In Confidence

Office of the Minister for the Environment

Chair

Cabinet Economic Growth and Infrastructure Committee

Second Phase of Resource Management Reforms: Batch 1 of policy decisions

Proposal

1. This paper seeks Cabinet agreement for policy decisions on certain elements of the Resource Legislation Amendment Bill 2015. It is the first of two papers with the second covering a number of outstanding policy issues that are currently subject to further work or discussion with colleagues.
2. The first part of this paper outlines my overall vision for the Resource Management Act 1991 (RMA), how this reform package will achieve that vision, and briefly outlines the reform proposals.
3. The second part of this paper contains the recommendations for the parts of the reform package considered in this paper. These recommendations are comprehensive enough to enable drafting instructions to be issued on those elements, and are supported by further policy detail on each of the reform proposals, contained in Appendix 1 of this paper.
4. I intend to present this second paper in March 2015 and will seek approvals to enable drafting of the remaining aspects of the reform at that stage.

Executive summary

5. The Government was elected in 2008 and embarked on a two phase reform package of the RMA. The first phase consisted of the Resource Management (Simplifying and Streamlining) Amendment Act 2009, which progressed changes such as setting up the EPA and the national consenting process, removing anti-competitive objections, and ensuring timelier processing of consents.
6. A further Resource Management Amendment Act 2013 provided for a simplified Auckland Unitary Plan process as well as other process amendments to make resource management decisions both faster and more robust.
7. The second phase of reforms has been focused on substantive, long-term, system-wide reforms. This reform package has built on a range of technical advisory reports and public consultation processes, including:
    a. independent advice from the Urban, Infrastructure, and Principles Technical Advisory Groups;
    b. public consultation on specific options for reforming urban and infrastructure elements of the resource management system through the discussion document, *Building Competitive Cities*, in October 2010

c. the Productivity Commission investigation of issues relating to housing affordability and regulatory performance in local government;

d. establishing an efficiency taskforce and expert advisory group on local government, and consultation undertaken as part of the ten point reform programme for local government; and

e. the Land and Water Forum's (LAWF) three reports on freshwater management.

8. In 2013, Cabinet first considered policy changes that were focused on substantive, long-term, system-wide reform:

a. A Cabinet paper in May 2013 sought your agreement on proposals to increase national consistency and guidance (including sections 6 & 7), improvements to the consenting system, improving the management of natural hazards, and improving council accountability [Cab Min (13) 15/8 refers].

b. A Cabinet paper in June 2013 sought your agreement on further proposals to improve national consistency and guidance (including the national planning template), on proposals to create fewer and better resource management plans (including collaborative planning for freshwater), and on further proposals to improve the consenting system [Cab Min (13) 18/8 refers].

9. Some of these proposals were informed by public consultation through the *Improving our resource management system* and *Freshwater reform 2013 and beyond* proposal papers in February and March 2013.

10. Since that time, significant further analysis and refocusing of the package has been undertaken. The policy proposals in this paper constitute a significant portion of the revised resource management reform package.

11. In addition to the proposals set out in this paper, I am considering a number of other changes that are subject to further analysis and discussion with colleagues.

12. Following your agreement to this first batch of proposals, Parliamentary Counsel Office (PCO) will begin drafting the Resource Legislation Amendment Bill 2015. I will then return to Cabinet in March 2015 to agree the remaining aspects that are awaiting either further policy advice or Ministerial discussion, to enable the substantive drafting to be completed.

13. Overall, the reform package aims to deliver the following ten key improvements to the system:

a. Enhance management of significant risks from natural hazards

b. Recognise the importance of urban planning

c. Prioritise housing affordability

d. Acknowledge the importance of infrastructure

e. Place a greater weight on property rights

f. Provide for a national planning template

g. Speed up plan-making processes

h. Encourage collaborative resolution

i. Strengthen national direction tools

j. Utilise technology for improved simplicity and speed.

14. Appendix 2 of this paper shows all of the proposals which are included in this paper and whether they have previously been agreed by Cabinet or are new proposals.

15. Cabinet decisions on the policies in this Cabinet paper, and the Cabinet paper to follow in March 2015, will form the basis for the Resource Legislation Amendment Bill 2015. It is my intention that this Bill be passed by the end of 2015, and accordingly it is currently a priority 2 on the legislative programme.

Part 1: A new vision for the RMA and the wider legislative framework

16. New Zealand's environmental, planning, and resource management legislation needs to strike a fine balance between our competing aspirations for New Zealand now and in the future.

17. The RMA is a key piece of this legislative framework. The RMA forms the basis for the rules that govern what we can do on our land, how we use our natural and physical resources and how we manage the environmental effects of our activities. It has a significant impact on meeting our community's needs, enabling effective infrastructure, efficient transport systems, sufficient recreation spaces, and affordable housing.

18. I believe that New Zealand's future success depends on creating a legislative framework that:

a. manages our natural resources in a more sustainable way, ensuring that our natural environment is able to be enjoyed by our children and grandchildren

b. creates healthy, interconnected, 'liveable' cities which provide for the social, cultural, economic and environmental needs of their citizens

c. allows our economy to flourish and provide a high standard of living for all New Zealanders.

19. The current legislative framework is not going to allow us to achieve these goals, so at the end of 2008 we embarked on an ambitious resource management and freshwater reform programme.

