that the Resource Management Review Panel's recommended Integrated Partnerships Process was their name for an enhanced Mana Whakahono ā Rohe process that integrates with better transfers of power and joint management agreement (JMAs) provisions.

21. **agree** that the legislation provides for an enhanced Mana Whakahono ā Rohe process that is integrated with transfers of powers and JMAs (an Integrated Partnerships Process)

22. **agree** to recommend to the MOG that power sharing arrangements (transfers of power and JMAs) are better enabled through the Integrated Partnerships Process, with barriers removed.

23. **note** that, subject to agreement, further work will be undertaken on the scope of Integrated Partnerships Processes and mandatory requirements for what must be covered.

24. **note** that officials will provide further advice on Māori participation in consenting, compliance monitoring and enforcement, environmental monitoring and funding to enable effective participation across the Resource Management system.

Who participates?

25. **note** that there are different views between iwi/Māori groups in regard to who from Māori should participate in different functions in the Resource Management system and these differences primarily manifest in relation to involvement in governance.

26. **note** that who participates in the Resource Management system is dependant on the function in question therefore a one-size-fits-all approach is not the solution.

27. **note** that officials are working on advice on the matter of who participates in the Resource Management system for a future MOG.

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Paper 3: Regional Spatial Strategy development and review; and geographical scale

The three supporting documents in Appendix 3 supplement this paper: 'Process for Developing and Reviewing Regional Spatial Strategies' *(Appendix 3, supporting document 1, pages 104-112); its related* Treaty impacts and regulatory analysis *(Appendix 3, supporting document 2, pages 113-119); and a slide pack on the '*Geographical Scale of Regional Spatial Strategies under the Strategic Planning Act' *(Appendix 3, supporting document 3, pages 120-128).*

Scope of this paper

1. MOG #7 agreed that Regional Spatial Strategies (RSS) should set a strategic direction of at least 30 years that is informed by longer-term data and evidence (30 to 50 years for a new transport corridor, and 100 years plus projections for climate change). RSS will indicate locations of growth and development and areas to be protected.
2. Officials are seeking agreement to detailed recommendations on RSS development, technical support, RSS reviews, and the geographical scale of RSS. This will allow drafting of the relevant provisions of the Strategic Planning Act (SPA) to start.
3. Officials' advice on developing and reviewing RSS does not cover how the Treaty relationship will be managed through the development of the RSS, as this work is being considered separately. Officials' advice also does not cover how the RSS Committee will be constituted and final decisions made, as this is being addressed separately in the governance workstream.
4. Within Appendix 3, the papers '*Process for Developing and Reviewing RSS'*, and its related Treaty impact and regulatory analysis are attached as supporting document 1 (pages 104-112) and supporting document 2 (pages 113-119). A slide pack on the *'Geographical Scale of Regional Spatial Strategies'* is attached as supporting document 3 (pages 120-128). These documents expand on the material in this paper.

Developing RSS, technical support for RSS Committees, and reviewing and amending RSS

Panel recommendations

5. The Panel gave little direction on developing and reviewing RSS, and the technical support for RSS Committees.
6. However, the Panel did suggest that RSS be made using the special consultative process under the Local Government Act 2002 for engagement, and RSS be reviewed every 9 years with flexibility for reviews between times in case of significant events.

Problems and opportunities

7. The Panel identified several problems with the RMA process for planning. Without a better process for RSS, there is a risk of poor-quality documents with little community buy-in.
8. The SPA provides an opportunity to allow innovative approaches to engagement, a wider range of parties to participate, and will enable the public to engage on strategic issues.
9. Analysis thus far has identified the following key problems with the current RMA approach to plan preparation:
    a. lack of engagement on strategic issues, and participation that often only occurs at the consent stage
    b. a system that has multiple processes creating costs and time delays
    c. difficulty in developing and implementing innovative approaches to engagement because of legislative constraints
    d. too few opportunities for iwi, hapū and Māori

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e. lack of adequate provision for both Article 2 (rangatiratanga) and Article 3 (ōritetanga/equality) roles.

10. Feedback from local government and agencies support allowing RSS Committees to develop processes tailored to their local situation, rather than having a single process (eg, the special consultative procedure). However, there is a tension between allowing flexibility and ensuring all regions follow a quality process. A limited set of engagement outcomes and process steps are recommended as a result. Officials also believe this approach supports a move away from the adversarial approach that is inherent in many of the existing RMA processes to a more inquisitorial approach.

11. The success of the RSS also depends on the technical work that feeds into the strategy. The need for robust evidence that results in a credible and legitimate strategy needs to be balanced with achieving an efficient and cost-effective process. Technical information is held by multiple agencies and iwi. Therefore, to bolster the robustness of RSSs, officials recommend that there be some power for Ministers to direct government agencies to support RSS Committees. As well, officials recommend some general duties on the bodies that participate on the Committees and infrastructure providers to support the Committees, provided it is practical and reasonable for them to do so.

12. To be effective, RSS need to be long-term and stable documents that provide a strategic vision for the region. At the same time, they will need to be updated if there are major changes in the region or in national direction. The process for reviews and amendments needs to be efficient. Officials are recommending that RSS be reviewed every 9 years with a full engagement process. Full reviews will be possible between times if a matter arises that a Committee deems is significant enough to warrant a review. We are recommending each Committee develop its own significance policy. There will also be provision for updates, without the need for the full process. The NPF will also be able to direct reviews and updates.

13.

Geographical scale of RSS under the SPA

14. Officials are seeking decisions on the geographical scale that RSS will be applied to under the SPA. Agencies, iwi, and local government have all been engaged with on this policy and were supportive of the direction (detailed further below, and in Appendix 3, supporting document 3, pages 120-128).

15. Officials note that the Ministerial review into the future for Local Government is not due to report until 2023, and any consequential changes to boundaries could take some time to be implemented. The SPA can be worded to ensure any changes automatically flow through to RSS boundaries.

Panel recommendations

16. For the geographical scale of RSS, the Panel recommended:

    a. spatial planning should be mandatory for all regions, with provision for the responsible Minister/s to prioritise and sequence

    b. regional council boundaries shall be the default geographical scale, with provision for flexibility to tailor a strategy to the region's circumstances provided it complies with requirements specified in legislation

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c. there be a Ministerial power to direct two or more regions to prepare a joint strategy or to collaborate on cross-boundary issues. (For example, requiring two or more regions to prepare a joint RSS to collaborate on cross-boundary matters such as a major transport corridor between two centres, or to provide exemptions for offshore islands)

d. RSS focus on specific parts of a region where significant change is happening, anticipated, or required

e. RSS extend to include the coastal marine area out to the 12-nautical mile limit to promote integration between land use, the coastal environment, and water quality.

Problems and opportunities

17. There is no consistent framework for spatial planning in New Zealand. Boundaries will affect the degree to which RSS reflect communities of interest and whether governance arrangements are accountable to communities.

18. The boundaries for RSS will influence the range of issues and opportunities that the RSS will need to address. There are no perfect boundaries, as economic, social, and natural catchments do not match. The Panel did not address issues relating to certain offshore islands where specific Ministers have most responsibilities and Crown funding obligations.

19. Officials proposed recommendations align with the Panel's recommendations, including the use of existing regional council boundaries (which aligns with NBA plan boundaries), while providing a process for cross-regional collaboration and a focus on sub-regional issues where significant change is happening, anticipated, or required.

20. Officials agree with the Panel that some form of flexibility for cross-regional issues is necessary because with any boundary there will be issues that straddle two or more regions. Officials recommend that the legislation allow a collaborative planning process, to be initiated either by Ministerial direction or multi-regional agreement and executed by a project or area specific cross-regional committee who mirrors the process for preparing an RSS. The cross-regional committee will need to ensure there are no conflicts with the relevant RSSs so the collaborative strategy can be incorporated into each RSS without re-litigation of issues.

21. While this recommended approach requires additional provisions in the SPA, it will improve achievement of the objectives of the Panel and of the RM Reform. There are already successful examples of cross-boundary collaboration for spatial planning that could be formalised. As with other Governance issues, further details of this process may be dealt with at a future MOG.

22. There are also recommendations related to the coastal marine area boundary and some offshore islands (ie, exempting certain islands from an RSS under the SPA).

Top of the South

23. An important issue is in relation to the "Top of the South". The Panel recommended that the area comprising Tasman, Nelson, and Marlborough districts (known alternately as the "Top of the South" or Te Tau Ihu) produce a single combined plan under the proposed SPA and NBA. These councils are all unitary authorities, so the Panel's proposal essentially treats them as a single region for planning purposes.

24. Officials have started to investigate the options for the boundaries in the top of the South Island (see appended slide) and further engagement is planned on this specific issue with relevant councils and iwi. Officials are seeking agreement to report back to a future MOG on this boundary issue.

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Engagement

Agencies

25. Agencies were broadly comfortable with the geographical scale of regional spatial strategies being that of regional council boundaries, including the 12-nautical mile limit of the coastal marine area. The simplicity of keeping a known planning boundary that generally supports an accepted community of interest and that aligns with the boundaries chosen for NBA Plans was seen as a sensible option.

26. [redacted] was the only agency that supported a different boundary as preferred using labour markets as the scale for regional spatial strategies. Although there are some benefits, this approach would not support the reform objectives as the scale of labour markets would be too small to achieve the aims of RSSs and would create inefficiencies in the system.

Iwi and local government

27. Iwi/Māori consulted were supportive of using regional council boundaries as the geographical scale for RSS. It was understood that the complexity of defining and using rohe boundaries meant it was not a practical option.

28. [redacted]

29. Local Government were supportive of using regional council boundaries and generally agreed with the need for alignment with NBA Plan boundaries. Of most importance to local government was the need for sub-regional flexibility so that RSS Committees could have discretion to deal with the specific circumstances of a region. This is a key component of the approach.

30. The process for cross-boundary collaboration was seen to positively support boundary-less planning but should not be too prescriptive. The question was raised of how multiple RSS will integrate with the new water entities in the Three Waters reform given the differing boundaries. There are clear, supported, reasons for not aligning the boundaries. The different aims that the reforms are trying to achieve mean the larger geographical area proposed for the Three Waters reform would not also support the integrated planning wanted for RSSs. Opportunities to integrate Three Waters and RM reform objectives are being considered in the analysis of governance arrangements.

Reform objectives and outcomes for these elements of the SPA

31. The aim of this work is to ensure the development and review of RSS:
    a. results in quality input from all interested parties, and transparency about how input has been dealt with
    b. are efficient and manageable
    c. result in a technically robust and durable RSS
    d. ensure that RSS are stable, long-term documents but also remain relevant, including reflecting evolving mātauranga Māori views and application of te Tiriti.

32. The proposals for the geographical scale of RSS would support all five objectives of the Reform but particularly objectives two (better enabling development), three (giving effect to the principles of te Tiriti), and five (system efficiency and effectiveness while retaining local democratic input). Use of current regional council boundaries would ensure iwi and hapū are able to engage, provide an appropriate scale for enabling infrastructure and development, and match the boundaries of NBA plans. Providing a flexible approach through cross-boundary collaboration will enable local government and iwi/hapū to collaborate on a range of mutually important issues and opportunities.

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Recommendations

It is recommended that the Ministerial Oversight Group:

1. **note** MOG #1 decisions authorised the Deputy Chair (Minister for the Environment) to take further detailed policy decisions beyond those taken by MOG where required to enable drafting, consulting relevant Ministers where appropriate (this applies to any detailed decisions in this MOG paper, which need to be made during drafting)
2. **agree** that the Strategic Planning Act will not include a single prescribed process for public engagement on Regional Spatial Strategy development, allowing Regional Spatial Strategy Committees to devise a process that will work for their region
3. **agree** that the Strategic Planning Act will require the Regional Spatial Strategy Committee to determine the process they intend to use to engage the public when developing a Regional Spatial Strategy and give public notice of this process
4. **agree** that the Strategic Planning Act will require that the engagement process developed by the Regional Spatial Strategy Committee must ensure the following engagement outcomes:
    a. the Regional Spatial Strategy is based on the best available information
    b. the views of all those with an interest in the matters that the Regional Spatial Strategy addresses are sought and considered fairly and with an open mind
    c. the agencies that will be required to implement the Regional Spatial Strategy have had the opportunity to provide input throughout the engagement process on matters that will affect them
    d. the process is Treaty compliant
5. **agree** that the Strategic Planning Act will require that the engagement process to develop a Regional Spatial Strategy includes:
    a. early engagement with the interested parties and the public on the matters that will be covered in the Regional Spatial Strategy
    b. public notification of a draft Regional Spatial Strategy, which gives interested parties and the public a reasonable opportunity to make written submissions
    c. a summary report of the written submissions received and the Committee's response to those submissions and reasons for their decisions
6. **agree** that the interested parties would at a minimum include the following:
    a. central government departments and agencies
    b. urban marae, local Māori councils, iwi/ hapū with rohe/areas of interest within or adjacent to the region and relevant Māori land trusts/incorporations, and customary takutai moana rights holders
    c. relevant non-governmental organisations, institutes, sector lobby groups and other groups with an interest greater than the public generally
    d. public and private sector infrastructure providers and operators
    e. the public
7. **note** that recommendations on appeal rights and judicial review will be addressed in a later MOG paper
8. **agree** that the Strategic Planning Act include the following:
    d. a power to allow the Minister for the Environment to direct government and statutory agencies to provide technical support to the Regional Spatial Strategy Committees where it is practical and reasonable to do so

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e. a general duty for those bodies that are represented on the Regional Spatial Strategy Committee to provide technical support and information to the Committee where it is practical and reasonable to do so

f. a general duty for public and private infrastructure providers and operators to provide technical support to the Committee where it is practical and reasonable to do so

9. **note** some of the decisions in the above recommendations may need to be revisited depending on the final decisions on Regional Spatial Strategy Committee structure and advice to ensure that the intent and integrity of Treaty settlements are protected

10.

11. **agree** that the Strategic Planning Act will require Regional Spatial Strategy Committees to review its whole Regional Spatial Strategy every 9 years, using the full engagement process used to make the first Regional Spatial Strategy as outlined in parts 1 and 2 of the attached paper, '*Process for Developing and Reviewing Regional Spatial Strategies'*

12. **agree** that the Strategic Planning Act will require Regional Spatial Strategy Committees to adopt a policy outlining what they deem to be a 'significant change' that will cause them to initiate a review of the Strategy (in part or in full) sooner than 9 years

13. **agree** that the policy on a significant change must align with the purpose of the Strategic Planning Act and the purpose of RSS

14. **agree** that if a 'significant change' occurs, as described within the Regional Spatial Strategy Committee's published policy, the Strategic Planning Act will require that the Committee must initiate a review of the Regional Spatial Strategy

15. **agree** that after initiating a review, if the Regional Spatial Strategy Committee decides an amendment is needed (to all or part of the Regional Spatial Strategy) then it must follow the full public engagement processes required when developing a Strategy

16. **agree** that if, after initiating a review, the Regional Spatial Strategy Committee decides a change is not needed then it does not require public participation

17. **agree** that, if the review only pertains to part of a Regional Spatial Strategy, it does not re-open the whole Strategy for review

18. **agree** that the Regional Spatial Strategy Committee will give public notice whenever it reviews a Regional Spatial Strategy, regardless of whether an amendment was made. Where the review relates to only part of a Strategy, the Committee will record how it has concluded that the rest of the Strategy is not impacted

19. **agree** that the Strategic Planning Act will provide Regional Spatial Strategy Committees with discretion to update their Regional Spatial Strategy for minor amendments and technical corrections without triggering any public engagement requirements

20. **agree** that there is a specific clause in the Strategic Planning Act stating the Regional Spatial Strategy must be reviewed or amended, if the NPF says so, to give effect to the NPF as relevant

21. **agree** that if a significant change triggers a review, or if a minor amendment is needed, that will affect a cross-boundary issue, the collaborating Regional Spatial Strategy Committees will discuss how to jointly undertake the review or amendment in line with the engagement outcomes required under the SPA

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22. **agree** that the Strategic Planning Act include that public notice must be given of a completed Regional Spatial Strategy and amendments, including information regarding where the amended Regional Spatial Strategy can be viewed
23. **agree** that the boundaries for mandatory Regional Spatial Strategy will be regional council/unitary authority boundaries and therefore align with the geographical boundaries of NBA Plans
24. **agree** that Regional Spatial Strategy content can reflect the circumstances of the region, including focusing on specific parts of a region where significant change is happening, anticipated, or required
25. **agree** to include in the Strategic Planning Act a statutory process for collaboration on cross-boundary issues by way of cross-regional committee
26. **agree** the statutory process may be initiated, either by the Minister for the Environment, with input from or consultation with other Ministers, or by the relevant Regional Spatial Strategy Committees
27. **agree** that the cross-regional strategy developed by the cross-regional committee will be added into each separate Regional Spatial Strategy without further consultation being required and without creating a planning hierarchy
28. **agree** that Regional Spatial Strategy boundaries using regional council boundaries will extend to the 12-nautical mile limit of the territorial sea
29. **agree** that no Regional Spatial Strategy is required for the Chatham Islands
30. **agree** that the Strategic Planning Act will not apply to offshore islands for which the Minister of Conservation has the role of a local authority under the current RMA
31. **agree** that offshore islands administered by the Minister of Local Government will, because of the chosen Regional Spatial Strategy boundaries, be included within a Regional Spatial Strategy, where any relevant matters identified by the Committee would be addressed
32. **agree** that officials will report back on the appropriate geographical boundaries for Regional Spatial Strategy and Natural and Built Environment Act Plans in the ‘Top of the South’ (Nelson/Tasman/Marlborough, ie, ‘Te Tau Ihu’) to a future MOG for decision as further work and engagement is ongoing

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Paper 4: NBA plan development process

The two supporting documents in Appendix 4 supplement this paper: Plan development processes through three key phases *(Appendix 4, supporting document 1, pages 129-130); and* Te Tiriti o Waitangi impact analysis – NBA plan development process *(Appendix 4, supporting document 2, pages 131-132).*

Purpose

1. The purpose of this paper is to provide an overview of the plan development process and seek decisions on key process steps needed to develop a robust, efficient and inclusive Natural and Built Environments Plan (NBA) plan development process.
2. This paper builds on high-level principles for the NBA plan development process agreed to at MOG #4.
3. This paper divides the NBA plan development process into three phases:
    a. policy development
    b. submissions
    c. hearings.
4. For each of these three phases the differences between the status quo, the Panel's recommendation and the proposed approach are presented.
5. The process for NBA plan reviews and plan changes are then discussed.
6. The plan development process will have key decision-making points where the NBA plan committee (plan committee) will be required to make decisions for the process to proceed to the next step. The plan development process and who makes decisions are closely related and will be further informed by future decisions on governance.
7. This paper does not cover the role of mana whenua or the detail of Māori participation in the plan development process.