20. Since Cabinet last considered these proposals, further consideration has been given to the package as a whole to identify whether we have struck the right balance and if we are addressing all the right issues.

21. While the previous package of reforms made significant improvements across the board, I have both added a number of new proposals and made amendments to ensure that the revised reform package will deliver on the ten key improvements that I believe need to be made to the system (noted in the executive summary).

22. The proposals outlined in this first paper will:

a. Enhance management of significant risks from natural hazards

b. Strengthen national direction tools, including national planning template

c. Provide for faster and more flexible plan-making processes, while encouraging collaborative resolution

d. Support housing development, property rights, and the functioning of the RMA in the urban environment, by providing for:

   i. Easier permissions for housing and small developments to improve affordability

   ii. Reduced cost, complexity and legal risks

   iii. Efficient hearings and reduced risk of appeal

   iv. Fair and efficient treatment of objections and appeals

   v. Ensuring property rights are given due consideration

e. Improve RMA processes more generally, including encouraging greater use of IT and better monitoring.

23. These changes are discussed below. Further detail on each of the reform proposals covered in this paper is contained in Appendix 1.

Enhance management of significant risks from natural hazards

24. Cabinet has previously agreed to improve the management of risks from natural hazards by requiring that consideration is given to significant risks from any natural hazard when decisions are made on subdivision applications. This will help ensure that development does not occur in areas where the community deems risks from natural hazards to be too high, unless the management of those risks have been adequately addressed.

Strengthen national direction tools, including national planning template

25. National direction provides clarity to councils, businesses and communities, ensuring consistent regulation of certain activities throughout New Zealand. National direction should result in local planning aligning with central government priorities and provide consistency across New Zealand for issues where there is limited benefit in local variation. This is not occurring, and limitations of existing tools (such as National Environmental Standards (NES) and National Policy Statements (NPS)), have meant they have not been used to the extent originally envisaged.

26. I am proposing the following changes that will result in the more effective provision of national direction on a range of issues and ensure that this national direction is implemented as intended.

27. Cabinet has previously agreed to:

a. guidance to improve understanding of what sorts of matters warrant national direction, reduce investment in proposals that are unlikely to be feasible or beneficial and support the delivery of greater national direction

b. progress national direction to support the management of risks of natural hazards and the availability of land for urban development (including detail to support the legislative changes) as a matter of urgency

c. increased flexibility for NPS and NES, including combined national policy statement and national environmental standard development; targeted

national policy statements or national environmental standards; and an expanded scope of national policy statements.

28. In order to ensure the amended national direction powers can be used as intended and provide greater national direction in a timely way, I recommended not proceeding with a previously agreed proposal to add an additional step to the NES process to consult with iwi and the public. This change was in line with existing requirements for NPS, however I consider that the current consultation requirements will be adequately supported by the publication of national direction guidance and a rolling forward agenda of priorities. These will improve the effectiveness of iwi and public engagement in the development of national direction without adding time to the overall process.

29. Cabinet has also previously agreed to a national planning template that will reduce the complexity of plans and provide a home for national direction. The national planning template will be able to prescribe the structure and format of resource management plans and policy statements, and to prescribe content on matters that require national direction or national consistency.

30. In addition, I propose the following changes to further increase the flexibility of NES:

    a. enabling NES to override existing use rights and amend any type of existing resource consents for the purpose of managing:

        i. soil,

        ii. fresh water

        iii. coastal water, and

        iv. air

    b. existing resource consents may be amended (but not cancelled) through an NES either by the NES itself or by triggering a review of consent conditions to align them with the NES

    c. enabling NES to specify that council planning provisions may be more stringent or lenient than the NES

    d. enabling NES to specify that councils may charge for the monitoring of activities permitted by the NES

    e. enabling NES to specify requirements for how councils undertake their functions to achieve standards.

31. As well as these changes to NESs, I propose a new regulation making power to allow the Minister for the Environment to permit activities or restrict councils from making certain rules for the purposes of avoiding duplication with other legislation, and avoiding restrictions on land use that are not reasonably required to achieve the purpose of the Act.

32. Having made the above changes and considered the package of national direction reforms as a whole, I am proposing not to proceed with the previously agreed reforms for a Single Amalgamated Plan.

Faster and more flexible plan-making processes, while encouraging collaborative resolution

33. Plan-making processes need to be made more responsive and efficient. The planning system should be flexible enough to respond to our changing needs and be adaptable to different situations. One size does not fit all when it comes to managing the needs of communities and our planning laws need to reflect this. This section outlines a package of proposals to improve the plan-making process.

34. Cabinet has previously agreed to measures to enhance Māori participation. These proposals will create voluntary iwi participation arrangements, which will incentivise effective relationships between iwi and councils. These proposals also enhance existing consultation requirements for iwi by councils.

35. Cabinet has also previously agreed to a range of alternative plan-making processes; including a collaborative plan-making process for freshwater. I believe that greater collaboration in planning is needed in order to address the adversarial and uncertain nature of the planning system in general, and the complexity of some issues planned for under the RMA.

36. Collaborative planning processes could be beneficial for a wider range of planning issues than just freshwater-related matters. I am now seeking your agreement to expand the collaborative process for freshwater to cover all policy areas, including coastal planning, and make changes that are intended to simplify the process, reduce costs, and clarify previous decisions made by Cabinet [CAB Min (13) 18/8 refers] .

37. I am seeking your agreement through this paper to make new changes to:

    a. allow limited-notification of some plan changes in certain circumstances

    b. enforce the two-year timeframe for making decisions on plans

    c. clarify the status of proposed regional policy statements (RPS) in the development of combined plans.

38. I expect that these changes will make plan-making processes clearer, more responsive, and more efficient.

39. I am also seeking your agreement to a new streamlined planning process. This process will allow councils to apply to the Minister for the Environment (and in some circumstances the Minister of Conservation) for an alternative planning process for specific issues. This will create a more responsive plan-making process that will allow urgent and unanticipated issues to be better dealt with by plans.

40. Having made the above changes and considered the package of planning reforms as a whole, I am proposing not to proceed with the previously agreed reforms for a Joint Council Planning Process, along with the Joint Council Planning Agreements.

41. I am also proposing not to proceed with the previously agreed proposals to enhance the statutory consultation process for plan-making in Schedule 1 of the RMA [Cab Min (13) 18/8 refers]. I recommend that this proposal is not progressed (with the exception of the iwi participation and consultation arrangements), as I believe that the new suite of planning process options being

created through these reforms will ensure that appropriate consultation is undertaken.

Supporting housing, property rights, and the functioning of the RMA in the urban environment

Easier permissions for housing and small developments to improve affordability

42. To be effective, it is vital that the RMA focusses on what is most important. We need to make sure that we focus our efforts on regulating those activities where the potential for negative effects is the greatest and find ways to resolve minor issues more efficiently. Minor consents make up a large proportion of all consents. (In 2012/13, 95% of the 35,055 consents processed were non-notified consents).

43. Consenting requirements for minor or less complex projects do not always reflect the scale of the activity. As a result, applicants wishing to undertake minor or less complex projects are often subject to unnecessarily costly and time-consuming processes.

44. Cabinet has previously agreed to a number of proposals which will make it easier for home owners to undertake a range of minor activities that previously required resource consent – costing both applicants and councils time and resources. I propose progressing the following proposals as agreed.

    a. *Consent exemption for minor rule breaches*: Councils will have the power to waive the need for resource consent where, under the circumstances, the effects being controlled are so minor that the full consent process gives little benefit.

    b. *Fast-track process for simple applications*: Creates a shorter 10-day statutory timeframe for councils to deliver consent decisions on controlled activities and those specified in regulations.

    c. *Making subdivisions permitted unless restricted by plans*: Allows subdivisions to take place without consent, unless planning decisions have been made to control them.

45. In addition to the above changes, I am also seeking your agreement to a new change that would provide exemptions for consents for boundary infringements where the neighbour's approval has been given. This change would avoid the need for resource consent where neighbours have already agreed to accept the effects of the infringement.

Reducing cost, complexity and legal risks

46. It is important that resource management decisions are made quickly, and with reasonable and predictable costs. Creating more proportional processes which better reflect the complexity, scale, and likely environmental impacts of activities will reduce overall costs for smaller, less complex projects.

47. Cabinet has previously agreed to introduce regulation-making powers which would provide:

    a. non-notification of simple proposals with limited effects

    b. limited involvement of affected parties for certain activities

    c. consent decisions issued with a fixed fee.

48. These regulations will provide national consistency of consent decisions for listed activities, without public or limited notification (or with clarified scope for including other parties), on a 10-day timeframe, and at fixed cost to applicants. For many applications these changes will remove incentives for councils to spend excessive time and money avoiding legal risks.

49. In addition to the new regulation making powers above, Cabinet has also previously agreed clarify of the legal scope of consent conditions. This will codify case law in the RMA to require that consent conditions be limited to the effects of the proposal and be fair and reasonable. This will ensure the costs associated with resource consent compliance are justified and relevant to the purpose of the Act.

Running efficient hearings and reducing the risk of appeal

50. The current process of notification, submissions, council hearing, appeals and an Environment Court hearing can result in significant uncertainty and delays to the resource consent and plan-making processes. Ensuring that hearings are run as efficiently as possible and ensuring only issues of importance are referred to the Environment Court will help reduce the costs of consent and plan-making under the RMA.

51. Cabinet has previously agreed to narrow the scope of submissions on resource consent applications to the reasons for notification. This ensures submitters help decision-makers make decisions, by focusing their input to the parts of the proposal that warrant public input.

52. Similarly, Cabinet has agreed to require submissions to be struck out where they do not relate to the reasons for notification, are not relevant, do not provide evidence or advance arguments that have no chance of succeeding.

53. These two changes will ensure that time spent in hearings is focused on those issues in contention and will eliminate frivolous and irrelevant material which can take up significant time and resources.

54. To incentivise councils and commissioners to run their hearing processes in the most efficient manner, I am seeking your agreement to a new proposal that will require councils to pay commissioners on a fixed-fee basis, and to set the applicant's fee for consent and plan hearings before they start, in accordance with new regulations.

55. I am also seeking your agreement to amend the functions of the Environmental Protection Authority (EPA) to enable it to provide services to a decision maker appointed under any Act that amends or overrides RMA processes (for example, the Canterbury Earthquake Recovery Act 2010).