The plan development process under the RMA

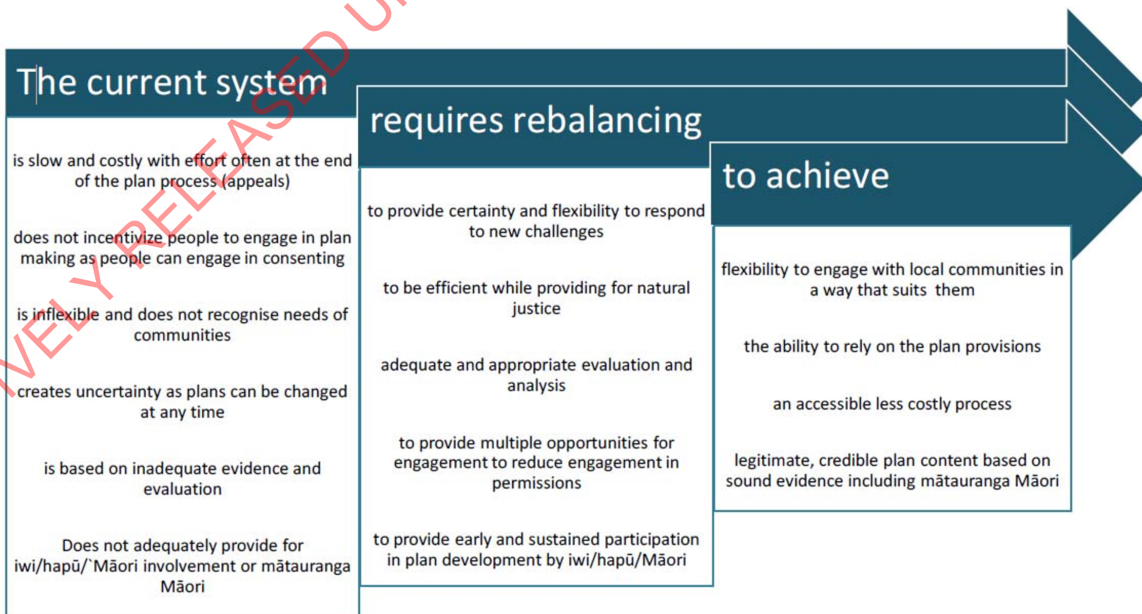

Figure 1. The plan development process under the RMA

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8. The current Resource Management Act 1991 (RMA) plan development process is problematic - it is too slow, costly, does not incentivise early engagement, and the process is inflexible (particularly in relation to Māori involvement). Figure 1 above summarises key concerns with the current process:

Panel's recommendations

9. The Panel recommended greater emphasis on stakeholder involvement in plan development and public consultation designed to reach diverse communities.

10. They also recommended a process similar to the Auckland Unitary Plan process that involved an independent hearing panel (IHP) to hear submissions. They suggested a process separating out the political plan making process from the technical considerations of the IHP. A key feature of the Auckland Unitary Plan process was the emphasis on prehearing meetings to resolve issues.

Previous Ministerial Oversight Group decisions

11. This paper builds on decisions made at MOG #4, as shown in figure 2.

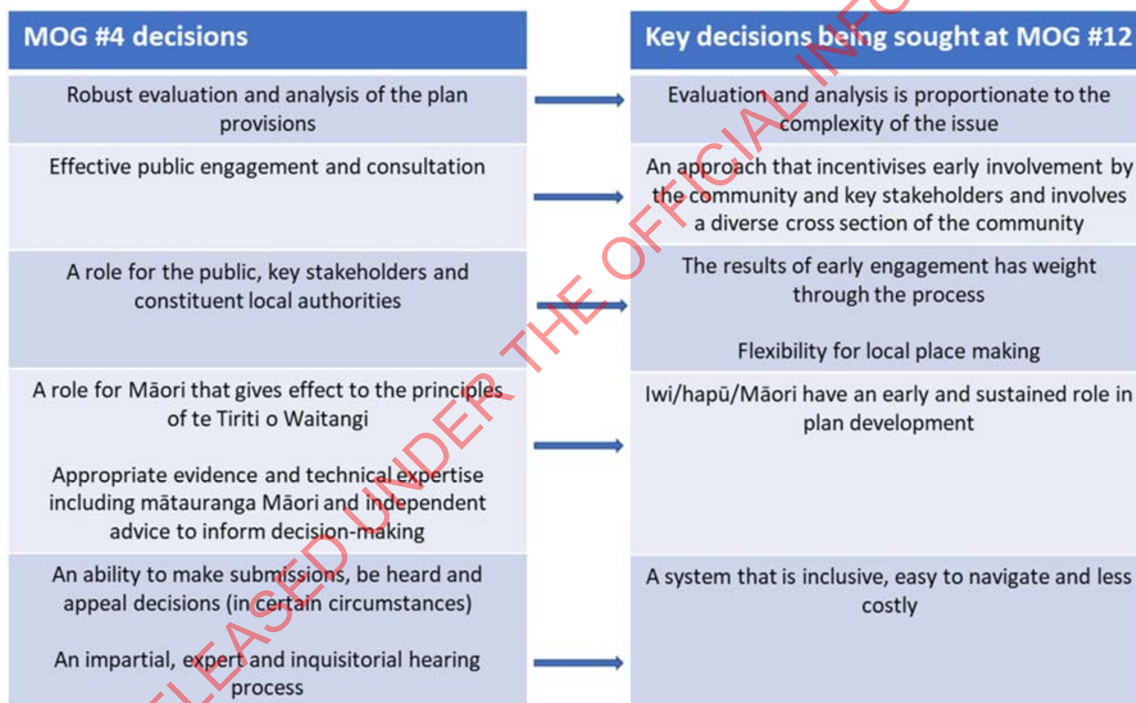

Figure 2. Building on decisions from MOG #4

Options considered

12. Based on addressing the concerns about the length, cost and outcomes of the existing plan development process and the Panel's recommended changes, a new, proposed plan development process is recommended across the three key phases of plan development:

    a. policy development
    b. submissions
    c. hearings.

13. Figure 3 below summarises the new proposed plan development process. In addition to the NBA plan development process, proposals are also provided for plan reviews, plan changes and private plan changes.

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Plan development Phase One – Policy Development

Plan development Phase Two – Submissions

Plan development Phase Three – Hearings

Figure 3: New proposed plan development process

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Proposals

14. The proposed NBA plan development process:
    a. seeks engagement early in the process and ensures feedback received has weight throughout the plan development process
    b. has an early and sustained role for iwi/hapū/Māori in the plan development process that recognises iwi/hapū/Māori as experts and kaitiaki of their own rohe
    c. includes a requirement for those preparing the plan to invest in innovative ways, methods, and techniques to engage, seek and facilitate widespread community feedback, including from disabled people, people with language barriers, youth, etc
    d. has a role for local place-making
    e. is easy for plan users to navigate and participate in
    f. avoids relitigation of matters settled higher up in the system.
15. The proposed approach to the NBA plan development process seeks to facilitate better public participation during policy development, the refining of policy through submissions, and results in a robust plan through the use of an IHP.
16. The following sections of this paper outline the key shifts at each of the three phases, note the key problems with the current system, and provide advice on improving processes and what those improvements will achieve.
17. Some of the stages in the NBA plan development process will be time limited, further advice will contain this detail.
18. Appendix 4, supporting document 1 (pages 129-130) details how the proposed new approach to the NBA plan aligns with the reform objectives and identifies the differences between the proposed process, existing RMA plan development process, the Panel's proposals.

Phase One – better public participation in policy development

Rebalancing the system to encourage upfront engagement

19. The current plan development process can be slow, costly, with considerable effort, time and resources expended at the end of the process through appeals. This results in a system which disincentivises public participation because community agreed values, perspectives and outcomes can get overtaken by other interests (particularly well-resourced private sector interests) later in the process.
20. Two forms of engagement on NBA plans are proposed:
    a. Community engagement: engaging with every district, including innovative ways, methods and techniques of engaging to obtain the wider community's position on the policy (paragraphs 21-24).
    b. Involvement in the development of plan provisions: key parties (either those that have registered, or automatically included organisations) engage in policy development to begin resolving any competing views (paragraph 25-26).

Better community participation

21. To develop a robust plan, people need to contribute to ensure community values are represented. The NBA plan development process needs to be rebalanced to give upfront engagement weight.
22. One mechanism to achieve this is to ensure all views and submissions are equally weighted regardless of when in the NBA plan development process they are captured. Officials recommend that input into the policy development phase (such as from hui, workshops and community events) be appropriately and formally recorded. The record of the early policy development phase can then be considered by decision-makers later in

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the process, in the same way as formal submissions made on the notified plan. This will encourage a diverse range of the community to participate in the process as there will be many ways in which individual and community views and aspirations can be captured and used later in the process.

23. The submissions made in advance of the notified plan could take the form of a written submission but could also include the records of community events and hui such as minutes or summaries of group brainstorms.

24. Another mechanism which may be used to capture community aims and goals is through local place-making documents (such as town concept plans and community vision statements). Officials do not recommend legislating this requirement, but the option to undertake and record engagement through these documents or by any other method appropriate to the local area is encouraged.

Better key-party engagement

25. There are clear advantages in bringing together key parties early in the process and ensuring that they are able to participate in the development of NBA plan provisions. These include the ability to identify areas of potential conflict and consider trade-offs upfront, the ability to respond to the specific regional requirements of key parties while developing provisions and the ability for key parties to review and provide feedback on draft provisions.

26. To streamline consultation during plan drafting, officials recommend a 'register of engagement process' whereby any party may register to be consulted on the development of plan provisions. This adds an element of efficiency and robustness to the process as plan makers understand exactly who wishes to participate in the development of provisions. For expediency, it is recommended that some groups are automatically registered (but can opt out of the process) including government departments and ministries, local authorities, infrastructure providers (requiring authorities). The statutory requirement to consult would also include Māori groups, and further advice on this will be provided later.

Early and enduring engagement with iwi/hapū/Māori

27. Current practices for working with iwi/hapū/Māori and providing recognition of te ao Māori varies between councils.

28. It is important to ensure an early and enduring role for iwi/hapū/Māori through creation of processes which ensures mana whenua involvement in decision making and ongoing involvement through the plan development process.

29. The NBA plan development process needs to give effect to the principles of te Tiriti o Waitangi and provide greater recognition of te ao Māori including mātauranga Māori.

Proportional evaluation reports

30. The current evaluation report (s32 of the RMA) is over-engineered, time and resource consuming, and arguably adds little value to the final plan provisions.

31. Evaluation reporting on the policy in NBA plans should be expedient, proportional, effectively measure outcomes, respond to the National Planning Framework (NPF) and provide clear criteria to assess the impacts of policy decisions.

32. Officials expect that current RMA plans and input from councils will also feed into the committee's drafting process (the mechanism for how this will occur will be detailed in future MOGs but could be through the committee secretariat).

Phase Two – refinements through submissions

Creating efficiencies in the submissions phase

33. Formal submissions are important to receive views of parts of the plan. However, providing the ability for anyone to participate through formal submissions presents

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challenges in achieving the reform goal of efficiency. The legitimacy of the plan development process (and therefore the resulting provisions) is likely to be undermined if there is no ability for parties to participate in decision-making, especially if it affects private property rights.

34. Officials recommend there are primary and secondary submissions for NBA plan development. Primary submissions would be open to anybody. The ability to make a secondary submission would be restricted to certain parties, for example, those impacted by a proposed provision.

35. As part of providing the ability to submit, it is necessary to create a process that also increases efficiency and certainty. Officials will provide further advice on how to streamline the submissions process in the future. These options could include removing the requirement to summarise submissions (which can take many months), allowing the plan committee to request further information from submitters to clarify matters, and reducing requirements to reassess the evaluation of plan provisions where minor policy changes are made.

36. It is important that submitters provide details of what they want and provide supporting material explaining their request upfront during the policy development and submission phases, as opposed to waiting until the hearing or appeals stages. This could be achieved in the NBA plan development process by ensuring no new information is presented to the IHP, beyond what is provided with submissions.

Phase Three – IHP completes the process

Achieving time efficiencies while ensuring a robust hearing

37. Under the RMA, hearings and appeals are where the most money, time and effort is spent. A major issue is submitters entering both the hearings and appeals processes without providing sufficient detail about what they want, or any supporting material explaining why their request should be granted. Holding back this detail is problematic because by these stages, participation has been narrowed down only to those submitters or appellants who have scope (through submissions) to participate. The result is that community values and iwi/hapū/Māori interests reflected in the notified version of the plan can be overridden.

38. Officials recommend that no new information is introduced to the IHP to incentivise parties to provide their full evidence in their primary submission and supporting evidence where required, as a secondary submission.

39. The IHP will have the level of expertise required to balance the process to avoid unnecessary formality and introduce methods which encourage equality of access, such as no cross-examination.

40. As governance decisions have a bearing on appeals, further policy on the appeals process will be brought to a later MOG, after decisions on governance have been made. However, officials consider detailed policy work should be based on the Panel's approach of following the Auckland Unitary Plan model by reducing merits appeals.

41. Officials anticipate that reduced appeal rights are likely to be justifiable due to the shift to a more robust and thorough first instance process, and the need for more speed, efficiency and finality in the system.

Additional plan development matters

Plan reviews

42. Once a plan is developed and operative it is important to regularly monitor and review it to ensure the plan to remains responsive, integrated and effective.

43. MOG #10 covered monitoring the policy effectiveness of plans, and Ministers agreed there should be stronger requirements to investigate, evaluate and respond when policy effectiveness monitoring identified problems.

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44. Officials recommend a more consistent and considered plan review process across the system. The plan review process must be able to maintain responsive, integrated, and effective plans.
45. Officials recommend that the review of NBA plans be closely integrated with plan monitoring. This can be achieved by requiring the review of plans on a cyclical basis in response to plan and other forms of monitoring. Full review of NBA plans should also be required to be initiated within a fixed number of cycles, to ensure plans remain robust and relevant.

Plan changes

46. Plan changes provide a process to make changes to an operative plan.
47. The Panel considered plan changes as part of the wider policy and planning framework. They recommended that the process for plan development should apply to plan changes as well. However, they also suggested the variable scale, nature and complexity of plan changes will require details of the process and timeframes to be adjusted to suit.
48. Officials recommend an approach, generally in line with the Panel's recommendations, whereby plan change processes are proportionate to the issues at hand.
49. This approach will remain fair and robust. Importantly, this approach enables plan changes to provide local place-making opportunities and plan maintenance without jeopardising the efficiency and effectiveness of the wider plan development system.

Private plan changes

50. Private plan changes are a mechanism by which the public can advance changes to a plan.
51. The Panel considered that private plan changes can be useful and a role for them should remain in the new system. But they suggested restrictions are needed to ensure the integrity of plans is maintained.
52. Noting that private plan changes often create delays and uncertainty, officials propose greater restrictions on when and in what circumstances private plan changes can occur. Further policy work will be undertaken on what constraints may be applied.

Treaty impact analysis

53. The policy options put forward in this paper have been assessed in accordance with the Treaty principles to ensure every effort is made to give effect to the principles of the Treaty in the new NBA plan development process.
54. Overall, the policy options provide greater opportunity for Māori to participate in plan development at a higher level and throughout the entire plan development process. The process will need to ensure Māori are engaged at an early stage (ensuring the correct mana whenua are identified and engaged with at each level, contributing independently from the public), and ensure engagement is meaningful and ongoing (which includes providing Māori with the opportunity to voice concerns, ideas etc and to seriously consider Māori views). The process should ensure the system gives more weight to Iwi Management Plans and consider how they can be better incorporated into NBA plans, ensure fair representation on the NBA plan committees and to recognise mātauranga Māori and tikanga as an expertise to contribute to plan content. IHPs should include tangata whenua as experts to provide mātauranga Māori and tikanga advice (preferably local to the area).
55. A full summary of the analysis of the Treaty impacts of the recommendations of this paper are contained in Appendix 4, supporting document 2 (pages 131-132).

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Engagement

Agency

56. Agreement and support were reached over the general process and the use of plan development phases. Agencies reiterated the importance of the process being simple and more efficient. They also noted the benefit for agencies of having the opportunity to be involved in the plan development process early. Specific options for how the policy objectives could be achieved were discussed for feedback, but that detail is not included in this paper.

Local government

57. Local government was generally supportive of the policy for the NBA plan development process. There are details within the proposed NBA plan development process which would benefit from further local government feedback at the appropriate time.

Iwi/Māori groups

58. Material on the proposed NBA plan development process has been presented to [redacted] Much of the discussions were focused on the governance side of plan development, which will go to a future MOG.

59. Relevant to this paper, feedback from iwi/Māori groups included:

    a. ensuring the new process is progressive and does not retract from gains in the current system

    b. ensuring there are te Tiriti o Waitangi Article 2 rights as well as Article 3 rights.

Recommendations

It is recommended that the Ministerial Oversight Group:

1. **agree** to an NBA plan making process that:

    a. facilitates better public participation during policy development, seeks engagement early in the process and ensures feedback received has weight throughout the plan development process

    b. has an early and sustained role for iwi/hapū/Māori in the plan development process that recognises iwi/hapū/Māori as experts and kaitiaki of their own rohe

    c. includes a requirement for those preparing the plan to invest in innovative ways, methods, and techniques to engage, seek and facilitate widespread community feedback, including from disabled people, people with language barriers, youth, etc

    d. has a role for local place-making

    e. is easy for plan users to navigate and participate in

    f. avoids relitigation of matters settled higher up in the system

    g. refines policy through submissions

    h. results in a robust plan through the use of an Independent Hearings Panel (IHP).

2. **agree** that there will be three phases of plan development: policy development, submissions, hearings

3. **agree** that some of the stages in the NBA plan development process will be time limited and further advice will contain this detail

Policy development phase

4. **agree** that the plan preparation phase provides certainty for mana whenua and customary marine title groups on their involvement in the plan development process, focusing on

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ongoing engagement, efficient and effective methods for jointly drafting provisions and provides clear dispute resolution mechanisms

5. **agree** that the plan preparation process must include the identification and notification of major regional policy issues, including matters directed by legislation, the National Planning Framework, and the Regional Spatial Strategy
6. **agree** that during plan development there is a statutory requirement to consult with government departments and ministries, local authorities and infrastructure groups (‘requiring authorities’)
7. **note** that there is an expectation that the statutory requirement to consult would also include Māori groups, and further advice on this will be provided later
8. **agree** that during the plan development process there are opportunities for any party to register their interest to be consulted on the development of plan provisions
9. **agree** that submissions received in advance of the notified plan (during the plan development process such as from hui, workshops and community events) are formally recorded and have weight through the NBA plan development process
10. **agree** that a process is set up to ensure the NBA plan gives effect to the National Planning Framework
11. **agree** that plan provisions be evaluated using a process which is efficient, proportional, responds to environmental outcomes, ensures development occurs within environmental limits, supports good decision making and includes explicit links to plan monitoring provisions

Submissions Phase

12. **agree** that the plan committee:
    a. is not required to summarise submissions
    b. may request further particulars from a submitter
    c. may commission reports to obtain further information
13. **agree** that the substantive matters and associated information are presented during the submission phase by requiring submitters to provide details of what they want, and to provide supporting material explaining their request
14. **agree** that anybody can make a primary submission
15. **agree** that officials will consider limiting the ability to make a secondary submission to certain parties
16. **agree** that no new information is presented to the IHP, beyond what is provided during the submissions phase

Hearings phase

17. **agree** that the plan process use an IHP to hear submissions and make recommendations to the NBA plan committee
18. **agree** to an IHP process that is easy for people to participate in, is not unnecessarily formal and excludes cross-examination
19. **agree** to officials developing further policy on appeals based on the Panel’s recommendations and the Auckland Unitary Plan model
20. **note** final recommendations on appeals will be provided after decisions on governance structure have been made

NBA plan review

21. **agree** that NBA plans will be reviewed on a cyclical basis in response to plan and other forms of monitoring, with initiation of a full review of NBA plans being required within a fixed number of cycles

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NBA plan changes

22. **agree** to a scale of plan change approaches being incorporated in the system to enable to the process to be proportionate to the change
23. **agree** that private plan changes are possible but restricted in when and in what circumstances that may occur

Next steps

24. **authorise** the Minister for the Environment to make further policy decisions on the details of the NBA plan development process, plan reviews and plan change process, including the process for private plan changes
25. **authorise** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to implement the decisions set out above (including delegated decisions) through a Bill
26. **note** that officials will undertake further policy work on the Minister of Conservation's role in the plan development process within the coastal marine area
27. **note** that officials will advise a future MOG on appeals after further decisions on plan making, legal weight of regional spatial strategies and governance have been made
28. **note** that further decisions on plan development need to be made in conjunction with decisions on governance arrangements
29. **note** that detailed decisions on iwi/hapū/Māori participation in plan making need to be made in conjunction with decisions on wider Māori participation in the wider system.

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Paper 5: Establishing and implementing the new system

The two supporting documents of Appendix 5 supplement this paper: example of fast vs slow system rollout *(Appendix 5, supporting document 1, page 133); and* table of costs and benefits of fast vs slow system rollout *(Appendix 5, supporting document 2, page 134).*

Purpose

1. This paper:
    a. details the proposed objectives framework that will be used to guide decision-making and support the new resource management system transition and implementation process
    b. updates the Ministerial Oversight Group (MOG) on the key components of a Transition and Implementation Plan (T&I Plan), which is being developed to direct the mainly non legislative work programme on transitioning to and implementing the new resource management system. Implementation includes establishment of the new resource management system. The views of the MOG on the T&I Plan are sought
    c. outlines, at a high level, agency and ministerial responsibilities for the T&I Plan and seeks the MOG's confirmation of responsibilities for the Strategic Planning Act (SPA) related components of the T&I Plan
    d. seeks the MOG's initial views on timing and sequencing of implementation for the new system rollout (noting that timing and sequencing of key system components is likely to be specified in legislation and thus further engagement on this is likely).
2. For clarity, this MOG item is not in reference to transitional provisions in the legislation. Instead, it relates to the measures to facilitate effective and efficient transition and implementation of the new system.

Status quo under the current system

3. Poor implementation and implementation support of the RMA has been widely recognised as one of the reasons for the poor urban and environmental outcomes under the RMA.

Panel's recommendations

4. The Panel recommended several measures to ensure there is effective transition and implementation of the new resource management system. These measures include:
    a. national direction should be used to provide greater clarity for system users
    b. a model region should be used to develop the first Regional Spatial Strategies (RSSs) and Natural and Built Environment Act (NBA) Plans
    c. sufficient resourcing should be provided for transition and implementation
    d. capacity and capability should be built to enable key system partners and stakeholders to effectively participate in the system
    e. a change in planning system culture is required to enable and focus on better outcomes.

Proposed objectives framework

5. Officials propose using the following objectives framework to guide decision-making and support the resource management system transition and implementation process:
    a. have the necessary measures in place to ensure transformational change in the resource management system
    b. provide as much certainty as possible through transition for system users and implementers

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c. enable iwi/hapū/Māori to effectively participate as a partner in the new system; and enable te ao Māori and mātauranga Māori to guide transition and implementation of the new system

d. maintain and strengthen system integrity and stewardship

e. transition and implement the system in an efficient and effective way, focussed on reducing complexity and partnering for success.

Engagement (feedback received on the proposed objectives)

Agency and SPR Board

6.

Local government

7. Local government did not provide any substantive views on the proposed objectives.

Iwi/Māori groups

8.

Tr

9. Ensuring effective and efficient transition and implementation of the new system is critical to ensuring the objectives of reform are achieved. As such, a T&I Plan is being developed to direct the key non-legislative components of a transition and implementation work programme. This will facilitate effective transition to and implementation of the new resource management system. The key components of the work programme include:

    a. engagement and partnering with key system partners and stakeholders

    b. the Model Project which includes the development of prototype and model RSS(s) and NBA Plan(s)

    c. capacity and capability building of partners and users in the new resource management system

    d. reforming the planning system culture

    e. digital transformation throughout the new resource management system.

10. Options exist for every component of the work programme (for example, the extent of training to build capability and capacity could be low, medium or high). Options will need to be assessed and considered, and weighed up for effectiveness, cost, timeliness and resourcing.

11. The T&I Plan will need to link and align with other central government work programmes, such as the Emissions Reduction Plan. Agility and adaptability will be incorporated into the specific T&I work programme components to enable this alignment over time.

12. Central Government will have a much greater involvement in the implementation of the new resource management system (compared to relatively limited involvement in implementation under the RMA). Central government will not only be a system steward, but also actively involved in system transition and implementation activities. This will require sufficient resourcing (including for other supporting agencies).

13. Engagement with key system partners and stakeholders is vital to the development and delivery of the T&I Plan. An on-going strong relationship with local government and iwi/hapū/Māori will be a critical success factor for achieving transformational change through the new system.

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14.

15.

16. The National Planning Framework (NPF) will be critical in providing implementation direction for partners, stakeholders and users of the new system. Meanwhile, legislative transitional provisions and critical timing and sequencing provisions will direct how the system is transitioned and implemented. The T&I work programme is closely linked to the NPF and the legislative transitional and implementation provisions, with all these pieces of work being developed in parallel. The T&I work programme development will have some influence upon these policy decisions and will be responsive as policy decisions on these matters are made.

Decision-making for the transition and implementation plan

17. Once key policy decisions are taken, it is anticipated that the Minister for the Environment will be empowered to make T&I decisions on the Natural and Built Environments Act (NBA) in consultation with other Ministers where applicable. This paper does not seek a decision on this matter.

18. For the SPA, it is not yet determined which minister(s) (and agencies) will have on-going responsibility (work on this issue is on-going and a decision on ministerial responsibility and institutional arrangements for the SPA will be sought at a later MOG). In the interim, officials recommend that:
    a. the Strategic Planning Reform Board ('SPR Board') maintain oversight of SPA implementation matters; and
    b. ministerial responsibility rests with the Minister of Finance, Minister for the Environment, Associate Minister for the Environment (in relation to Māori rights and interests), Minister of Local Government, Minister of Housing, Minister of Conservation and Minister of Transport.

19. The MOG is being asked to confirm this T&I responsibility for the SPA until formal decisions are made on on-going arrangements.

The broader objectives of Resource Management Reform

20. The T&I Plan will provide clear direction and enable the new system to be successfully implemented. This will enable the new system to achieve better environmental outcomes (including urban) and address climate change and natural hazard issues, helping achieve Reform Objectives 1, 2 and 4.

21. Clear transition to and implementation of the system, guided by the proposed objectives framework, will include iwi/hapū/Māori having the required capacity and capability to effectively partner and participate in the system. This will enable the new system to give effect to the principles of te Tiriti and help achieve Reform Objective 3.

22. The proposed system transition and implementation objectives and T&I Plan will contribute to meeting Reform Objective 5. Having robust objectives and a clear work programme plan will help ensure the new system functions in an efficient and effective manner, while providing clarity and certainty for system users and reducing complexities.

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Engagement (feedback received on the transition and implementation work programme and balance of decision-making responsibility)

Agency and SPR Board

23. Responses were received from eleven agencies[4]. The agencies expressed their need to be actively engaged, funded and resourced in the T&I Plan (in relation to their agency functions and responsibilities). Agencies also noted that different options within the T&I Plan should be considered (including the subsequent implications – resourcing, cost, timeliness, effectiveness and efficiency). noted the importance of Digital Transformation as a potential tool to achieve the key components of the T&I work programme, as opposed to it being a key component itself.

24. The SPR Board endorsed the T&I work being undertaken. The Board noted that ensuring system partners and implementers have sufficient capacity and funding for effective and efficient T&I will be critical to successful reforms. Furthermore, there is a need to understand the nature of capacity/capability gaps and where they are in the system have a plan for addressing these gaps. Lastly, the Board acknowledged that institutional arrangements will be important to T&I and effective relationships must be established.

25. Both the SPR Board and agencies expressed strong support for decision-making on SPA related implementation matters in the interim period to be confirmed as detailed in paragraph 18

Local government

26. Local government agreed with the need for effective transition and implementation and thus the broader T&I Plan work programme in general. They noted the need for clear and early direction on the future system to enable them to prepare and plan with staff capacity, capability and retention. However, they noted that the Three Waters Reform is taking up considerable amount of time and effort in the short term. Lastly, the potential value of an Implementation Authority and/or Regional Implementation Managers should be explored (to help facilitate, manage and oversee transition and implementation).

Iwi/Māori groups

27. Feedback from on the T&I work programme noted the need for sufficient iwi/hapū/Māori capacity and resource to enable them to effectively partner in the T&I work is crucial also noted they seek for iwi/hapū/Māori rights and interests to be resolved prior to new system implementation (especially for freshwater).

High-level timing and sequencing options for new system roll-out

28. A key decision that will also need to be made during the reforms relates to timing and sequencing for the rollout of the new resource management system. Timing and sequencing of system rollout is expected to be specified in the legislation. As such, the timing of when the NBA and SPA are enacted is a critical influential factor.

29. Key system components to be implemented include the NPF, RSSs and NBA Plans. Officials prefer these key system components are rolled out in a sequential manner, with the NPF coming into force before any RSS goes out for formal public consultation. Likewise, NBA Plans should not be formally consulted on until the relevant RSS is operative. This is to ensure there is consistency down through the hierarchy of planning instruments – a principle upon which the new system is based. However, this sequential

[4]

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development does not preclude some overlapping policy development across the documents.

30. Decisions relating to timing and sequencing for the rollout of these key system components will be critical in determining how long it takes to completely transition to and implement the new system, and how long it may take to realise some of the outcomes (and objectives) sought under the new resource management system.

31. There are different options for sequential system rollout, with different costs and benefits (see respectively Appendix 5, supporting document 1, page 133; and supporting document 2, page 134). Appropriate sequencing will need to find a suitable balance between fully transitioning to and implementing the new system in a timely manner; while doing so in a cost-effective, practical, successful and efficient manner which enables participation and partnership with local government and iwi/hapū/Māori. To achieve the objectives of resource management system reform, officials consider that the rollout of the system will need to be sequenced in a strategic staged and targeted manner.

32. The timing of the NPF coming into force will be critical given the sequential rollout of key system components as described in paragraph 29. However, it is noted that RSS and NBA Plan evidence gathering and Joint Committee establishment processes can begin before the NPF is in force. Early evidence gathering processes will help minimise the duration to fully transition and implement the new system.

33. Initial high-level views on resource management system rollout timing and sequencing are sought from the MOG. Further engagement with the MOG is likely as policy relating to sequencing and timing is developed. The T&I Plan will be responsive to timing and sequencing policy decisions.

Engagement (feedback received on high-level timing and sequencing options for new system rollout)

Agency and SPR Board

34. Eleven agencies[5] provided comment on timing and sequencing. Most agencies advised that a staged sequencing of the system rollout is generally preferred and supported at a high-level (ie, option 2 shown in Appendix 5, supporting document 1, page 133), but further detail is required to provide informed advice. Agencies also noted that different options will need to be considered, including the implications for timeliness, resourcing, effectiveness, efficiency and cost (and the appropriate balance of the costs and benefits of various options), with the chosen option prescribed in legislation. Meanwhile, the SPR Board did not signal any initial strong preference.

Local government

35. Local government raised concerns with a rapid rollout because of capacity issues. Of particular note, the current Three Waters reforms are diverting significant amounts of councils' energy and resources, and there may be limited capacity to support a rapid rollout in the short term. Longer term, it will be critical to ensure local government is sufficiently resourced to effectively participate in the transition and implementation of the new system. The implementation pathway should be signalled to councils early (including to existing staff) to enable early preparation, including providing for staff capacity, capability and retention as well as implementation resourcing.

Iwi/Māori groups

36. The Māori collectives raised concern with a slow rollout as existing adverse outcomes being experienced under the RMA may be prolonged. Instead, the rollout should be short and sharp. In addition, it is critical that iwi/hapū/Māori are sufficiently resourced and supported to successfully partner and participate in the rollout of the new system. It is

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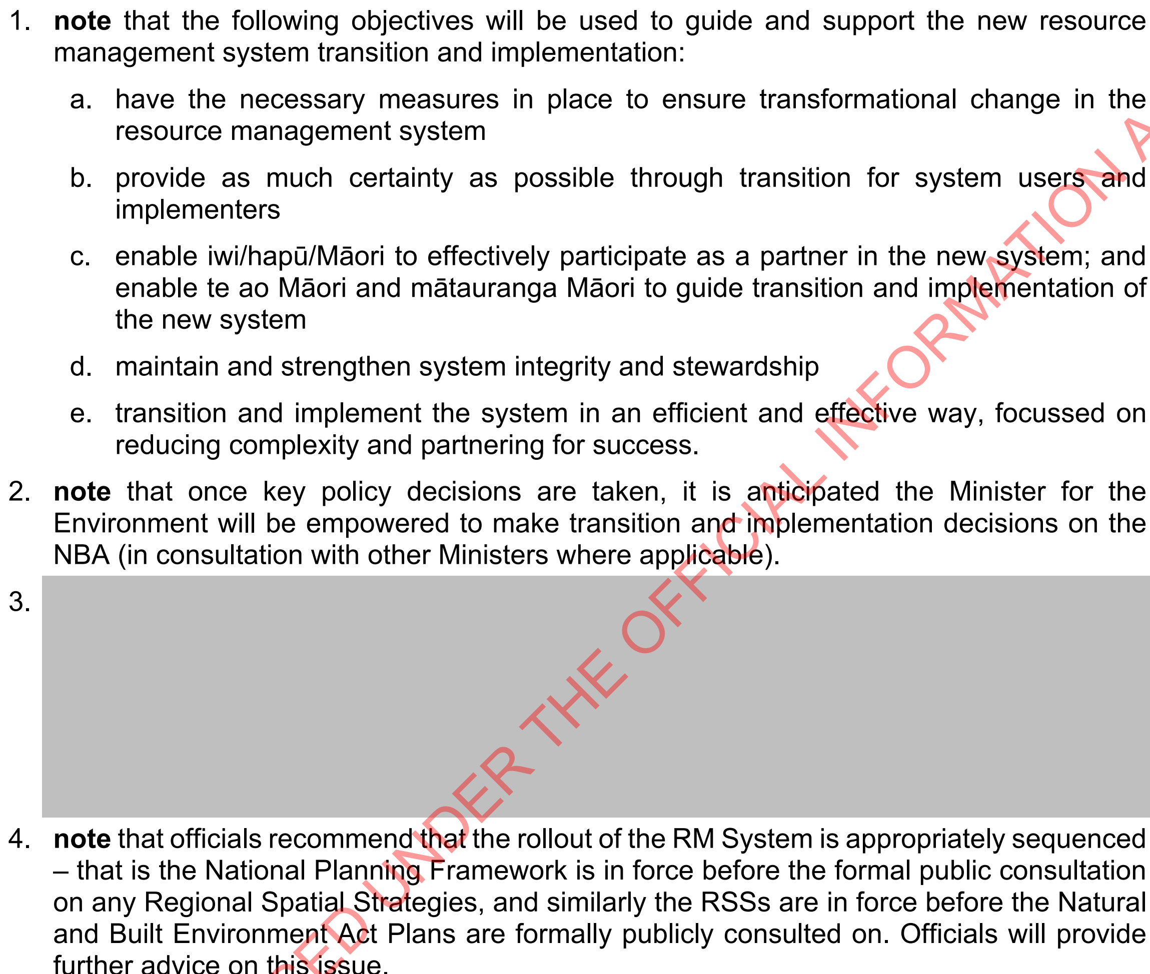
acknowledged that there is somewhat of a conflict between these two points in that it may be difficult to build up capacity rapidly to enable a fast rollout.

Recommendations

It is recommended that the Ministerial Oversight Group:

1. **note** that the following objectives will be used to guide and support the new resource management system transition and implementation:
    a. have the necessary measures in place to ensure transformational change in the resource management system
    b. provide as much certainty as possible through transition for system users and implementers
    c. enable iwi/hapū/Māori to effectively participate as a partner in the new system; and enable te ao Māori and mātauranga Māori to guide transition and implementation of the new system
    d. maintain and strengthen system integrity and stewardship
    e. transition and implement the system in an efficient and effective way, focussed on reducing complexity and partnering for success.
2. **note** that once key policy decisions are taken, it is anticipated the Minister for the Environment will be empowered to make transition and implementation decisions on the NBA (in consultation with other Ministers where applicable).
3.