56. I am also seeking your agreement to a further change that would require all consent hearings to be undertaken, and decisions on those applications made, by independent commissioners. This will separate implementation decisions from planning decisions, and will focus consent decision makers on interpreting and implementing the plan.

Dealing with objections and appeals fairly and efficiently

57. There are considerable gains to be had by dealing with appeals and objections before they reach a full Environment Court hearing. Creating opportunities for

parties to resolve their issues outside of this process often leads to faster and cheaper resolutions.

58. Cabinet has previously agreed to allow applicants to object to an independent commissioner. This will provide an alternative and independent route of objection to local authorities' decisions on consent conditions and costs.

59. Cabinet has also previously agreed to a number of Environment Court process improvements that will support efficient and speedy resolution of appeals that reach the Environment Court:

    a. strengthening the use of dispute resolution

    b. requiring consideration of judicial conference to narrow issues in contention

    c. creating greater flexibility in the use of Environment Court decision makers

    d. allowing a fee waiver.

60. With these changes, only those submitters with genuine cases and evidence will be able to advance to the appeal stage, and they may only appeal aspects of the proposal that warranted notification.

Ensuring property rights are given due consideration

61. I am seeking your agreement to new amendments to ensure due consideration is given to private property rights in resource management decisions. I propose that where planning provisions have rendered land incapable of reasonable use and have placed an unfair and unreasonable burden on the landowner, the Environment Court will be able to direct councils to either:

    a. modify, delete, or replace the provision (existing provision); or

    b. acquire all or part of the relevant land or an interest in it (new provision).

Improve RMA processes more generally, including encouraging greater use of IT and better monitoring

62. It is important to ensure RMA processes create the right outcomes for the community and the environment, while also being efficient, clear, and easy to navigate. As there have been significant advances in technology since the RMA was introduced in 1991, we need to ensure the RMA is agile and able to make use of these advancements to ensure resource management processes are as efficient as possible.

63. Cabinet has previously agreed to a suite of technical amendments to reduce the cost and complexity of Board of Inquiry processes, make greater use of IT, and remove unnecessary process steps. Cabinet has also agreed to minor amendments to the Public Works Act 1981 (PWA) to ensure a fairer and more efficient land acquisition process.

64. I am not proposing any changes to these proposals, however I believe we can go further in improving processes under the RMA and other pieces of legislation, and I am seeking your agreement to a number of new proposals in this area.

65. I propose to improve efficiency and reduce costs by requiring advertisement of public notices on publically accessible websites, reducing the advertisement requirements in newspapers, requiring notices to be in plain English, and

requiring the electronic servicing of plan and consent documents as much as possible.

66. The national planning template will be delivered in an online format, and I am proposing that the template sets requirements for the electronic availability and searchability of council plans.

67. I am seeking your agreement to amendments to the way in which notification decisions are made. I propose that the test applied in these decisions should take into account plan policies and objectives in addition to adverse effects (the status quo). This will better allow for activities which are anticipated by, and in line with the overall intent of, a plan.

68. Currently performance information for councils is limited, inconsistent and not widely available. However, it is important for communities to have information about their council and how it is performing its RMA functions so that they can hold them to account.

69. Cabinet has previously agreed to enabling new regulations to prescribe how councils must carry out their monitoring obligations, including what information must be collected, what methodologies must be used, and how and when the information is to be reported. I expect that this enhanced monitoring will make councils more accountable to their communities.

70. While the reforms have largely focused on land and freshwater issues, the RMA also has a role in managing our resources in the coastal environment. I am seeking your agreement to two new amendments which impact on New Zealand's coastal areas.

71. I first propose to rescind previously agreed amendments to s68A of the RMA [Cab Min (13) 18/8 refers] which clarified when resource consent is required for aquaculture activities. This change is no longer required as the issue it was intended to deal with has been resolved.

72. I also propose to provide regional councils with discretion (within criteria) to decide what efforts to go to in determining ownership of abandoned coastal structures and remove those that do not warrant a formal inquiry under the Marine and Coastal Area (Takutai Moana) Act 2011. This will allow regional councils to better manage derelict structures in the coastal area.

Issues for consideration in the second Cabinet paper (March 2015)

73. There are other aspects of the reform package that I am currently considering that require further advice and discussion with colleagues:

    a. Updating the principles of the RMA (sections 6 & 7)

    b. Including provisions to create an explicit role for councils in maintaining a sufficient and responsive supply of land for urban development

    c. Introducing provisions to enable contestable consenting

    d. Removal of financial contributions

    e. increasing the abilities for decision makers to actively manage hearings

    f. streamlined assessment process for residential developments, boundary infringements, and subdivisions

g. increasing consistency in between the Board of Inquiry process and the decision-making committee process under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act)

h. an optional joint process for notified and nationally significant proposals that requires both conservation concession and resource consent. I also intent to consider possible connections with the Reserves Act 1977

i. Ministerial intervention powers and their relation to the powers in the Local Government Act 2002

j. dam safety provisions

k. coastal occupation charges.

Consultation

74. The majority of the proposals outlined have been publicly consulted on through *Improving our resource management system* and *Freshwater reform 2013 and beyond* in February and March 2013.