4. **note** that officials recommend that the rollout of the RM System is appropriately sequenced – that is the National Planning Framework is in force before the formal public consultation on any Regional Spatial Strategies, and similarly the RSSs are in force before the Natural and Built Environment Act Plans are formally publicly consulted on. Officials will provide further advice on this issue.

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Minute from Māori Interest Subgroup Meeting #3 on 13 September 2021

RM Māori Interests subgroup meeting #3

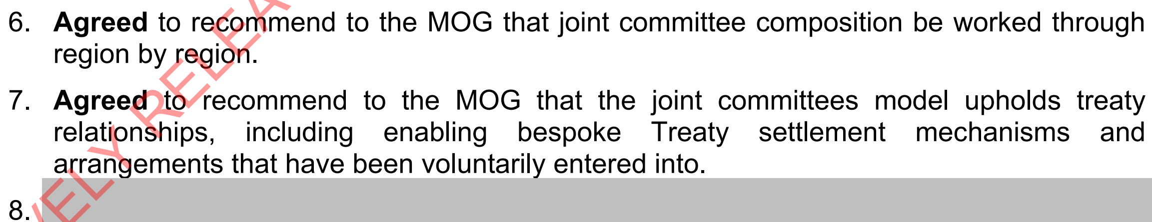
Date	Monday 13 September 2021, 4:00 – 5:00 pm
Location	Zoom
Chair	Hon Kiritapu Allan, Associate Minister for the Environment,
Attendees	Hon Kelvin Davis, Minister of Māori Crown Relations: Te Arawhiti Hon Megan Woods, Minister of Housing Hon David Parker, Minister for the Environment Hon Nanaia Mahuta, Minister of Local Government Hon Willie Jackson, Minister for Māori Development
Apologies	

Agenda Item 1: National Entity

1. **Agreed** to recommend to the MOG that a national entity be established to enable Māori participation at the national level.
2. **Agreed** to recommend to the MOG that the national entity have functions in:
    a. system oversight/monitoring,
    b. input to NPF development, and
    c. appointments of any Māori representatives to NPF board
3. **Noted** that subject to agreement, further work will be undertaken on the scope and powers of the national entity
4. **Noted** that further work will be undertaken on whether the national entity should have a role in dispute resolution for iwi/Māori appointments to joint committees or whether this should be a role for the Māori Land Court.
5. **Noted** that definitions referring to iwi, hapū and Māori groups should be based of existing terms and are intended to capture an inclusive and expansive list of Māori including landowners, iwi, hapū, community committees, and post settlement governance entities.

Agenda Item 2: Joint committee composition

6. **Agreed** to recommend to the MOG that joint committee composition be worked through region by region.
7. **Agreed** to recommend to the MOG that the joint committees model upholds treaty relationships, including enabling bespoke Treaty settlement mechanisms and arrangements that have been voluntarily entered into.
8.



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9. **Noted** that further work will be provided on whether these redress mechanisms are best upheld in a holistic or bespoke way.
10. **Noted** that there are different views between iwi/Māori groups on 'who' should have the ability to appoint members to joint committees, and officials intend to undertake further work to enable Ministers to make fully informed, Treaty compliant and principled decisions on this matter once initial decisions on joint committee composition are made.
11. **Noted** that further advice will be provided on whether legislation should set appointments processes that are fixed in primary legislation or whether to enable bespoke processes (eg, through enabling a tikanga or kaupapa Māori appointments process).

Agenda Item 3: Plan development

12. **Agreed** to recommend to the MOG that the legislation requires iwi/Māori involvement in plan development through technical and mātauranga Māori input.
13.
14. **Agreed** to recommend to the MOG that appropriate weighting and consideration should be given to Māori technical inputs (eg, iwi management plans).

Agenda Item 4: Integrated partnership processes

15. **Noted** that the Resource Management Review Panel's recommended integrated partnerships process was their name for an enhanced Mana Whakahono ā Rohe process that integrates with better transfers of power and joint management agreement (JMAs) provisions.
16. **Agreed** to recommend to the MOG that the legislation provides for an enhanced Mana Whakahono ā Rohe process that is integrated with transfers of powers and JMAs.
17. **Agreed** to recommend to the MOG that power sharing arrangements (transfers of power and JMAs) are better enabled through the enhanced Mana Whakahono ā Rohe process, with barriers removed.
18. **Noted** that subject to agreement, further work will be undertaken on the scope of the enhanced Mana Whakahono ā Rohe process and mandatory requirements for what must be covered.

Agenda Item 5: Next steps

19. **Direct** officials to begin drafting a Cabinet paper on Māori participation in the system for the Ministers Parker and Allan to take to Cabinet in October 2021 for confirmation on intended direction.
20. **Agree to** officials doing further PSGE engagement and another round of regional engagement.

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Minute from RM Infrastructure Subgroup Meeting #1 on 9 September 2021

RM Infrastructure subgroup meeting #1

Date	Wednesday 08 September, 5:00 – 6:00 pm
Location	Zoom
Chair	Hon Megan Woods, Minister of Housing
Attendees	Hon Kelvin Davis, Minister for Māori Crown Relations, Te Arawhiti Hon David Parker, Minister for the Environment Hon Nanaia Mahuta, Minister of Local Government Hon Poto Williams, Minister for Building and Construction Hon Michael Wood, Minister of Transport Hon Kiritau Allan, Associate Minister for Culture and Heritage Hon Phil Twyford, Associate Minister for the Environment Hon James Shaw, Minister of Climate Change
Apologies	

Agenda Item 1: Supporting Housing Affordability through RM reform

1. **direct** officials to further develop and assess options to increase the affordability of housing, including implementation considerations, through the existing RM and Urban Growth Agenda (UGA) work programmes, including:

   a. *Future growth planning* - to be progressed as part of the existing Strategic Planning Act (SPA) work programme, working closely with the National Planning Framework (NPF) workstream under the Natural and Environments Built Act (NBA), with an emphasis on ensuring efficient land use and infrastructure

   b. *Corridor/site protection and infrastructure delivery (to enable land and floorspace release)* – to be progressed as part of the: existing RM reform infrastructure workstream (in regard to the role of designations, and corridor/site protection mechanisms), the infrastructure funding workstream outlined below (in regard to infrastructure funding constraints), and the SPA work programme (in regard to infrastructure sequencing)

   c. *Regulatory environment* - to be progressed as part of the existing NBA work programme, with particular regard to the NPF.

2. **note** that the options to 'go further' (see Appendix 1, slides 9 to 11) could have a range of implications across the RM system, including content in the NPF, implementation agreements for RSSs, the design of NBA plans, and the permissions regime.

3. **note** that the mechanisms to improve the efficiency and effectiveness of the infrastructure planning system (such as lapse periods for infrastructure designations) are also being addressed as part of the Infrastructure Pathways work.

4. **direct** officials to report back to MOG (as appropriate) as to how this will support and achieve the RM reform objectives, particularly better enabling development within environmental & biophysical limits [with] a significant improvement in housing supply, affordability and choice. Further report back should also include work with LINZ to clarify what proposed changes would mean for land acquisition processes.

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5.

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Minute from RM Reform Ministerial Oversight Group Meeting #10 on 11 August 2021

RM Reform Ministerial Oversight Group Meeting #10

Date	Wednesday 11 August 2021, 5:30 – 6:15 pm
Location	8.5EW
Chair	Hon Grant Robertson, Minister of Finance
Deputy Chair	Hon David Parker, Minister for the Environment
Attendees	Hon Kelvin Davis, Minister for Māori Crown Relations: Te Arawhiti Hon Nanaia Mahuta, Minister of Local Government Hon Damien O'Connor, Minister of Agriculture Hon Kris Faafoi, Minister of Justice Hon Kiritapu Allan, Minister of Conservation, Associate Minister for Arts, Culture and Heritage, and Associate Minister for the Environment, Hon Phil Twyford, Associate Minister for the Environment
Apologies	Hon Dr Megan Woods, Minister of Housing Hon Poto Williams, Minister for Building and Construction Hon Willie Jackson, Minister for Māori Development Hon Michael Wood, Minister of Transport Hon James Shaw, Minister of Climate Change

Paper 1: Recommendations

1. **agree** that the primary role of the NBA consenting regime is to:
   a. implement the NBA plan outcomes, NPF and the intent of the legislation,
   b. provide a robust process for the consideration of activities, where an activity is not enabled in a plan, and
   c. enable and support plan effectiveness monitoring
2. **agree** the new regime will do this by:
   a. adopting an enabling approach to activities within environmental limits
   b. seeking information, certification or both
   c. having a clear process and decision-making framework for the approval or decline of activities not enabled in a plan
3. **note** that for the proposed approach to operate as intended, all system components including the NPF, RSS and NBA plans will need to be certain and stronger, by providing for outcomes, setting targets and limits, providing strategic direction and integration and resolving conflict at an appropriate level in the system
4. **agree** to expand the scope of what is currently understood as 'Permitted Activities' under the RMA
5. **agree** to introduce a new type of permitted notices where users provide information or certification, or both to authorities but no merits-based assessment is required. The purpose of providing information, certification or both is to:
   a. ensure that the activity meets a standard or complies with certain matters, and
   b. enable monitoring and compliance of the NPF and the NBA plan
6. **note** that the efficacy of the consenting regime is reliant on the uptake of digital technologies to improve efficiency across the system, and officials are looking into how a digital planning platform could be provided

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7. **agree** that there will be four broad categories of activities:
   a. Activities that are permitted
   b. Activities that are prohibited
   c. Activities that will need some level of merits-based assessment (albeit are considered appropriate and likely to meet outcomes (note: these are akin to controlled and restricted discretionary activities in the RMA)
   d. Activities that may or may not meet outcomes and require a higher level of assessment (note: these are akin to discretionary and non-complying activities in the RMA)
8. **agree** that the decision-making framework for consenting will shift away from a primary focus on adverse effects to focus on outcomes and ensuring environmental limits are met
9. **agree** that the National Planning Framework and plans will play a stronger role in providing direction, including categorising activities, identifying the scope of information, certification or both required, directing who to notify, and which approval pathways to take
10. **agree** that criteria in the NBA, content in the NPF and/or plans will direct who is to be notified of consents
11. **note** that there are opportunities to further simplify and review current consent processes to implement the new legislation and create a more enabling consenting system that is outcomes focussed
12. **request** the Transactional Efficiencies and Māori Interests subgroups to make further recommendations to MOG for the permissions system, including but not limited to the:
    a. categorisation of activities
    b. types of consents
    c. process by which the authorities validate 'permitted activities'
    d. approval pathways for consents (including information requirements, participation (notifications), timeframes, and the ability to hear submissions, suspend applications and seek information)
    e. decision-making framework (including but not limited to the relationship with NPF, RSS, the ability of authorities to consider the purpose and supporting principles into Part 2 of the NBA including Te Oranga o te Taiao, and the ability to impose conditions)
    f. other features that will assist with the workability of the consenting system (eg, commencement, duration, transferability and cost recovery)
13. **note** that the Minister of Agriculture will also receive advice in relation to further decisions for the consenting system and be invited to relevant meetings
14. **note** that the Māori Interests subgroup is to consider matters which directly relate to the role iwi, hapū and Māori participation in consenting and report back to the MOG
15. **note** that the Transactional Efficiencies and Māori Interests subgroups will make recommendations in line with MOG decisions that have been made, or be guided by future MOG (and subgroup) decisions
16. **authorise** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to implement the decisions set out above (including delegated decisions) through a Bill.

Paper 2: Recommendations

1. **agree** that the NBA will contain a duty on all persons to avoid, remedy or mitigate adverse effects on the environment, which will be effective in the NBA via a clear, workable and proportionate enforcement pathway (based on the approach in section 17, Part 3, and Part 12 RMA, but with greater enforcement powers where the duty is not complied with)

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2. **agree** that the duty will apply notwithstanding that the activity is allowed by an existing use provision, or is lawfully established under any other provision of the NBA, subject to further work on any appropriate exceptions (based on the approach in section 17(1)(a) and (b), and (4) RMA)
3. **agree** that officials will undertake further work and seek later decisions on the relationship between the duty and the enforcement provisions in the NBA, to ensure a clear, workable and proportionate enforcement pathway
4. **authorise** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office relating to the decisions (including those delegated to the Transactional Efficiencies and Environment subgroups) sought by the paper titled *Land and resource use and responsibilities under the Natural and Built Environments Act*
5. **agree** that rules in NBA plans will apply to existing land uses following the approach in sections 10, 10A and 10B of the RMA, but with the below changes:
   a. require existing land uses to comply with plan rules that give effect to any parts of the National Planning Framework relating to the natural environment
   b. require existing land uses to comply with plan rules that give effect to any parts of the National Planning Framework that relate to natural hazard or climate change risk reduction, or adaptation to, or mitigation of, climate change, or contaminated land
   c. require existing land uses to comply with plan rules that reduce natural hazard or climate change risk, or adaptation to climate change, or address contaminated land (even if there is no National Planning Framework provision on those matters)
   d. provide an immunity from changing NBA plan rules for "static" or "completed" activities such as existing buildings or non-designated infrastructure (except for plan rules that reduce risk, or adapt to the effects of climate change, or address contaminated land)
6. **agree** that notification of new or amended NBA plan rules must include a process for identification of whether the notified rule is intended to apply to existing land uses and whether any transition period will be provided
7. **agree** that the NBA will provide that if, as a result of a proposed plan rule taking legal effect, a consent is required for an activity relating to natural resources (such as water, air, and the coastal marine area) that was previously lawful, the activity may continue until the rule becomes operative if:
   a. before the rule took legal effect, the activity was permitted or was lawfully established; and
   b. the effects of the activity are the same or similar in character, intensity, and scale to the effects that existed before the rule took legal effect; and
   c. the activity has not been discontinued for a continuous period of more than 6 months (or any longer period specified in a relevant rule in the plan) since the rule took legal effect (replicating the approach in section 20A(1)(a)-(c) RMA)
8. **agree** that the NBA will provide that if, as a result of a proposed plan rule becoming operative, a consent is required for an activity relating to natural resources (such as water, air, and the coastal marine area) that was previously lawful, the activity may continue after the rule becomes operative if:
   a. before the rule became operative, the activity was permitted or was lawfully established; and
   b. the effects of the activity are the same or similar in character, intensity, and scale to the effects that existed before the rule became operative; and
   c. the person carrying on the activity has applied for a consent within 6 months after the rule became operative and the application has not been decided or any appeals have not been determined (replicating the approach in section 20A(2)(a)-(c) RMA)

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9. **agree** that the NBA will provide that there is no compensation for the effects of planning provisions on interests in land (based on section 85(1) RMA), and a provision stating that a consent relating to water does not give any property rights in water (based on section 122 RMA)
10. **agree** that there will be an exception to the principle of no compensation, where planning provisions render land incapable of reasonable use in a way that cannot be justified (based on section 85(2) to (6) RMA)
11. **agree** that the NBA will provide processes for the review of consents, which will include the circumstances, purpose, scope, powers, matters to be considered, outcomes, appeal processes, implementation (including potential for a transition period), and cost recovery mechanisms for reviews
12. **request** the Transactional Efficiencies subgroup to make recommendations to MOG on:
    a. processes for developing NBA plan rules that are intended to affect existing uses
    b. processes for Existing Use Certificates (including an ability to proactively change an existing use) and processes for Certificates of Compliance
    c. the no compensation provision and its exceptions
    d. processes for review of consents, to the Transactional Efficiencies subgroup
13. **note** the Minister of Agriculture will also receive advice in relation to these further decisions and be invited to relevant meetings
14. **note** that the Māori Interests subgroup will consider matters which directly relate to iwi/hapū/Māori participation in existing uses processes and report back to MOG
15. **agree** that the NBA will provide a process for Existing Use Certificates to provide written confirmation that a particular activity or use is lawful even though it contravenes NBA plan rules (based on the approach in section 139A RMA)
16. **agree** that the NBA will provide a process for:
    a. Certificates of Compliance to provide written confirmation that a particular activity or use does not require a consent (based on the approach in section 139 RMA); and
    b. the monitoring, review, and amendment of new and existing Certificates of Compliance
17. **agree** that the NBA will provide a mechanism for people to proactively change an existing use if that would reduce adverse effects of the use on the environment, and/or contribute towards positive environmental outcomes.

Paper 3: Recommendations

Polluter pays

1. **agree** that in principle, existing provisions enabling cost recovery by regulators for CME activity continue to be provided for and strengthened where necessary to minimise costs to the wider public
2. **agree** that cost recovery for permitted activity CME activities and investigations of non-compliance will be provided for in the NBA

Deterrence

3. **agree** in principle, to a substantive uplift in financial penalties in the NBA to support their deterrent purpose
4. **agree** to broaden the types of offences where fines for commercial gain can be considered by the courts at sentencing (currently limited to marine discharge offences)
5. **agree** to prohibit insurance for fines and infringement fees
6. **agree** that officials will investigate the use of alternative sentencing options that go beyond those currently available to the courts for NBA offences

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7.

8. **authorise** the Minister for the Environment to make specific detailed decisions on uplifted penalties and alternative sentencing options in consultation with the Minister of Justice

9.

10. **authorise** the Minster for the Environment to determine the most appropriate policy response to resolve issues of synergy with wider criminal legislation in consultation with the Minister of Justice

Intervention tools

11. **agree** that the relevant provisions in Part 12 and Part 12A of the RMA which do not require any policy change can be drafted into the NBA

12. **agree** that the CME related provisions of section 332-333 (powers of entry) of the RMA can be drafted into the NBA

13. agree to increase the scope of information compliance officers may require to include the details of both principals (those directing the activity) and agents (those undertaking the activity)

14. **agree** to provide for alternative sanctions to traditional enforcement action (enforceable undertakings) for lesser offending

15. **agree** to broaden the scope of contraventions an abatement notice (directive to cease unlawful activity) can be issued for

16. **agree** to create a new offence for contravening a consent condition

17. **agree** to enable regulators to apply for a consent to be revoked in response to non-compliance

18. **agree** to enable a consenting/regulatory authority to consider an applicant's compliance history when deciding whether to grant/decline a consent application, or when formulating consent conditions

19. **authorise** the Minister for the Environment to make further decisions on the detail of the policy response for CME intervention tools in consultation with the Minister for Justice

Strengthened CME Services

20. **agree** that officials will continue to develop policy options to drive an uplift in CME practice at all councils in the short term, including addressing issues of political influence/bias, and resolve issues of institutional arrangements raised by the Panel in the longer term

21. **agree** that officials will continue to explore options to strengthen the role of Māori in CME services that are consistent with future MOG decisions

22. **note** that specific decisions on the design of regionally consolidated CME services need to occur in the context of broader decisions about the governance of the system and the responsibilities of institutions to be decided at a later MOG

23. **note** that agreement to explore an enhanced role for Māori means MfE can work with our Treaty Partners, regulators, and affected stakeholders to design regional solutions which provide consistency in resourcing, effectiveness, and capability, and integration with other statutory functions (Building Act, Health Act, bylaws etc). This could enable consistency with Māori participation in joint committees for plan making and support Cabinet's agreed objectives for reform, particularly as they relate to te Tiriti.

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Paper 4: Recommendations

1. **agree** that environmental monitoring and reporting in the system should be focused on supporting the purpose of the Natural and Built Environments Act, including upholding Te Oranga o te Taiao, and monitoring against environmental limits and targets, and environmental outcomes

Environmental outcomes

2. **agree** that the proposed approach to environmental monitoring and reporting under the Natural and Built Environments Act will include:
    a. providing for a suite of tools in the Natural and Built Environments Act to direct environmental outcome monitoring
    b. consistent and regular local-level environmental reporting
    c. the ability to involve Māori in developing and undertaking monitoring and reporting activities
    d. clear connections between the Natural and Built Environments Act and national environmental reporting under the Environmental Reporting Act 2015

Policy effectiveness

3. **agree** that there should be stronger requirements in legislation for responsible bodies to investigate, evaluate and respond when policy effectiveness monitoring identifies problems that need to be addressed
4. **note** that MOG #3 delegated monitoring and review provisions of the National Planning Framework to the Minister for the Environment in consultation with Hon Kiritapu Allan, Associate Minister for the Environment.

System performance

5. **agree** that the following functions of system monitoring and oversight should be reflected in the future system:
    a. stronger regulatory stewardship and operational oversight of the system by central government
    b. regular reporting to Parliament on the performance of the system, in relation to environmental limits, targets and outcomes of the Natural and Built Environments Act
    c. legislated requirements for central government to respond to state of the environment and system performance reports
    d. independent oversight of system and agency performance to provide accountability and impartial analysis and advice
    e. mechanisms to monitor how the system gives effect to the principles of te Tiriti
    f. a range of powers for ministers to intervene and direct the system

Delegations

6. **request** the Environment subMOG to make recommendations to MOG on:
7. monitoring and reporting requirements in the Natural and Built Environments Act, including integration with the Environmental Reporting Act 2015
8. the nature of actions required by local and central government to investigate and address issues identified during monitoring
9. the processes and roles for monitoring the policy effectiveness of Regional Spatial Strategy and Natural and Built Environments Act plans
10. the detailed functions for monitoring system performance

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11. **agree** that decisions on potential changes to roles and responsibilities for monitoring and oversight will be made at the MOG #15 meeting alongside other decisions on system institutions.

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In-progress action log from previous MOG meetings (for noting)

MOG #	Minute paragraph	Action

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MOG #	Minute paragraph	Action

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MOG #10 Report-back - Resource consents and property rights in water

1. Ministers at MOG #10 on 11 August asked for a simple guide to issues around recommendation 9 on paper 2 regarding property rights in water particularly given transferability of resource consents: *"**agree** that the NBA will provide that there is no compensation for the effects of planning provisions on interests in land (based on section 85(1) RMA), and a provision stating that a consent relating to water does not give any property rights in water (based on section 122 RMA) (emphasis added)"*

2. No decisions made by Cabinet and MOG so far (including as above) change the current position on resource consents for water, pending future decisions on allocation. That position (see A3) is:

    a. resource consents are not real or personal property

    b. consent holders have no right of renewal, but a priority right to apply for a new consent before expiry of current consent, unless a plan states otherwise (put in place to discourage ad-hoc changes to consents but encourage broader planning)

    c. where that priority right applies, and allocation is first-in first-served (FIFS), the effect is that:

        i. consent holders like to treat their rights as perpetual (subject to overall adjustments of available water and meeting ongoing flow requirements)

        ii. existing uses can be locked in and newcomers locked out

    d. if legislation or a plan removed the priority right, without replacing FIFS, then under current law allocation would be in order of application for both existing consent holders and new users

    e. resource consents can be transferred in some circumstances such as if ownership of the related activity changes, or between sites if a plan allows or councils approve.[6]

3. Even full transferability would not in itself make something a property right in either economic or legal terms. Resource consents have some characteristics of property rights, but not all, and to limited degrees. The characteristics other than transferability are summarised below:

Characteristics	Description	RMA position
flexibility of use	change use without approval	constrained, depending on plan
exclusivity	(a) vs other users (b) limiting ability of regulators to modify	yes limited–*panel proposed more matters be considered on renewal as well as stronger review powers*
duration	term of right, permanent or other	max 35 years[7] - *panel proposed common expiry dates and*

[6] Waikato allows transfers downstream with notification to the council. Transfers can be allowed within irrigation schemes with overall consents. Proposed Marlborough plan would allow for enhanced transfer through a later plan change.

[7] Many councils use shorter terms e.g. the proposed Marlborough plan would limit to 10 if over-allocated or a default environmental flow applied

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		shorter terms with flexibility for major infrastructure
divisibility	subdividing rights or joint ownership	depends on plan provisions
quality of title	enforceability certainty right to compensation	yes limited only as provided for in s.85[8]

4. Future decisions that would affect how close the consent is to a property right (in economic terms) could include:
    a. extending or limiting the terms of consents
    b. increasing or reducing the likelihood of renewal (eg, affecting priority of renewal or moving away from FIFS, including making space for new users)
    c. further constraining how consent holders are allowed to use water.
5. For instance, it may be possible to move consents further away from being a property right through shortening the duration and increasing review provisions (which would weaken the quality of title), even if transfers are made easier. Any changes would of course affect the value of consents, including as a basis for investment.

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[8] relates to a change that renders land incapable of economic use

<table>
<tr><th></th><th>Policy Position</th><th>Statutory references</th></tr>
<tr><td>What do the RM reform proposals change?

How does RM reform affect water allocation or rights and interests in fresh water?</td><td>The RM reform proposals would confirm the current legal position, without:
• pre-empting the allocation Cabinet paper
• affecting any rights and interests in water.
The RMA:
• allocates fixed term rights to <u>use</u> water (takes and discharges) subject to conditions and review powers
• but does not create rights to <u>own</u> water, which is consistent with the Crown position that there is no ownership of water.</td><td rowspan="2">122 Consents not real or personal property
(1) A resource consent is neither real nor personal property.
(2) Except as expressly provided otherwise in the conditions of a consent,—
(a) on the death of the holder of a consent, the consent vests in the personal representative of the holder as if the consent were personal property, and he or she may deal with the consent to the same extent as the holder would have been able to do; and
(b) on the bankruptcy of an individual who is the holder of a consent, the consent vests in the Official Assignee as if it were personal property, and he or she may deal with the consent to the same extent as the holder would have been able to do; and
(c) a consent shall be treated as property for the purposes of the Protection of Personal and Property Rights Act 1988.
(3) The holder of a resource consent may grant a charge over that consent as if it were personal property, but the consent may only be transferred to the chargee, or by or on behalf of the chargee, to the same extent as it could be so transferred by the holder.
(4) Subject to the provisions of this Act, and in particular to subsection (3), the Personal Property Securities Act 1999 applies in relation to a resource consent as if—
(a) the resource consent were goods within the meaning of that Act; and
(b) the resource consent were situated in the provincial district in which the activity permitted by the consent may be carried out (or, where it may be carried out in more than 1 provincial district, in those provincial districts).
(5) Except to the extent—
(a) that the coastal permit expressly provides otherwise; and
(b) that is reasonably necessary to achieve the purpose of the coastal permit,—
no coastal permit shall be regarded as—
(c) an authority for the holder to occupy a coastal marine area to the exclusion of all or any class of persons; or
(d) conferring on the holder the same rights in relation to the use and occupation of the area against those persons as if he or she were a tenant or licensee of the land.
(6) Except to the extent—
(a) that the consent expressly provides otherwise; and
(b) that is reasonably necessary to achieve the purpose of the consent,—
no coastal permit shall be regarded as an authority for the holder to remove sand, shingle, shell, or other natural material as if it were a licence or profit à prendre.</td></tr>
<tr><td>Why is a resource consent legally not a property right?</td><td>Resource consents:
• are fixed term rights to take water, subject to review provisions
• carry no ownership rights and are explicitly not real or personal property
• have no right of renewal.

Despite this, water permits are in practice often regarded as indefinite entitlements to water. This is partly because of the priority that consent holders have to apply for a new consent, which puts them first in the queue (this is very important in a first-in-first-served system. The priority right was put in place to:
• discourage changes to existing consents without wider consideration
• encourage such wider consideration through planning.

The priority right must be exercised before their consent expires, is subject to criteria 124B(2) and can be removed by a relevant plan 124A(3).

In practice few allocation plans have been developed and none have yet activated this provision to remove priority applications. This has meant in practice that existing permit holders expect to be able to renew their time-limited permits as if they were perpetual, and existing uses have been locked in.

Note that if the priority application right was removed, applications for water would still be considered in the order lodged, unless the first-in first-served (FIFS) approach was also changed. The proposed Marlborough plan provides for FIFS until water is fully allocated and then for any water that becomes available to be allocated by ballot.</td></tr>
<tr><td>Why can resource consents be traded if they are not property rights?</td><td>Transferability is only one aspect of a property right, and has been limited under the RMA, mostly to new owners of the same site. Some temporary or permanent transfers occur if a plan allows, or following approval by councils:
• Waikato allows transfers downstream
• where an irrigation scheme has overall take and use consents, transfers may occur within the scheme
• the proposed Marlborough plan sets parameters for introducing transfers within Freshwater Management Units through a further plan change.

Other aspects of property rights (all limited for resource consents) are:
• flexibility of use (ability to change use without needing approval)
• exclusivity (vs other users and the ability of regulators to modify rights)
• duration (max 35 years– the proposed Marlborough plan would limit to 20, or 10 if the FMU was over-allocated or had a default environmental flow)
• divisibility (subdividing rights or joint ownership)
• quality of title (enforceability, certainty, right to compensation etc).</td><td>Under s.124 consent holders can apply 6 months before expiry, or 3 months with council agreement, and continue to operate until a consent is approved or declined, and all appeals are determined. An application under s.124 has priority under S.124B and 124C unless a plan says otherwise:
• 124A (3) Sections 124B and 124C do not apply to an application affected by section 124 if, when the application is made, the relevant plan expressly says that sections 124A to 124C do not apply.
Existing consent holders have a priority right to apply for a new consent.
• 124B (2) The application described in subsection (1)(b) is entitled to priority over every application described in subsection (1)(c).
• 124B (4) applications are subject to criteria: efficiency of use; use of industry good practice; number, seriousness and recentness of enforcement orders and convictions
Other applications are placed on hold:
• 124C

s.136 A consent to dam or divert water is site specific.
Other water consents may be transferred if in the same catchment, a plan allows it, or the transfer is approved.
s.137 A discharge consent may be transferred:
• on the same site to another owner or a local authority
• to a different site if a plan allows, effects are not worsened and it's in the same catchment.
NPS-FM 3.28 Water allocation
(1) Every regional council must make or change its regional plan(s) to include criteria for:
(a) deciding applications to approve transfers of water take permits</td></tr>
</table>

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Appendix 1: Governance and decision-making at the regional level

Supporting document 1: Number of Local Authorities and Iwi per Region

Region	LAs	Iwi	Iwi list*	
Northland	4	12	Ngāi Takoto Ngāpuhi Ngāpuhi / Ngāti Kahu ki Whaingaroa Ngāti Kahu Ngāti Kahu ki Whangaroa Ngāti Kurī	Ngāti Whātua Ngātiwai Te Aupōuri Te Rarawa Te Roroa Te Uri o Hau
			In addition, Northland has two other Iwi Authorities: Patuharakeke Te Iwi Trust Board and Te Rūnanga o Ngāti Hine	
Auckland	1	18	Ngāi Tai ki Tāmaki Ngāti Manuhiri Ngāti Maru Ngāti Pāoa Ngāti Rehua Ngāti Tamaoho Ngāti Tamaterā Ngāti Te Ata Ngāti Whanaunga	Ngāti Whātua Ngāti Whātua o Kaipara Ngāti Whātua o Ōrākei Ngātiwai Te Ākitai Waiohua Te Kawerau a Maki Te Patukirikiri Te Uri o Hau Waikato
Waikato	11	27	Maniapoto Maraeroa A & B (Land Block) Ngāi Tai ki Tāmaki Ngāti Hako Ngāti Hauā Ngāti Hei Ngāti Hinerangi Ngāti Hineuru Ngāti Kea / Ngāti Tuarā Ngāti Korokī Kahukura Ngāti Maru Ngāti Pāoa Ngāti Porou ki Harataunga ki Mataora	Ngāti Pūkenga ki Waiau Ngāti Rāhiri Tumutumu Ngāti Tahu / Ngāti Whaoa Ngāti Tamakōpiri Ngāti Tamaoho Ngāti Tamaterā Ngāti Tara Tokanui Ngāti Tūrangitukua Ngāti Tūwharetoa Ngāti Whanaunga Pouākani (Land Block) Raukawa Te Patukirikiri Waikato
Bay of Plenty	7	29	Ngāi Te Rangi Ngāitai Ngāti Awa Ngāti Hako Ngāti Hinerangi Ngāti Kea / Ngāti Tuarā Ngāti Mākino Ngāti Manawa Ngāti Maru Ngāti Pikiao Ngāti Pūkenga Ngāti Ranginui Ngāti Rangiteaorere Ngāti Rangitihi Ngāti Rangiwewehi	Ngāti Rongomai Ngāti Tahu / Ngāti Whaoa Ngāti Tamaterā Ngāti Tara Tokanui Ngāti Tarāwhai Ngāti Tūwharetoa (Bay of Plenty) Ngāti Whare Tapuika Te Ure o Uenukukōpako /Ngāti Whakaue Te Whānau a Apanui Tūhoe Tūhourangi Waitaha Whakatōhea

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Gisborne	1	5	Ngāi Tāmanuhiri Ngāti Porou Rongowhakaata	Te Aitanga ā Māhaki Te Wairoa Iwi and Hapu
Hawke's Bay	5	11	Ahuriri Hapū Heretaunga Tamatea Maungaharuru Tangitū Hapū Ngāi Te Ohuake Ngāti Hineuru Ngāti Kahungunu In addition, Hawke's Bay has another Iwi Authority: Te Iwi o Rakaipaaka Inc	Ngāti Pāhauwera Ngāti Ruapani ki Waikaremoana Ngāti Whitikaupeka Te Wairoa Iwi and Hapu Tūhoe
Taranaki	4	9	Maniapoto Ngā Rauru Kītahi Ngāruahine Ngāti Maru (Te Iwi o Maruwharanui)	Ngāti Mutunga Ngāti Ruanui Ngāti Tama Taranaki Te Atiawa
Manawatū Whanganui	8	20	Maniapoto Maraeroa A & B (Land Block) Muaūpoko Ngā Rauru Kītahi Ngāi Te Ohuake Ngāti Apa Ngāti Hāua (Upper Whanganui) Ngāti Hauiti Ngāti Kahungunu Ngāti Kahungunu ki Wairarapa - Tāmaki Nui ā Rua	Ngāti Maru (Te Iwi o Maruwharanui) Ngāti Rangi Ngāti Raukawa ki te Tonga Ngāti Tamakōpiri Ngāti Tūwharetoa Ngāti Whitikaupeka Rangitāne Te Korowai o Wainuiārua (Central Whanganui) Whanganui Iwi / Te Atihaunui a Pāpārangi Whanganui Land Settlement (Lower Whanganui)
Wellington	9	9	Muaūpoko Ngāti Kahungunu Ngāti Kahungunu ki Wairarapa - Tāmaki Nui ā Rua Ngāti Raukawa ki te Tonga Ngāti Toa Rangatira	Rangitāne Taranaki Whānui ki te Upoko o te Ika Te Atiawa Te Atiawa ki Whakarongotai
Te Tau Ihu (Tasman / Nelson / Marlborough)	3	9	Ngāi Tahu Ngāti Apa ki te Rā Tō Ngāti Kōata Ngāti Kuia Ngāti Rārua	Ngāti Tama ki Te Tau Ihu Ngāti Toa Rangatira Rangitāne o Wairau Te Atiawa o Te Waka-a-Māui
Canterbury	11	1	Ngāi Tahu	
West Coast	4	3	Ngāi Tahu Ngāti Apa ki te Rā Tō Ngāti Rārua	
Otago	6	1	Ngāi Tahu	
Southland	4	1	Ngāi Tahu	

The numbers and lists of Iwi have been sourced from TPK's Te Kāhui Māngai website (www.tkm.govt.nz**)*