75. The collaborative planning process is based on the recommendations of the Land and Water Forum (LAWF).

76. The Freshwater Iwi Leaders Group (ILG) and the Freshwater Iwi Advisors Group have had input into the collaborative planning process. Their views have been considered and are woven into the elements of these foundation measures.

77. However, the ILG and their Advisors have not been consulted on the collaborative process being available for all resource management matters (not just for freshwater), and the other changes to the collaborative process proposed in this paper.

78. There has not been any further public consultation on the new and amended proposals contained in this paper; however I believe that this can be achieved through the select committee process.

79. The following agencies have been consulted on previous iterations of the reforms and have been included in informal discussions on the development of the revised reform package. The following agencies have seen a near-final draft of the Cabinet paper and provided comment: the Treasury, Ministry of Business, Innovation and Employment, Department of Conservation, Department of Internal Affairs, Te Puni Kōkiri, Ministry of Transport, Ministry of Justice, the Ministry for Primary Industries, Department of the Prime Minister and Cabinet, and Land Information New Zealand.

Financial implications

80. Initially central and local government will incur costs associated with the development and implementation of the parts of the reform package considered in this paper, however over time the costs saving elements of the reforms will lead to financial benefits. Outside local and central government the costs of these reforms are dependent on the level of involvement. For iwi, their costs are related to how involved in the plan-making processes they wish to be. For those using the consenting process, both individuals and business, I would expect to see significant cost savings as the process elements improve the timeliness and

costs related to resource consenting. More detail on the costs implications are provided in the attached Regulatory Impact Statement.

81. For central government, the initial non-discretionary costs will mostly relate to the implementation of the reforms with local government and development of the national planning template. Additional support will need to be provided by central government to ensure implementation of all the reforms is undertaken in a way that will achieve the intent. In addition discretionary costs associated with the development of national direction will be dependent on the level of ambition by Government to create national direction.

82. Overtime there will be a sustained increase in costs for central government, as these reforms create a new role for the Ministry for the Environment in relation to maintaining the national planning template, a greater range of national direction, and the streamlined planning process. However, the exact ongoing costs are uncertain as these policies still need to be worked through and for the streamlined process are dependent on the optional use of this tool.

83. The full costs of the expanded package will be an increase from the original estimates in some areas, such as the streamlined planning process and contestable consenting, if implemented. The Ministry for the Environment has already undertaken significant reprioritisation in anticipation of the Resource Management Reform package and as such can deliver some aspects within existing baselines. In order to deliver a comprehensive and effective package of reforms with the level of ambition desired for national direction and template proposals, I have requested additional funding through the current Budget process.

Human rights

84. The Ministry for the Environment will continue to work with the Ministry of Justice to address the consistency of proposed legislation with that Act. A final determination as to the consistency of the proposals with the New Zealand Bill of Rights Act will be possible once the legislation is drafted.

Gender implications

85. There are no gender implications resulting from this paper.

Disability perspective

86. There are no implications for people with disabilities resulting from this paper.

Legislative implications

87. The recommendations in this Cabinet paper will require legislative change to the following Acts in order to implement:

    - The Resource Management Act 1991
    - The Public Works Act 1981.

88. There may also be consequential amendments to the Marine and Coastal Area (Takutai Moana) Act 2001.

89. The second Cabinet paper on these reforms (to be considered in March 2015) may seek reforms to:

    a. The Conservation Act 1987

    b. The Reserves Act 1977

    c. The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

90. There may also be consequential amendments to the Local Government Act 2002 resulting from this second Cabinet paper.

91. The changes from these two Cabinet papers will be sought through an omnibus Resource Legislation Amendment Bill as part of the 2015 legislative programme.

Regulatory impact analysis

Regulatory Impact Analysis requirements

92. The Regulatory Impact Analysis (RIA) requirements apply to the proposals in this paper. A Regulatory Impact Statements (RIS) has been prepared and is attached.

Quality of the Impact Analysis

93. The Regulatory Impact Analysis (RIA) requirements apply to the proposal in this paper and a Regulatory Impact Statement (RIS) has been prepared and is attached.

94. The Regulatory Impact Analysis Team (RIAT) at the Treasury has reviewed a draft version of the "Resource Legislation Amendment Bill" RIS prepared by the Ministry for the Environment and associated supporting material, and has not seen feedback from departmental consultation. RIAT considers that the information and analysis summarised in the RIS **does not me**et the quality assurance criteria.

95. While individual elements of the proposed policy package have been informed by consultation carried out in 2013, there has not been consultation on new and amended proposals.

97. If the recommendations in this paper are agreed, Cabinet rules require that a post-implementation review be undertaken, as set out in recommendation 162. This may include or augment the monitoring and evaluation plans outlined in paragraphs 99–104 of the RIS.

Publicity

98. There has been, and I expect there will continue to be, significant interest in the package of proposals that make up this package of resource management reforms. I made a statement outlining the objectives of the reforms in 21 January 2015.

99. I will provide information on further publicity arrangements in the second Cabinet paper which I expect to provide in March 2015.

Part 2: Recommendations

The Minister for the Environment recommends that the Committee:

1. note that this Cabinet paper is seeking policy decisions and agreement to instruct PCO to draft on selected elements of the Resource Legislation Amendment Bill 2015.