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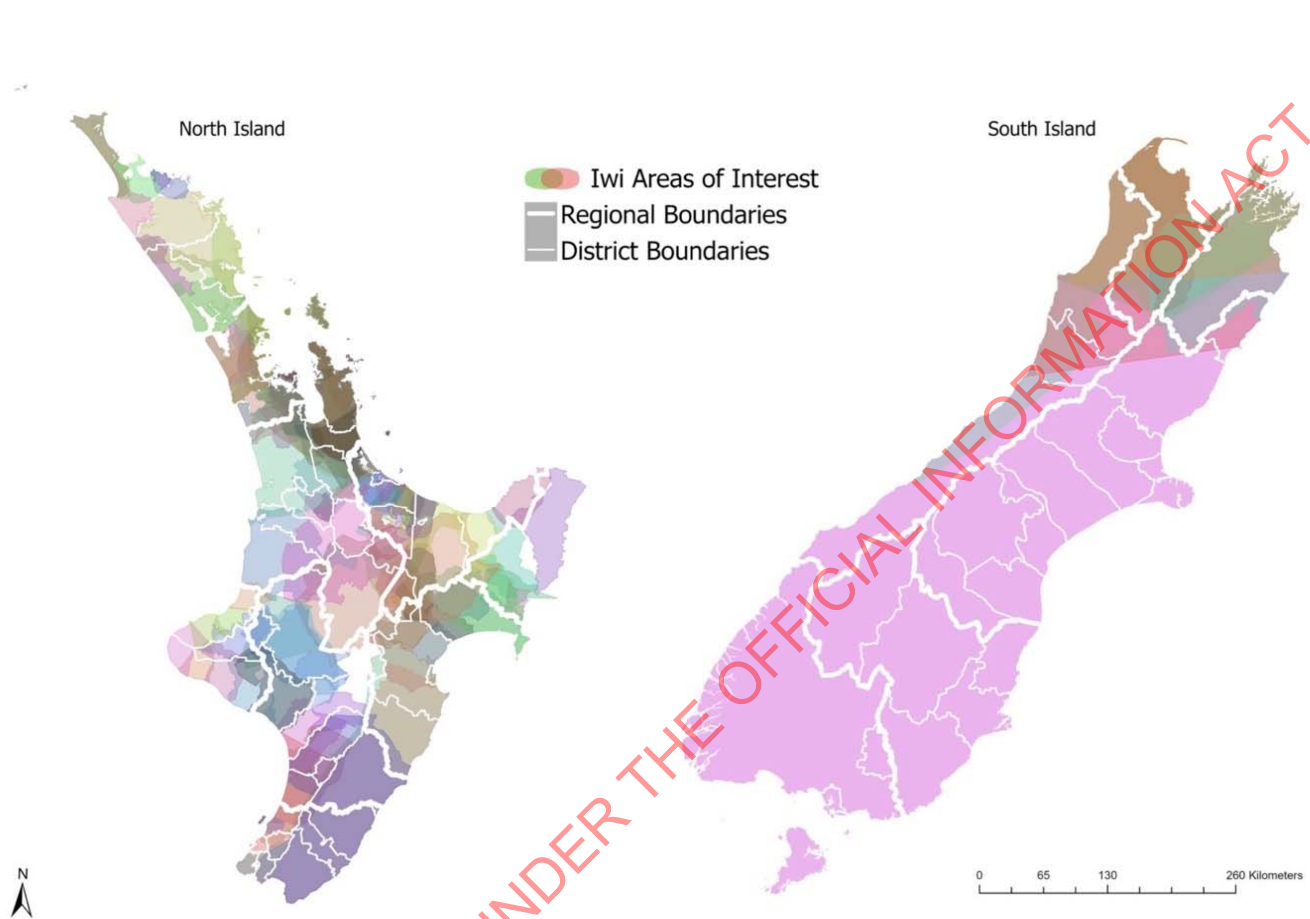
Comparison of Local Government Administrative Boundaries and Iwi Areas of Interest



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Appendix 1: Governance and decision-making at the regional level

Supporting document 2: Supplementary paper

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Pages 81 - 103 are withheld and have been removed

Appendix 3: Regional Spatial Strategy development and review; and geographical scale

Supporting document 1: Process for Developing and Reviewing Regional Spatial Strategies

Purpose

1. This paper seeks decisions on what the proposed Strategic Planning Act (SPA) should specify for:
    a. public and stakeholder engagement when a Regional Spatial Strategy (RSS) is prepared
    b. technical support for the RSS Committee
    c. keeping RSS up to date through reviews and amendments.
2. If agreed, the recommendations in this paper will allow drafting of the relevant portions of the SPA to start.

Part 1: What should the SPA specify on how RSS Committees engage with the public and stakeholders when making their strategies

Status quo under the current system

3. RSSs are a new mechanism, so there is no precisely equivalent status quo. Officials have therefore treated the Resource Management Act 1991 (RMA) processes for creating plans as the status quo. Those processes do not result in broad and efficient input from all those who are affected by plan decisions. At the same time, they do not provide efficient and timely decisions for developments. The process also tends to be adversarial rather than inquisitorial, which does not ensure that the best available information is used effectively. These issues are covered in detail in the comprehensive report of the Resource Management Review Panel (the Panel), and the consultation undertaken in the preparation of this paper generated similar problem statements.
4. Officials' work focused on the following key problems with the status quo:
    a. There is a lack of engagement on strategic issues, with people often not participating until the consent stage.
    b. The system has multiple processes that create costs and time delays.
    c. Innovative approaches to engagement are difficult to develop and use because of legislative constraints.
    d. The view of iwi is that the opportunities for iwi/hapū are too few, and the system does not adequately provide for both Article 2 (rangatiratanga) and Article 3 (ōritetanga/equality) roles.

Panel's recommendations

5. The Panel proposed that RSSs 'be developed jointly by central and local government and mana whenua with significant stakeholder and community involvement', noting that whatever process is required for an RSS, it needs to have recognition of other related local government consultation to avoid duplication.
6. The Panel recommended targeted engagement during the preparation of the RSS, followed by use of the special consultative procedure (SCP) under the Local Government Act 2002 (LGA) to provide for wider public participation in the process. In its report, they noted:

   "122. *We consider that public participation should be robust but should not include appeal rights to a court (spatial strategies should be subject only to judicial review). The special consultative procedure in section 83 of the LGA is a good starting point as it provides suitable flexibility to tailor consultation to the circumstances of the region. It would need*

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to be modified for the spatial planning legislation because all spatial planning partners would consult, not just councils. The use of innovative engagement tools should be encouraged, in order to reach a diverse range of people within the region." (Panel, 2020)

Options considered

7. This paper considers options related to provisions in the SPA for public and stakeholder engagement. This does not cover how iwi/hapū as Treaty partners under Article II would be engaged, which will be covered in papers on governance and Māori participation in the system. Nonetheless, the proposals would apply to Māori in the community generally, including urban marae, local Māori councils, iwi/hapū with rohe/areas of interest within or adjacent to the region, relevant Māori land trusts, Māori incorporations, and customary takutai moana rights holders, where these groups are not already participating in the process as mana whenua. They need to be provided with equal access to stakeholder/public participation in accordance with Article III of te Tiriti.

8. Analysis and feedback generally confirmed the Panel's concerns about the current engagement processes. Without a better process for RSSs, there is a risk of poor-quality documents with little community buy-in. There was strong interest in having a process for the RSS that was inquisitorial, and that used a wide range of processes to encourage a wider range of parties to engage. There was particular concern about the proposal to require that the SCP be used, particularly as that process tends to use hearing processes that are inefficient. As set out in Appendix 3, supporting document 2, a one-size fits all process that includes requirements for traditional hearings is likely to significantly increase costs to both the decision-maker and submitters without necessarily adding value and can result in some interested parties being less able to engage.

9. Given that feedback supports allowing RSS Committees to develop processes tailored to their local situation, the options development focused on how the legislation might achieve the intent of the Panel while not requiring that a specific process (the SCP) be used. There is, however, a tension between allowing flexibility and ensuring all regions follow a quality process. The following alternative approaches were considered:

    a. Option one: Include process requirements that specify the outcomes that the process must achieve.

    b. Option two: Include process requirements that specify both outcomes and specific process elements.

    c. Option three: As option 2 but also with an independent audit of the process.

10. A summary of the analysis of the costs and benefits of these options are contained in Appendix 3, supporting document 2.

Preferred option

11. Option two was considered to provide the best balance between allowing RSS Committees to develop a process that will work well in their communities and ensuring that the process is adequate to recognise public and private interests. Officials also believe this would also support the move away from the adversarial approach that is inherent in many of the existing RMA processes to a more inquisitorial approach.

12. Two elements were considered essential parts of any future process:

    a. Engagement with interested parties to determine the weight that should be given to matters that should be covered in the RSS (using efficient processes to collect relevant information and perspectives). It is important to ensure RSS Committees engage early and widely in the process to determine the key outcomes and objectives for their regional strategy.

    b. Public notification of a draft RSS to give any party the opportunity to make a written submission on the draft. This is the point at which everyone will be able to consider how the proposed RSS would affect their interests and make their views

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known. A quality process at this stage is vital given that it is currently expected that appeals will be limited to points of law.

13. It will also be important that there is publication of how submissions have been responded to, to ensure transparency and make clear the way the Committee considered the issues raised.

14. The SPA also needs to provide direction on the characteristics of a good process. That might be through including specific provisions in the SPA on the process, or be provided through general clauses (eg, the Treaty clause or the purpose of the SPA). Those outcomes that officials consider are important are:

    a. The process must seek to ensure that the RSS is based on the best available evidence base and future projections. The RSS needs to be a durable, long-term document, so will need to be based on good analysis of available information.

    b. The process must seek to ascertain and fairly consider the views of all those with an interest in the matters that the RSS will be addressing, and help the public understand how the RSS might affect their interests. A key problem with RMA plans is that input tends to be from a narrow range of people and organisations. Use of a wide range of engagement tools, including tools such as surveys and hui as well as written submissions, could broaden the range of interested parties whose views could be considered. It will also be important that the design allows interested parties a reasonable time to provide input, and to have input at a reasonable cost.

    c. The process must ensure that those agencies that will be required to make investment decisions that are consistent with the RSS (eg, councils when preparing their long term plans and transport agencies) have a reasonable say in provisions that will affect them. That might include requiring the RSS Committee to have particular regard to their views but could also be by including them in the technical work that supports the RSS Committee.

    d. The process must be Treaty compliant.

15. An independent audit or sign-off of each RSS engagement plan by another party (eg, the Minister) is not considered necessary. If the RSS Committee adopt a process that does not meet the requirements in the SPA, an aggrieved party will be able to appeal that matter to the High Court. In addition, there is expected to be a central government representative on the RSS Committee who can help ensure that a robust process is developed. Given those checks in the system, the additional costs and delays of an audit or approval process are not considered to be warranted.

16. The more criteria that are added to the Act, the greater the judicial review risk for the Committee. This can be minimised in drafting by preventing review on certain grounds. That will be addressed in a later paper on appeals.

Treaty impact analysis

17. These processes will provide the main avenue for Māori as individuals, Māori landowners, and Māori businesses and organisations to have input to the RSS development. There will be other mechanisms also available to iwi, hapū and Māori as Treaty partners under Article II, through the governance processes. Allowing development of a process that is tailored to the local situation is likely to make it easier for Māori to have input. The Treaty partner representatives on the RSS Committee can ensure that the process will work for local Māori interests.

18. A full summary of the analysis of the Treaty impacts of the recommendations of this paper are contained in Appendix 3, supporting document 2.

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Engagement

Agency

19. There was general support from most agencies for a flexible approach to engagement, provided the SPA contained the proposed provisions to ensure good design of outcomes.

Local government

20. Local government CEOs were supportive of the concept of an inquisitorial and flexible process. Most local government practitioners strongly supported moving away from compulsory hearings. Recent discussions with the Auckland Council also revealed good support for a flexible process. Discussions with the sector was focused on how to provide enough direction in the legislation to ensure that a good process would result, without generating significant legal risks for the Committee.

Iwi/Māori groups

21. The concept of a flexible approach allowing the process to be tailored was generally supported, subject to the legislation ensuring that the process is Treaty compliant. The discussion identified an important distinction between the role of iwi, hapū and Māori as the Treaty partner and ensuring that all Māori groups can adequately input. This work only addresses the latter, with governance and other arrangements addressing the issue of the Treaty partnership. A strong iwi/hapū role in the governance system will help ensure that the process designed by the RSS Committee will work well for Māori interests.

Part 2: What should the SPA specify in relation to technical support for the RSS Committee

Status quo under the current system

22. RMA planning is undertaken by a single local authority, and their staff provide the technical support for those processes (e.g. drafting planning documents, managing engagement processes, providing technical reports, analysing technical submissions). The regional transport committees provide an alternative model, with the committee supported by technical staff from multiple agencies that are represented on the committee.

23. Technical input is vital to ensure that the RSS Committees can do their jobs. That includes input of mātauranga Māori.

Panel's recommendations

24. The Panel provided no specific recommendations on this matter.

Options considered

25. RSS Committees will need technical support to prepare RSS. This paper considers what the SPA might need to specify to ensure that RSS Committees receive necessary technical support. The governance paper will address broader considerations related to a secretariat for the Committee.

26. This paper does not address processes needed to:
    a. ensure that appropriate resourcing is provided to enable Māori input and the application of mātauranga Māori
    b. provide for management of the support group, including powers to contract services or hire staff
    c. fund the support arrangements.

27. Option development considered the work on governance, but that work is still evolving and may affect the way in which the options are expressed in the SPA.

28. The following options were considered:

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a. Option one: The SPA is silent, and the technical support provided is determined by agreement between the bodies represented on the RSS Committee.

b. Option two: The SPA is silent but allows the Minister for the Environment to provide direction to agencies on technical support matters and includes a general duty to contribute.

c. Option three: The SPA gives RSS Committees powers to require certain parties to provide information that is needed.

29. A summary of the analysis of the costs and benefits of these options are contained in Appendix 3, supporting document 2.

Proposals

30. Option two was considered the best option. Ministerial direction may not need to be used but having it available will increase the overall robustness of the system.

31. It was not considered necessary or desirable to provide the RSS Committee with coercive powers to require agencies, infrastructure providers and other parties to deliver technical reports or present evidence to the Committee. That does not reduce the Committee's ability to request reports and use the Official Information Act, and there will be strong incentives for those bodies that will be bound by the RSS, or that rely on the RSS to protect their interests, to respond positively to such requests.

32. It is, however, recommended that the legislation impose a general duty on government agencies, Treaty partners and infrastructure providers to support the work of the RSS Committee. As well as providing a clear signal of how the Committee is to be supported, such a provision may be useful if any of the potential contributors have restrictive mandates under other legislation or constitutions.

33. The SPA will need to ensure that commercially and culturally sensitive information can be appropriately handled.

Treaty impact analysis

34. The proposals will facilitate implementation of the Treaty by allowing the Committee, which includes iwi/hapū representatives, to tailor a process that will ensure implementation of the Treaty principles. A full summary of the analysis of the Treaty impacts of the recommendations of this paper are contained in Appendix 3, supporting document 2.

Engagement

Agency

35. There was general support for technical support being drawn from a wide range of sources, but caution about anything that would impose unavoidable or unreasonable costs on infrastructure providers. It was noted that for some parties, the Official Information Act can be used to request information.

Local government

36. Discussions with local government CEOs focused on the importance of central government agencies providing their strategies early in the process and being active and supportive players.

Iwi/Māori groups

37. Iwi leaders wanted to ensure that their experts were involved in drafting the RSS, as members of the RSS Committee and/or through involvement in the technical work. The issue of how that input would be funded was raised and is being considered in the governance workstream.

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Part 3: What should the SPA specify for reviews and amendments of the RSS

38. Part 3 of this paper considers:

    a. the requirement to regularly review RSS

    b. what triggers an RSS review and/or amendment outside the regular review period

    c. how/when to make amendments publicly available

    d. when RSS should come into effect.

Status quo under the current system

39. Currently regional spatial strategies are not mandated. The Auckland Plan is the closest, statutory equivalent of an RSS and permits the council to update the spatial plan at any time, following the legislated process (which includes engagement).

Panel's recommendations

40. The Panel recommended RSSs should be fully reviewed at least every nine years with flexibility for review within that period when required. They chose this as it aligned with their recommendations on NPF and NBA plan review, and for alignment to council's 3-year planning cycles.

41. The Panel recommended reviews should be carried out in accordance with the consultation requirements that apply to the development of the first spatial strategy. Their discussion of the matter suggested flexibility would be needed to update an RSS when there were "significant changes to national direction or other national policy, or by sudden changes to the environment, such as a significant earthquake or pandemic" though this wording was not included in their final recommendation.

Context from MOG #7

42. MOG #7 agreed that RSSs should be strategic and high-level. Part of their aim is to provide more certainty for infrastructure providers and communities about how a region will change and grow. This is important to bear in mind as review options need to achieve certainty and responsiveness at the same time and avoid unnecessary repetition of onerous and costly processes. MOG #7 agreed that spatial strategies must 'implement' (eg, 'give effect to', or similar legal weighting) any provisions of the NPF that the NPF explicitly states are to be implemented through a spatial strategy. MOG #7 also agreed that spatial strategies must be 'consistent with' (or similar legal weighting) any other provisions of the NPF (ie, those that are to be implemented through NBA plans).

Options considered

43. The key strategic choices for Ministers are how regularly full reviews should be undertaken and what flexibility should be offered for additional reviews.

44. Officials agree that the SPA should set a regular review period for RSS. The following options were considered:

    a. Option 1a: a full review at 9 years.

    b. Option 2a: requiring each part of the RSS to be reviewed and updated at least once every 10 years (similar to the current RMA).

    c. Option 3a: a rolling review with a general requirement that the RSS Committee keeps the RSS up to date.

45. Officials agree that there should be flexibility for amendments to be made sooner than the regular review period in response to 'significant change'. The following options were considered for defining 'significant change' the SPA:

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a. Option 1b: No definition of significant. The clause would likely state "significant change in strategic matters relating to the Purpose of the SPA and the content of RSS".

b. Option 2b: A clause that includes examples of what constitutes significant change, as per the Panel's ideas.

c. Option 3b: Require RSS Committees to publish their own significance policy (which would need to align with the SPA purpose and the RSS purpose).

46. A summary of the analysis of the costs and benefits of these options are contained in Appendix 3, supporting document 2.

Proposals

47. Officials propose adopting options 1a and 3b. To give effect to these decisions, officials propose the SPA indicates that:

    a. Every 9 years, the RSS Committee must review its whole RSS, undertaking public participation processes used to make an RSS, as outlined in parts 1 and 2 of this paper. This may not result in major changes, but it is likely there will be some updating to do.

    b. The RSS Committee publishes a policy outlining what they deem to be a 'significant change' that may cause them to consider reviewing the RSS sooner than 9 years. This may be a review of the whole RSS, or just part of it. The policy would need to align with the SPA purpose and the RSS purpose.

    c. If a 'significant change' occurs, as described within their published policy, the RSS Committee must initiate a review of the RSS.

        i. If the RSS Committee then decide an amendment is necessary then they must follow the full public participation process for developing an RSS. If the review only pertains to part of an RSS, it does not re-open the whole RSS for review and only the relevant parts need be open for public participation.

        ii. If the RSS Committee decide an amendment is not necessary then public participation is not required, i.e. a Committee may determine that a significant change does not require an amendment to the RSS.

    d. At any time, the RSS Committee also has discretion to make minor amendments or technical corrections. For example, this may be factual updates to keep information in the RSS up to date. Full public participation requirements would not be triggered.

48. This approach aligns with the Panel's view. It provides certainty and avoids unnecessary work, while allowing RSS to be responsive to changes that may come through major natural events, changes to the NPF, evolving community or Māori views, or changing data and evidence. The nine-year review period should help embed the culture of RSSs being long-term strategies.

49. This approach to defining significant change means the legislation can be enduring as more is learned about the frequency of change and triggers. It also provides regional flexibility given different regions will be impacted differently. If required, guidance can be provided outside of primary legislation on examples of significant change, as RSSs are being embedded into the system. Feedback suggests a similar mechanism has proven workable in the Land Transport Management Act 2003 (LTMA).

Central Government requiring change to RSS

50. There may be instances where Central Government changes its policy and direction, and it impacts RSS. While the intent is for RSS to remain stable, under all options, it is proposed that the NPF can specify when its changes should trigger a review in an RSS, as MOG #7 agreed. This may also include deadlines for the review and subsequent

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amendments. This would allow RSS Committees lead in time to do work on potential changes and increase efficiency where amendments can wait until the next 9-year review. There would be a specific clause in the SPA stating the RSS must be reviewed or must be amended, if the NPF says so, to give effect to the NPF as relevant.

Public notification of completed or amended RSS

51. Given the importance of the RSS, public notice must be given of completed RSS, reviews undertaken (whether they led to an amendment or not), and amendments made, including information in relation to where the RSS may be viewed.

RSS start dates

52. In the long-term RSS are intended to provide high-level strategic direction to other documents in the system to better link planning and investment. This would suggest that a fresh RSS would be in place ahead of, or made alongside, instruments that direct funding such as long-term plans (LTPs), Regional Land Transport Plans (RLTPs), the National Land Transport Programme (NLTP) etc. This could be specified in legislation to reinforce the weight and purpose of these documents. However, in the short-term RSS will be informed by current spatial plans, RMA plans, LTPs, RLTPs etc. Furthermore, as out of cycle amendments or full reviews of RSS occur (restarting the 9-year cycle) such a formulation may quickly become obsolete.
53. It may be appropriate to introduce a more specific timeline for when 9-year reviews should happen through an Order in Council (OIC) once RSSs have been seen in practice. The Transition and Implementation workstream will seek decisions on whether to set a date for all areas to have their first RSS in place.

Treaty impact analysis

54. A key consideration for Māori as well as other partners and stakeholders, is resourcing to sit on RSS Committees or contribute to public participation. Option 3b would mean Māori are in the RSS Committee setting significance criteria. They can also share in the decision on when resource intensive participation is necessary, supported by a set review period that is relatively long (9 years).
55. In addition, new Treaty Settlement Legislation might trigger the need to review an RSS. For example, Te Ture Whaimana o te awa o Waikato (the Waikato River Vision and Strategy) is a document established by the Waikato-Tainui Raupato Claims (Waikato River) Settlement Act 2010. It is considered part of the Waikato Regional Policy Statement. Future Treaty Settlements might likewise result in mandatory content for a region's RSS.
56. A full summary of the analysis of the Treaty impacts of the recommendations of this paper are contained in Appendix 3, supporting document 2.

Engagement

Agency

57. Agencies generally supported periodic review and the need for RSS to be responsive to change – they also wanted to see reviews linked to the cycles of other planning documents. Generally, there was support for option 1a, paired with option 3b. Some agencies in early engagement supported option 2b, which gives some guidance on amendment triggers. However, option 3b would accommodate their preference of not binding committees.
58. [redacted]
officials will explore whether the NPF should set direction on what a significance policy can contain and to set appropriate triggers for reviews to make sure that RSS can be receptive to development opportunities, or if this can sit in non-statutory guidance.

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Local government

59. Local Government CEs were consulted on the options for review periods, amendment triggers and discussed additional detailed matters on reviews and amendments. Fixed review periods were generally supported to stop RSSs sitting on the shelf. There was support for RSS to be 'living documents' too, and so flexibility is needed to keep RSS up to date without full review too.

60. Views were mixed on the extent to which guidance in the legislation on what constitutes 'significant change' would be helpful but generally option 3b was thought to be viable. There was agreement that amendments should be by exception, not on a whim. Option 3b should support this.

Iwi/Māori groups

61. Engagement on review periods supported a set period, though there was no strong consensus on how long to leave between reviews.

Impacts on addressing Māori rights and interests in freshwater

62. This section assesses the extent to which the advice contained in this paper:

    a. May contribute to addressing Māori rights and interests in freshwater; and / or

    b. May preclude options to address Māori rights and interests in freshwater.

63. This assessment is indicative only, as Cabinet has yet to agree on next steps to progress the freshwater allocation and rights and interests work programmes. We are yet to have substantive policy discussions with

64. Māori rights and interests in freshwater are typically grouped under four broad 'pou':

    a. Water quality / Te Mana o te Wai

    b. Recognition of relationships with water bodies

    c. Governance and decision-making

    d. Access and use for economic development.

65. The advice contained in this paper does not appear to preclude any options to address Māori rights and interests in freshwater. It focuses primarily on the process by which RSSs will be developed and amended rather than their content, and it notes that matters relating to Māori participation are covered in separate advice.

66. Officials will explore these options in more detail once Cabinet has agreed on next steps for freshwater allocation and rights and interests.

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Appendix 3: Regional Spatial Strategy development and review; and geographical scale

Supporting document 2: Process for Developing Regional Spatial Strategies – Treaty Impacts and Regulatory Analysis

Treaty Impacts

Status quo
The public engagement processes in current legislation for plan making do not work well for iwi or Māori.
Summary of analysis
Gives effect to the principles of Te Tiriti o Waitangi • Iwi/hapū will, through their involvement in the RSS Committee, be able to ensure that public engagement processes are Treaty compliant, and that they have appropriate involvement in the technical work to draft plans. • Those engagement processes can ensure opportunities for input by individual Māori, Māori businesses, owners of Māori land, and others to encourage their participation. • They will also be part of setting the significance policy that would trigger a review or amendment of an RSS, so they can accommodate developments in giving effect to principles of Te Tiriti and evolution of mātauranga Māori. Māori Crown relations risks and opportunities • The improved processes should reduce risks, and high Māori input to RSS should ensure that they deliver strategic direction that improves long term relations. Costs and benefits for Māori • The proposal for flexibility in the engagement processes will ensure they can be designed to allow cost-effective input from iwi and Māori. Protecting and transitioning Treaty settlements • Good engagement processes will ensure that the intent of Treaty settlements can be protected, and processes can anticipate the requirements of future Treaty settlements. Waitangi Tribunal Recommendations • Issues concerning the lack or low level of Crown engagement or lack of consultation, and capacity and resourcing to participate fairly, are raised in several Tribunal recommendations. Māori rights and interests in freshwater • This section assesses the extent to which the advice contained in this paper: a. May contribute to addressing Māori rights and interests in freshwater; and / or b. May preclude options to address Māori rights and interests in freshwater. • This assessment is indicative only, as Cabinet has yet to agree on next steps to progress the freshwater allocation and rights and interests work programmes. We are yet to have substantive policy discussions with • Māori rights and interests in freshwater are typically grouped under four broad 'pou': a. Water quality / Te Mana o te Wai b. Recognition of relationships with water bodies c. Governance and decision-making d. Access and use for economic development. • The advice contained in this paper does not appear to preclude any options to address Māori rights and interests in freshwater. It focuses primarily on the process by which RSSs will be developed and amended rather than their content, and it notes that matters relating to Māori participation are covered in separate advice.

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- Officials will explore these options in more detail once Cabinet has agreed on next steps for freshwater allocation and rights and interests.

Limitations of this assessment

- This assessment is limited by lack of decisions on governance arrangements, which will affect the degree to which iwi/hapū control the processes covered in this paper.

Overall assessment

The proposals in this paper should deliver significant improvements over the status quo.

Regulatory Analysis

What should the SPA specify in relation to engagement?

Problem or opportunity - status quo

Public and stakeholder engagement is essential to ensure a quality RSS is developed, which is essential for delivery of the objectives of the reform.

- Effective engagement is essential to ensure that all perspectives and information can be identified and considered, including to improve recognition of private property interests, protection of the environment and delivery of community outcomes.
- Engagement is costly for both the agency doing the engagement and those participating. Efficient processes will benefit all.
- Who needs to be engaged and how they would prefer to be engaged will vary between locations and issues. A single engagement process is therefore unlikely to deliver effectiveness and efficiency.
- There is a high risk of bias in engagement processes, for example favouring those who have more time and money, or those who are more comfortable in bureaucratic processes. Using a range of engagement tools can reduce bias.
- Clear requirements in the legislation will improve certainty for affected parties, but may also impede the use of more effective and efficient options. There is an inherent tension between the goals of certainty and innovative responses.
- There is good evidence on the value of quality engagement and the problems with the status quo (including the special consultative procedure under the LGA).

There is an opportunity to provide for a more effective and efficient engagement system than in the current system. The Panel's report provided detailed analysis of the shortcomings of the status quo.

Options assessment	Advantages/benefits	Disadvantages/Costs/Risks
Option 1: Include process requirements that specify the outcomes that the process must achieve.	• Does not limit innovation by Committees, making it more likely that highly effective and efficient processes will be used. • Reduces the risk of conflict between what is in the SPA and Treaty settlement requirements. • Simple drafting.	• A risk that the Committee will choose a poor process. • A risk that the chosen system will be challenged in the High Court for not being consistent with the outcomes. • No precedents for the drafting of this type of provision.
Option 2: Include process requirements that specify both outcomes and specific process elements.	• Allows for at least some innovation by Committees, making it more likely that highly effective and efficient processes will be used. • Reduces the risk of conflict between what is in the SPA and Treaty settlement requirements.	• Some risk that the chosen system will be challenged in the High Court for not being consistent with the outcomes. • A risk that the Committee will choose a poor process. • No precedents for the drafting of this type of provision.

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	• Reduces the risk of the Committee choosing a poor process. • Provides some certainty to affected parties about what will be in the process. • Lower legal risk than with option 1.	

Option 3: As option 2 but also with an independent audit of the process.

Conclusion

Option 2 is the preferred option, for the following reasons:

- It provides the Committee with significant discretion to allow them to tailor their processes, but also creates certainty for stakeholders and the public on some key elements of the process.
- It avoids the costs and delays that would come from adding an audit process. While that would provide an additional protection for the public interest, it would carry significant risks, and the High Court appeal will provide reasonable protection for the public interest with option 2.
- There is sufficient experience with engagement processes for resource management and public investment to allow the choice of key process steps to be specified in the legislation relatively straightforward.

This option can deliver on the objectives and deliver better outcomes than the status quo. It will allow the Committee to develop a process that provides for efficient engagement (for both those engaging and the Committee), provides equitable engagement opportunities, and that gives effect to the principles of the Treaty.

In selecting this option, it was assumed that the Committee would include representatives of the key democratic and representative bodies in the region – central government, regional councils, territorial authorities and iwi - and that decisions would be by consensus or something close to consensus. That greatly reduces the risk that the designed engagement process will only be effective/efficient for some interested parties.

What should the SPA specify for technical support for the RSS Committee?

Problem or opportunity - status quo

The RSS Committee will need to be supported by significant technical work. Even if they are an expert committee, they will not hold all the expertise required or have the capacity to do all the technical work. In addition, reliance on one technical expert who sits on the Committee will not ensure that all expert perspectives are brought into the work.

The support work needed will include:

- Basic secretarial support (e.g. setting up meetings, dealing with correspondence).
- Helping the Committee design engagement processes.
- Helping the Committee carry out engagement, including summarising submissions, issuing surveys, taking notes in consultation meetings, and providing protocols support for engagement with Māori.
- Compiling data, research and other technical material that may be relevant to the RSS work.
- Analysing data/information and providing technical reports.
- Drafting proposed RSS.

Technical support will be vital if the Committee is to have access to the best available information and use that information effectively. Who provides that technical support may affect the way in which uncertainties and value judgements are made – the wider the range of technical experts

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that are used, the more likely it is that the full range of available information is collected and biases in analysis are avoided. Iwi leaders have noted the importance of iwi representatives being involved in drafting proposed RSS if there is to be a true partnership. Inclusion of mātauranga Māori will also be an important part of the Treaty partnership.

Options assessment	Advantages/benefits	Disadvantages/Costs/Risks
Option 1: The legislation is silent, and the technical support provided is determined by agreement between the bodies represented on the Committee.	• Less drafting effort. • Allow involvement and relationships to evolve over time. • Removes one potential ground for appeals.	• Increases the risk of disputes or uncertainty about who can contribute. • Does not provide assurance to the Treaty partner about their involvement. • Does not ensure that the Committee can access good technical support. • May result in unfair distribution of costs.
Option 2: The legislation is silent, but allows the Minister for the Environment to provide direction to agencies on technical support matters, and includes a general duty to contribute.	• Less drafting effort. • Allow involvement and relationships to evolve over time. • Removes one potential ground for appeals. • Direction from Minister will help ensure agencies provide the needed input. • Direction can reduce inconsistencies and unfair distribution of costs.	• Does not remove completely the risk of disputes or uncertainty about who can contribute. • Does not provide assurance to the Treaty partner about their involvement. • Does not completely ensure that the Committee can access good technical support.
Option 3: The legislation gives the RSS Committees powers to require certain parties to provide information that is needed.	• Provides a backstop if important information is not made available.	• Difficult to draft • May reduce willingness to participate voluntarily. • If only some potential providers can be required to contribute, may increase the risk of inequities.

Conclusion

Option 2 is preferred for the following reasons:

- A coercive power would be difficult to design and draft, particularly given the legal nature of the Committee.
- There will be a strong incentive for the agencies that hold information to contribute it, given that they will be affected by or benefit from the RSS.
- With some agencies, the OIA or LGOIMA can be used to require them to release information they hold, and there is no need to duplicate those existing mechanisms.
- Having a directive power and general duty will help to make expectations clear and provide a potential solution if problems arise as a result of the reliance on voluntary contributions.

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What should the SPA specify for regular reviews of the RSS?

Problem or opportunity - status quo		
The key decision for MOG is *how often RSS must be reviewed. This decision helps ensure that RSS are long-term documents but also stay up to date to maintain relevancy. The chosen option will impact workload for RSS Committees and the stakeholders, through frequency of engagement.*		
Options assessment	**Advantages/benefits**	**Disadvantages/Costs/Risks**
Option 1a: a full review at 9 years.	• Clear and understandable • Reinforces long-term nature of document but not too long that it is defunct • May align with current LGA and LTMA financial and planning cycles, that are largely based around 3 years	• Some agencies felt much would change in 9 years, but officials recommend this is mitigated through the out of cycle amendment flexibility and more frequent refresh of implementation agreements
Option 2a: requiring each part of the RSS to be reviewed and updated at least once every 10 years (similar to the current RMA).	• Familiar • Reinforces long-term nature of document but not too long that it is defunct	• No guarantee the RSS will be coherent, as no requirement to review as a whole
Option 3a: a rolling review with a general requirement that the RSS Committee keeps the RSS up to date.	• Flexibility for RSS Committee to determine a process that suits them and changes in their area	• No guarantee the RSS will be kept up to date. • RSS Committees may be pulled in different directions of when to review and not be able to come up with a decision • Rolling review may undermine the long-term nature of the RSS by making it unstable • Potential for consultation fatigue and resource constraints (eg, on central government) for participation, depending on RSS Committee's chosen approach. Potentially inefficient.
Conclusion		
• Option 1a is preferred. It balances the long-term nature of the document with making sure it isn't left on the shelf, even in times where no out of cycle amendments may occur. This is important to reform objective 1 that recognises present and future generations.		

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- Note, as with all decisions, and as agreed by MOG, these decisions may be revisited when all policy decisions on RM Reform are complete to check that the whole system works and is not duplicative or contrary.
- Much will be learned through the early years of RSS to see how frequently changes are needed to RSS, which will allow us to reflect on whether the policy settings are right to achieve the RSS role in the system.

What should the SPA specify for reviews and amendments of the RSS outside of the regular cycle?

Problem or opportunity - status quo		
The key decision for MOG is whether to define 'significant change' in the SPA. This would set the scope of what triggers a review and/or amendment of the RSS, impacting all 14 RSS Committees and the public who would participate in any review or amendment process. Too many triggers could lead to many reviews, which would be inefficient and undermine the long-term nature of RSSs which are supposed to provide certainty. Too few triggers and the RSS risks being out of date. Triggers and reviews are also a way to make sure RSS continue to remain relevant and used. Officials consulted with agencies on broad options for the approach and considered how equivalent clauses are written and have worked in practice in the LTMA and LGA.		
Options assessment	**Advantages/benefits**	**Disadvantages/Costs/Risks**
Option 1b: No definition of significance. The clause would likely state "significant change in strategic matters relating to the Purpose of the SPA and the content of RSS".	• Most flexibility for regions who may be impacted differently. • Enduring clause.	• Permissiveness may be used by people to lobby the Committee to make changes that are not necessarily appropriate or needed to for the purpose of the SPA and RSS content. • Permissiveness may be used by Committees to avoid reviews. • Workload unknown – may depend on appetite of committee. Could be high if committees must assess case by case.
Option 2b: A clause that includes examples of what constitutes significant change, as per the Panel's ideas. For example, "significant change in strategic matters relating to the Purpose of the SPA and the content of RSS, including, but not limited to, sudden changes to the environment, such as a significant	• Provides some guidance that will help with consistency and setting the bar in the right place. • Avoids extra work for Committees. • Allows some flexibility for regions who may be impacted differently. • Enduring clause.	• Committees will likely still have to informally make their own policies when faced with a situation not covered by the clause. • Workload unknown – may depend on appetite of the Committee. Could be high if Committees must assess case by case.

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earthquake or pandemic."		
Option 3b: Require Joint Committees to publish their own significance policy. This is currently seen in the LTMA and LGA.	• Familiar to likely implementers currently operating under LGA and LTMA. • Allows flexibility for regions who may be impacted differently. • Enduring clause - allows the definition of 'significant' to evolve over time as RSS play out, as the Committee can change its policy.	• May have higher risk of the Committee being lobbied to make criteria that suit the loudest voices. • May lead to inconsistent consideration of 'significance' but this would be useful information for guiding improvements to the legislation over time. • Additional work for Committees. • Committees may set their bar too high to avoid costly and time consuming reviews if they are not bought into the spirit and purpose of RSS.

Conclusion

- Option 3b is preferred as it allows flexibility. Options 1b and 2b may leave Committees less likely to keep their RSS up to date and make use of it in line with its purpose.
- A prescribed approach was not explored as it would likely lead to inefficiencies further down the line as regions needs differ, or new information comes to light that is required to protect the environment, deal with climate change and natural hazards, recognise te ao Māori or respond to built environment needs of future generations.
- There is a risk that RSS Committees will be risk averse and set their significance bar so high as to never undertake a review out of cycle. This can be mitigated by:
    - Guidance documents outside of legislation to help Committees decide their policy
    - Evaluation and compliance monitoring of RSS to make sure significant change has not been ignored by the Committee
- Note, as with all decisions, and as agreed by MOG, these decisions may be revisited when all policy decisions on RM Reform are complete to check that the whole system works and is not duplicative or contrary.
- Much will be learned through the early years of RSS to see how frequently changes are needed to RSS, which will allow us to reflect on whether the policy settings are right to achieve the RSS role in the system.