2. note that a further paper on the reform package will be provided to EGI in March 2015 seeking final agreement to the remaining aspects of the reform package and agreement to instruct PCO to draft those remaining aspects.

Enhance management of significant risks from natural hazards

3. agree to reconfirm the previous Cabinet decision to amend the RMA to enable decision makers to decline or place conditions on subdivision consents where there is a significant risk of a natural hazard [Cab Min (13) 15/8 recommendation 43]

Strengthen national direction tools, including national planning template

National direction guidance and priorities

4. agree to reconfirm the previous Cabinet decision to provide enhanced non-legislative guidance to clarify the process for use of national instruments [Cab Min (13) 18/8 recommendation 5]

5. note that this guidance is being developed, along with a forward agenda of priority matters to be addressed by national direction instruments.

Previous Cabinet decisions to increase flexibility of NPS and NES

6. agree to reconfirm the previous Cabinet decisions [Cab Min (13) 18/8 recommendations 14 and 16-17] to:

    6.1. *amend the RMA to allow for the combined development of national policy statements and national environmental standards*

    6.2. *amend the RMA to enable a national policy statement (and the New Zealand Coastal Policy Statement) to include more specific direction for council plans, including matters to be considered or methods to be used in developing council policy statements and plans, constraints on content, and monitoring and reporting requirements.*

    6.3. *amend the RMA to enable national policy statements and national environmental standards to be applied to a specific council area and allow for more targeted notification and public and iwi consultation.*

7. note that the timeframe for developing NES has been a concern in that it takes on average 3-5 years to deliver a tool, largely due to the fact that they address complex policy issues

8. note that it is the new Minister's ambition to have a more streamlined process for the development of national direction tools

9. note that the previous Cabinet decision to amend the RMA to require an additional step of iwi consultation in the development of NES would make the process slower and contrary to the Minister's objective

10. note that there is still a formal requirement for the Minister to consult with iwi on an NES

11. agree to rescind the previous Cabinet decisions [Cab Min (13) 18/8 recommendations 15] to:

    11.1. amend the RMA to require the Minister for the Environment, when preparing a national environmental standard, to:

        11.1.1. seek comments from iwi and appropriate stakeholders before preparing a proposal for a national environmental standard

        11.1.2. seek and consider comments from the relevant iwi authorities and the public about the proposal for a national environmental standard

Further proposals to increase flexibility of NES

12. agree to further increase the flexibility of NES by:

    12.1. enabling NES to override existing use rights and amend any type of existing resource consents for the purpose of managing:

        12.1.1. soil,

        12.1.2. fresh water

        12.1.3. coastal water, and

        12.1.4. air

    12.2. existing resource consents may be amended (but not cancelled) through an NES either by the NES itself or by triggering a review of consent conditions to align them with the NES

    12.3. enabling NES to specify that council planning provisions may be more stringent or lenient than the NES

    12.4. enabling NES to specify that councils may charge for the monitoring of activities permitted by the NES

    12.5. enabling NES to specify requirements for how councils undertake their functions to achieve standards

New regulation making power

13. agree to a new regulation making power that would allow the Minister for the Environment to permit activities or restrict councils from making certain rules for the purposes of:

    13.1. avoiding duplication with other legislation

    13.2. avoiding restrictions on land use that are not reasonably required to achieve the purpose of the Act

National Planning Template

14. agree to reconfirm the previous Cabinet decisions relating to the national planning template [Cab Min (13) 18/8 recommendations 6-7.2 refer] to:

    14.1. agree to amend the RMA to enable the development and implementation of a national planning template that will impose requirements on councils in developing policy statements and plans to

address matters that are nationally significant or require national consistency

14.2. agree to amend the RMA to:

14.2.1. set out the purpose of the national planning template which is to prescribe the structure, format and content of resource management plans and policy statements to address matters that are nationally significant or that require national consistency

14.2.2. set out the scope of the template to include:

14.2.2.1. the structure and format of council policy statements and plans

14.2.2.2. mandatory and optional provisions including objectives, policies, rules, standard definitions and methodologies

14.2.2.3. matters that councils must address or achieve in developing plan provisions

15. agree that the scope of the template includes requirements relating to the electronic functionality and accessibility of regional policy statements, regional plans, regional coastal plans and district plans

16. agree to amend the RMA to require territorial authorities and regional councils to make available the regional policy statements, regional plans, regional coastal plans and district council plans that relate to a particular district on a single searchable internet site, for each district or other area agreed by councils, no later than one year after the national planning template comes into effect

17. agree to reconfirm the previous Cabinet decisions relating to the national planning template [Cab Min (13) 18/8 recommendations 7.3-7.8 refer, except recommendation 7.8.2] to:

17.1. allow the national planning template to apply to specific council areas but address matters which have an impact on or are of national significance.

17.2. allow the Minister for the Environment to consider the following matters when determining whether it is desirable to develop content for the national planning template:

17.2.1. the matters listed in section 45(2) of the RMA (matters that the Minister may have regard to when determining whether it is desirable to prepare a national policy statement)

17.2.2. whether greater national consistency would be desirable

17.2.3. any other matters relevant to achieving the purpose of the national planning template.