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Appendix 3: Regional Spatial Strategy development and review; and geographical scale

Supporting document 3: Geographical scale of Regional Spatial Strategies under the Strategic Planning Act

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Options for Geographical Scale

Ministry for the Environment

Officials support the Panel's recommendation of regional council/unitary authority boundaries.

The preferred option allows flexibility for sub-regional issues.

Three broad options were considered by officials:

- Current regional council/unitary authority boundaries
- Clusters of territorial authorities
- New boundaries (ie, rohe boundaries).

The most efficient and effective option is to align with NBA Plan boundaries (ie, regional council boundaries). Other options, while having some benefits, are less able to meet the objectives of the reform.

Committees would be able to focus on sub-regional issues where significant change is happening, anticipated, or required.

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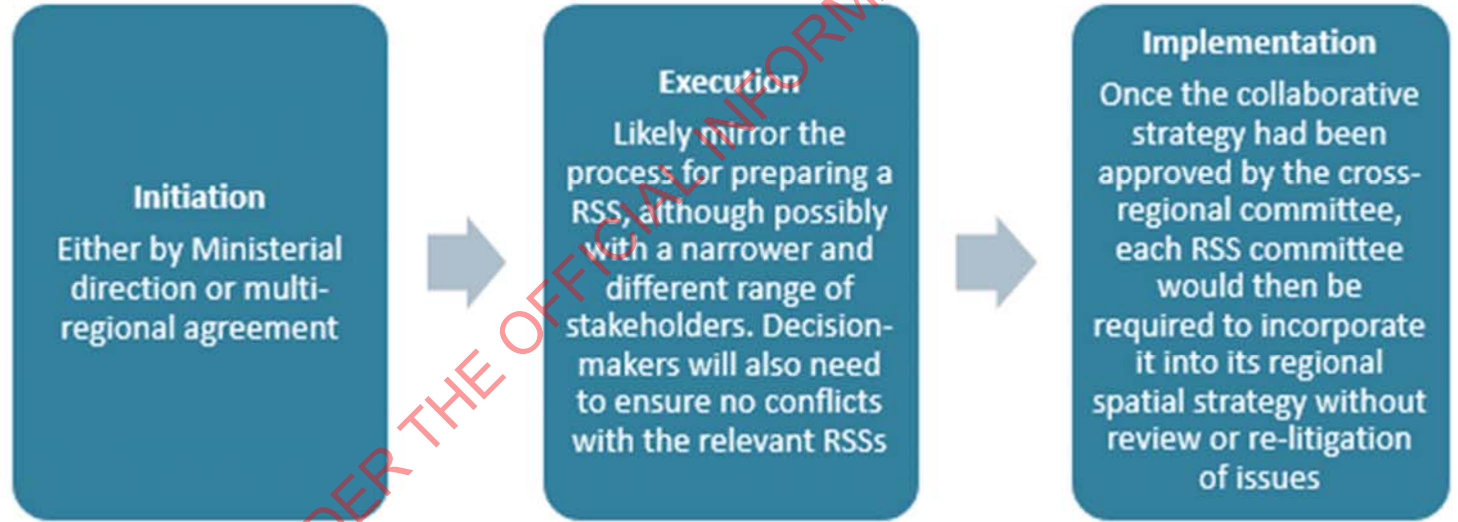
Cross-Boundary Collaboration Process

Officials agree with the Panel that there needs to be a statutory process to deal with cross-boundary issues.



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Options for Coastal Marine Area

Officials support RSS boundaries including the coastal marine area (i.e. to the 12 nautical mile limit).

Three options have been considered for extending into the coastal marine area:

- 12 nautical mile limit (Panel recommendation)
- Exclusive Economic Zone (EEZ) out to 200 nautical mile limit
- Inshore areas (eg, 3 nautical miles).

Officials find no persuasive reasons for either extending RSS boundaries into the EEZ or restricting RSSs to only part of the coastal marine area.

Using the 12 nautical mile limit will improve integration across the land/sea interface and support alignment with the NBA Plan boundaries, as this matches current regional council boundaries.

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Environment

Application to Islands

Officials suggest that distant offshore islands do not need to have an RSS.

- Chatham Islands do not formally fall within any region. No reason to require an RSS was identified, but the SPA should allow one to be prepared if that is considered beneficial in future.
- Islands administered by the Minister of Conservation such as the Kermadecs do not fall within traditional regional council boundaries and lie outside RMA council functions. No reason to provide for RSS over these islands was identified, as there are existing planning mechanisms that are adequate.
- Islands administered by the Minister of Local Government, mainly in the Bay of Plenty, would be covered by RSSs if they fall within a regional council boundary, and thus be at the discretion of RSS committees, but otherwise would not be covered.

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Nelson/Tasman/Marlborough – ‘Top of South’

The Panel recommended that Nelson, Tasman, and Marlborough combine to make one RSS and one NBA Plan.

Further analysis and engagement on the boundaries for the Top of the South Island is underway.

- Three possible options are being examined:
  - Nelson, Tasman, and Marlborough produce one RSS and one NBA plan together
  - Nelson and Tasman produce one RSS and NBA plan, and Marlborough produces them separately
  - Each of the three councils produce an RSS and an NBA plan separately.
- Engagement with relevant iwi and councils on the boundaries for planning at the Top of the South Island is ongoing.
- Officials seek agreement to report back to a future MOG on this specific issue.

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Regulatory Impacts

The reform objectives related to development, Te Tiriti and system efficiency/democratic input are most relevant to considering options over the geographical scale for RSSs.

Officials recommend Option 1b (next slide) because existing regional boundaries with inter-regional collaboration has the geographic scope to allow for a range of choices over regional development, including where and when to sequence housing, transport and other infrastructure.

- It avoids the cost and complexity of developing new boundaries for RSSs, and it draws on an existing sense of regional/local identity as well as aligning with NBA Plan boundaries. Iwi are also able to engage with issues within and across regional boundaries that are familiar to them.

This approach, however, has a few weaknesses including that it does not accommodate or reflect differences in labour markets and rohe boundaries to regional council boundaries.

- This weakness can be improved by using the cross-boundary collaboration process in the most efficient and effective way to focus on specific inter-regional issues and for a specific set of stakeholders relevant to the area to be engaged with in a targeted way. There is also the ability to focus on specific parts of a region where necessary by having sub-regional flexibility.

Another weakness is that using regional council boundaries includes areas that do not need an RSS like certain offshore islands and the Chatham Islands.

- To overcome this the SPA should outline that an RSS is not needed for certain offshore islands and the Chatham Islands. It can be up to the discretion and flexibility of the joint committees as to how to deal with offshore islands that fall within regional council boundaries.

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Option 1a = *Current regional council / unitary authority boundaries out to the 12 nautical mile limit.* **Main Positives** - status quo so easy implementation - aligns with NBA Plan boundaries - iwi understand the boundaries for engagement - allows for sub-regional flexibility where needed within the boundary **Main Negatives** - may not be effective in dealing with difficult boundary issues - communities of interest remain split in new planning system - less integrated planning across boundaries	Option 1b = *Same as 1a but with cross-regional collaboration.* **Main Positives** - promotes a stewardship of the system's contentious issues which could help improve the wellbeing of past and future generations - better enables development on cross-boundary projects - iwi/hapū have more ability and opportunity to engage as can also do so through cross-boundary sub-committee **Main Negatives** - may increase the time and cost of preparing some spatial strategies - legislative requirements may complicate the system - iwi will also have the challenge of an increased volume of engagement that they are obliged to participate in
Option 2 = *Current boundaries of two or more territorial authorities with a SPA process of grouping them.* **Main Positives** - relatively simple to implement - may enable spatial strategies to be agreed more quickly and easily - would support a particular focus on sub-regions and thus support local democracy **Main Negatives** - less effective integrating decision-making across legislation, domains, and decision-makers - misses the opportunity to consider development at a regional scale - would result in a larger number of spatial strategies across NZ creating greater complexity and inefficiency	Option 3 = *Rohe boundaries after formalising and agreeing the boundary lines.* **Main Positives** - could be more efficient for iwi/hapū and supports cultural wellbeing of taonga areas - will provide better alignment with the value that the boundaries are chosen for **Main Negatives** - less efficiency and increased complexity especially in the act of defining rohe boundaries - less focus on enabling development - no benefits sufficient to justify using very different boundaries to other planning processes

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Treaty Impacts Analysis

Assessment – proposals support the status quo but may also improve the situation for iwi and the Treaty relationship by outlining a simple geographic area for the planning system and by providing an opportunity for engaged discussion with iwi on areas of particular importance both sub-regionally and cross-regionally.	
Give effect to the principles of Te Tiriti o Waitangi and provide greater recognition of te ao Māori	- Existing roles for iwi/hapū within their rohe/takiwā boundaries will not be diminished and authority within rohe/takiwā boundaries could be reinforced by inclusion in RSS governance arrangements - Governance and/or process-based approaches to addressing cross-regional/sub regional issues for iwi/hapū/Māori still to be determined
Costs and benefits for Māori	- Additional engagement for cross-boundary collaboration may create capacity and capability issues but there is an opportunity to be a critical and strong voice in that process - Current misalignments with rohe boundaries remain but potential ability to mitigate those issues through cross-boundary collaboration process
Protecting and transitioning Treaty settlements	- All Treaty Settlements and existing Māori land/land trust commitments will be protected as the status quo is not being changed and there is ability to follow changes to regional council boundaries in the RSS - Treaty Settlement provisions for joint management and co-governance arrangements for environmental taonga could be useful for giving Māori a key role in RSS system and cross-regional collaboration
Māori rights and interests in freshwater and other natural taonga	- Treaty settlement or other mechanisms agreed between iwi/hapū and councils that can work across regional boundaries like co-governance bodies for freshwater taonga could be part of cross-boundary collaboration - Matters of interest for iwi could be protected and considered as a key geographic element of regional council boundaries
Māori Crown relations risks and opportunities	- Potential to improve partnership through closer governance and engagement for planning purposes under a system where the geographic area being discussed is understood by all sides as well as there being more opportunities for collaboration

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Appendix 4: NBA plan development process

Supporting document 1: Plan development processes through three key phases

	RMA	Panel	Proposed approach	Alignment with reform objectives
Phase One – policy development	Plan prepared. No specific process legislated (but best practice built up over time which includes using monitoring and evaluation informing the content, analysing issues and options and gathering technical information). Mandatory consultation with the Minister for the Environment, other Ministers of the Crown and local authorities who may be affected, other local tangata whenua through iwi authorities, customary marine title groups. Draft plan is pre-notified to iwi authorities. No timeframe is set. Must have regard to advice received. Optional consultation with anyone else. Prepare s32 evaluation report.	Plan prepared. No specific recommendations. Comprehensive public engagement. Pre-notification audit facilitated by the Ministry for the Environment. Pre-notification consultation with mana whenua.	Plan prepared. Evaluate provisions using an efficient, proportional process, which responds to environmental outcomes, ensures development occurs within environmental limits and supports good decision-making. Certainty provided for mana whenua and customary marine title groups on their involvement in the plan development process. Identify and notify major regional policy issues and prepare policy response to those, draft proposed zones & identify 'designations' Two forms of engagement on plans (which may happen concurrently): 1. involvement in the development of plan provisions for: • mana whenua and customary marine title groups • government departments and ministries, local authorities, infrastructure groups ('requiring authorities') • parties who indicate or register their interest in being consulted on the development of plan provisions (by doing so makes them a stakeholder in the plan development). 2. community engagement • engaging with every district • includes innovative ways, methods, and techniques to engage, seek and facilitate widespread community feedback, including from disabled people, people with language barriers, youth etc. Incorporate local place-making. Feedback received is enduring throughout the plan preparation and engagement process. Process to ensure the plan gives effect to the National Planning Framework.	• Provides certainty by providing approach to major regional policy issues early in the process. Allows testing of policy responses with the community. Establishes an early basis for the plan evaluation report. • Provides efficiency and certainty in the process by identifying mana whenua and customary marine title groups and preparing an engagement agreement for involvement in the process. • Creates a process that ensures mana whenua are involved in plan development, which acknowledges both the relationship Māori have with the environment and mātauranga Māori. Increased early and sustained engagement with mana whenua[9] (no requirement to register to engage in the process). • Parties register to be involved in the development of plan provisions which allows a more certain and collaborative approach to plan making. Also adds significant efficiency. • The ability to make submissions in advance of the notified plan allows greater engagement with a wider section of the community as a submission can be lodged at any point during the plan development phase such as during hui, workshops and events held within the community. • Incentivises parties to participate early in the plan development process and consequently, community values and iwi/hapū/Māori interests reflected in the notified version of the plan are not lost or overridden through later submission, hearing and appeals process.

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[9] The method to identify mana whenua for this process will be detailed in a future MOG.

	RMA	Panel	Proposed approach	Alignment with reform objectives
Phase Two – submissions	Publicly notify proposal. Plan has legal effect (in some circumstances). Submissions made, preparation of a summary of submissions and then open for further submissions. Section 42A report prepared. Ability to strikeout submissions based on tests.	Publicly notify proposal. Plan has legal effect (in some circumstances). Submissions made, preparation of a summary of submissions and then open for further submissions.	Open for submissions. Primary submission process. For the development of NBA plans, the primary submissions phase will be open to anyone. Ability to make a secondary submission is restricted to certain parties. Parties need the opportunity to respond to primary submissions. Secondary submissions allow reconsideration of ideas as well as the ability for parties to respond to submission points which may affect them. Ability to strikeout submissions retained and the tests strengthened.	• Upfront engagement has weight and substantive matters (and supporting information) are presented during plan development phases rather than during hearings or appeals processes. • Avoids issues around submitters not providing details of what they want, or not providing supporting material explaining why their request should be granted until a hearing or appeal, which affects the quality of decision making and erodes agreed community policy decisions made earlier in the process. • The process is efficient and certain as submissions and hearings are a legal process that must be correctly administered and documented.
Phase Three – hearings	Hold hearing (run by those accredited with Making Good Decisions training elected officials or delegated to independents). A decision within two years from formal notification. Merit based appeals to Environment Court (and further appeals to higher Courts) and judicial reviews to High Court. Plan made operative.	IHP established and undertakes hearings and review of submissions. IHP makes recommendations to the decision-maker who decides on panel's recommendations. If recommendations rejected can be merits-based appeals available (status quo). If recommendations accepted, High Court appeals limited to questions of law (change from status quo, following AUP model).	IHP appointed to hear submissions. An accreditation programme established to ensure key skills for conducting a fair, robust and efficient IHP process are represented, both for the chair and panel members (with at least one member with an understanding of tikanga and mātauranga Māori). No new information may be presented to the IHP. IHP issues recommendations and proposed changes. NBA plan committee accepts/rejects recommendations. Decision version of NBA plan with full legal effect. Appeals – based on the Panel's proposal. NBA plan fully 'operative'.	• The removal of the ability to introduce new information to the IHP process provides certainty. It is also cost, time and resource efficient. The IHP would have the ability to schedule pre-hearing and dispute resolution processes with all parties able to view the information presented in advance. • Efficiency through limiting appeals.

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Appendix 4: NBA plan development process

Supporting document 2: te Tiriti o Waitangi impact analysis – NBA plan development process

Status quo
There is limited prescriptive involvement for mana whenua in the plan development process under the RMA. Local authorities are required to consult tangata whenua through the policy development phase and consult iwi authorities on a draft of the plan prior to notification. There is variability across the country in how councils work with mana whenua and the positivity of the relationship between councils and mana whenua.
Summary of analysis
Gives effect to the principles of te Tiriti o Waitangi • Early and ongoing engagement with Māori. • Need to ensure the correct mana whenua are engaged (including those at local level). • Issues based on mātauranga Māori are to be seriously considered. • Local government capacity and capability required to allow Māori to fully participate in plan development. • Ensure Iwi Management Plans are effective when incorporating into NBA plans. • Needs to be clear distinction between Māori participation and public participation (how Māori will contribute via the public engagement process and how they will contribute as Treaty partners). • Ensure that the IHP will as a minimum, have at least one member with an understanding of local tikanga and mātauranga Māori. • Mātauranga Māori and tikanga recognised as an expert field for the purpose of IHPs. • Detailed policy development will include consideration of whether appeal rights can be restricted in a way that is compliant with the Crown's responsibility under te Tiriti. Māori-Crown relations risks and opportunities. • Provides opportunity for Māori to be better and more comprehensively involved in resource management planning than currently. • Ensure opportunity is provided to allow Māori to contribute to plan reviews. • Further detailed policy work is required to ensure the requirements for meaningful engagement are protected appropriately in plan changes. Costs and benefits for Māori • A need for channels and resources to be available to support Māori groups to participate at each level of the process (resourcing etc). Protecting and transitioning Treaty settlements • Provision needs to be provided to ensure the plan development process remains consistent with each relevant Treaty settlement legislation. Waitangi Tribunal Recommendations • WAI 262 report found that the status quo resource management system largely reserved decision-making powers for the Crown. • WAI 262 also found that there is nothing in the current legislation setting out how Iwi Management Plans are to be prepared, nor what they are to contain. Māori rights and interests in freshwater and other natural taonga

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- This section assesses the extent to which the advice contained in this paper:
    - May contribute to addressing Māori rights and interests in freshwater; and/or
    - May preclude options to address Māori rights and interests in freshwater.
- This assessment is indicative only, as Cabinet has yet to agree on next steps to progress the freshwater allocation and rights and interests work programmes. We are yet to have substantive policy discussions with
- Māori rights and interests in freshwater are typically grouped under four broad 'pou':
    - Water quality / Te Mana o te Wai
    - Recognition of relationships with water bodies
    - Governance and decision-making
    - Access and use for economic development.
- The advice contained in this paper does not appear to preclude any options to address Māori rights and interests in freshwater. It focuses primarily on the process by which NBA plans will be developed rather than their content, and it notes that matters relating to Māori participation are covered in separate advice.
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Limitations of this assessment

- This assessment is limited by lack of decisions on governance arrangements, which will affect the decision-making structures associated with the NBA plan development process.

Overall assessment

- Overall, the policy options for the proposed NBA plan development process are a move in the right direction to improve the relationship with Māori as Treaty partners. These policy options provide Māori with more opportunity to participate in and contribute to plan development.

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