17.3. require the Minister for the Environment to establish a process for developing and updating the template that:

17.3.1. requires public notification of a draft national planning template

17.3.2. provides for adequate consultation with the public and iwi authorities;

17.3.3. requires a report and recommendation to be made to the Minister on the submissions received through consultation and the proposed content of the national planning template.

17.4. require the Minister for the Environment to consult with the Minister of Conservation on the process for developing template content on matters that relate to the coastal marine area.

17.5. require that national planning template content be subject to the cost-benefit analysis process set out in section 32 of the RMA.

17.6. require councils to:

17.6.1. insert mandatory content from the template (which requires no local interpretation) into policy statements and plans without going through the plan change process set out in Schedule 1 of the RMA, within one year of gazetting of the template or as otherwise specified in the template

17.6.2. amend any operative policy statement or plan to reflect the template (where template content requires interpretation into plans), within five years of gazetting of the template, or as otherwise specified in the template

17.6.3. where a council has notified a plan change when the template is gazetted, amend any operative policy statement or plan to reflect the template (where template content requires interpretation into plans), within five years after the relevant policy statement or plan provisions become operative, or by another timeframe as specified in the template

17.6.4. for any plan changes or variations notified after the national planning template comes into effect (where template content requires interpretation into plans), comply with the template at the date of notification

18. agree to amend the RMA to require councils (in addition to the matters outlined in 17.6 above) to remove any duplication or conflict with the template without going through the plan change process set out in Schedule 1 of the RMA, within one year of gazetting of the template or by another timeframe as specified in the template [replaces Cab Min (13) 18/8 recommendation 7.8.2]

19. agree that the first version of the national planning template will be gazetted within two years of enactment of the Resource Legislation Amendment Bill 2015 [replaces Cab Min (13) 18/8 recommendation 8]

20. note that, at a minimum, the intention is for the first version of the national planning template to include:

20.1. standardised formatting and structure for plans and policy statements

20.2. references to existing national policy statements and national environmental standards

20.3. where possible, standardised definitions

21. note that the requirement for councils to fully comply with the national planning template will be staged across several years to avoid the significant costs associated with immediate compliance

22. note that Cabinet approval of content for the national planning template will be required except where the proposals are minor or of a technical nature

23. agree that the form of the content of the national planning template will be made by Ministerial notice in the Gazette, including by the Minister of Conservation for matters relating to regional coastal plans [replaces Cab Min (13) 18/8 recommendation 12]

24. note that the national planning template will be subject to review by the Regulations Review Committee, as is normally the case with delegated legislation

Availability of planning provisions for each district

25. agree to rescind all previous Cabinet decisions regarding the 'single plan per district or other area by agreement' [Cab Min (13) 18/8 recommendations 32-35]

26. agree that the functional requirements for the internet site (see recommendation 16 above) will be determined by the national planning template

27. direct the Ministry for the Environment to work with Local Government New Zealand and other relevant stakeholders to further investigate how electronic plans could be efficiently provided online

Faster and more flexible plan-making processes, while encouraging collaborative resolution

Iwi participation arrangements

28. agree to reconfirm the previous Cabinet decisions regarding iwi participation agreements [Cab Min (13) 18/8 recommendation 54] subject to the amendments underlined in the recommendations 32-33 below

29. agree to amend the RMA to require councils to invite iwi authorities consistent with the existing terminology in the RMA, to enter into an arrangement that specifies the role of tangata whenua in plan development and how advice will be provided to council pre-notification [replaces Cab Min (13) 18/8 recommendation 54]

30. amend the RMA to require councils and iwi authorities to consider whether any existing arrangements between council and iwi are satisfactory, with the expectation that any new arrangements will not offer any lesser role to iwi in planning than they have under the status quo unless iwi agree

31. amend the RMA to state the broad parameters of that arrangement, in that it must:

    31.1. identify the parties to the arrangement (including applicable Treaty settlement entities)

    31.2. set out at what stages of the pre-notification planning process iwi will provide advice to council and how that advice will be given to councils

    31.3. state how any applicable Treaty settlement mechanism will be supported or upheld

    31.4. describe the opportunities for iwi to identify resource management issues of concern to them (consistent with the existing provision in clause 3(B) of Schedule 1 in the RMA)

31.5. and may:

31.5.1. describe the process the parties will use for resolving disputes

31.5.2. identify whether iwi authorities delegate participation in particular types of planning processes

31.5.3. describe how iwi authorities will work together collectively under the arrangement to engage with the council(s)

32. amend the RMA to require parties to use best endeavours to conclude an arrangement within 6 months of the council issuing an invitation (or an alternative timeframe agreed between council and iwi) and that "best endeavours" includes the use of alternative dispute resolution mechanisms where necessary

33. amend the RMA to allow that, where councils and iwi cannot conclude an arrangement within the statutory timeframe (or the timeframe agreed between council and iwi), they may seek Ministerial intervention and that the Minister for the Environment has the authority to appoint a Crown facilitator or direct the parties to particular alternative dispute resolution processes to conclude the arrangement

Enhanced consultation requirements

34. agree to reconfirm the previous Cabinet decisions relating to enhanced consultation requirements for iwi [Cab Min (13) 18/8 recommendation 59] to:

34.1. amend the RMA to state that, as a minimum unless a Treaty Settlement specifies requirements greater than this:

34.1.1. all councils must seek and have particular regard to advice from iwi before notifying a proposed policy statement or plan; and

34.1.2. as part of the section 32 evaluation of cultural effects, councils must identify what iwi advice was received and how it was considered as part of the development of the policy statement or plan; and

34.1.3. at least one member of any independent hearings panel shall have tikanga experience and that iwi should be consulted on this appointment

35. note that any potential conflicts between the proposed reforms and existing arrangements in Treaty settlement legislation will be addressed through appropriate drafting instructions to ensure the existing arrangements will prevail

36. note that future historical Treaty settlements will need to consider the new status quo for iwi involvement in the planning process as part of the normal assessment process but will not be constrained by the new status quo in the design and implementation of redress relating to natural resources

The streamlined planning process

37. agree to amend the RMA to introduce a streamlined planning process available to a council or councils upon request to the responsible Minister, as an alternative to existing RMA Schedule 1 and the proposed collaborative planning process

38. agree that under the new streamlined planning process, councils will be able to request a streamlined planning process to address:

    38.1. implementation of a national direction

    38.2. an issue where there are public policy reasons for urgency

    38.3. a significant community need

    38.4. the need to align or combine plan provisions, or develop a combined planning document

    38.5. a specific issue in a plan/ policy statement which has resulted in unintended consequences

    38.6. or any other matter, in light of the above matters

39. agree that the responsible Minister will be the Minister for the Environment except in relation to a proposed regional coastal plan or proposed change or variation to a regional coastal plan where the responsible Minister will be the Minister of Conservation

40. agree that the purpose of the streamlined planning process is to enable the responsible Minister, on a councils request, to provide an expeditious and proportional planning process in particular circumstances as an alternative to Schedule 1

41. agree that the streamlined planning process can apply to a proposed regional policy statement, proposed regional coastal plan, proposed regional plan or proposed district plan, any proposed change to an operative regional policy statement, operative regional or district plan, variation or combined document

42. agree that the streamlined planning process can apply to councils preparing combined planning documents under section 80 of the RMA

43. agree that a council may apply to the responsible Minister in writing, requesting a streamlined planning process as an alternative to Schedule 1, and must provide the following information:

    43.1. a description of the planning issue and how it meets any entry criteria.

    43.2. an explanation of why the council requires the streamlined planning process, identification of affected parties,

    43.3. a summary of any consultation undertaken or intended (including iwi consultation)

    43.4. the implications for Treaty settlement legislation or iwi participation arrangements and

    43.5. the desired process and timeframes.

44. agree that in deciding whether to direct the council to follow a streamlined planning process, the responsible Minister must have regard to;

    44.1. the councils written request,

    44.2. whether sufficient information has been provided

45. agree that the responsible Minister must consider the obligations set out in any Treaty settlement legislation or iwi participation arrangement before making a decision on the council's request

46. agree the responsible Minister will be able to seek further information and will be required to consult with other relevant Ministers of the Crown and the council before making a direction and must provide reasons for the decision

47. agree that if the responsible Minister accepts the council's application, the streamlined planning process is enabled through a direction by the responsible Minister which will set out the expectations, process steps and timeframes to be followed by the council(s)

48. agree that any streamlined planning process must require, as a minimum:

    48.1. consultation on the planning proposal with affected parties, including the responsible Minister, and iwi

    48.2. an opportunity for written submission

    48.3. a report showing how submissions have been considered and any modifications to the planning proposal, including an assessment of costs and benefits or a section 32 report

49. agree that the responsible Minister can provide additional process steps in the direction

50. agree that the responsible Minister has the power to make changes to the direction following a request from the council

51. agree that the council must submit its draft decision prepared in accordance with the Minister's direction on the planning proposal to the responsible Minister for approval

52. agree that the responsible Minister will have the power to approve or reject the draft decision or refer it back to the council for further consideration or recommend changes be made to the draft decision

53. agree that in deciding whether to approve, reject, refer back, or request changes to the draft decision, the responsible Minister must consider:

    53.1. whether the council has complied with the terms of the direction,

    53.2. whether the draft decision complies with any national direction

    53.3. whether the draft decision meets the requirements of the RMA

54. agree that there are no appeal rights on any decisions made under a streamlined planning process (either on merits or on law), apart from judicial review

55. agree that if the responsible Minister approves the council's draft decision on the planning proposal, the council must then finalise that decision and notify it

56. agree that the planning proposal will become operative once the council has notified its final decision

<u>Collaborative planning process</u>

57. note that on 4 June 2013 Cabinet agreed to amendments to the Resource Management Act to include a new collaborative planning process for use by regional councils for freshwater related matters

58. agree to reconfirm the previous Cabinet decisions regarding the collaborative planning process [CAB Min (13) 18/8, recommendation 42.2-42.44], subject to the exceptions outlined in recommendations 59-64 below

59. agree to rescind the previous Cabinet decision which agreed to a collaborative planning process exclusively for regional councils and freshwater related matters [CAB Min (13) 18/8, recommendations 42 and 42.1]

60. agree that the collaborative planning process be available as an alternative plan-making track for use by any council or councils in relation to any matter (not just freshwater related matters)

61. agree to rescind previous Cabinet decision [CAB Min (13) 18/8, recommendations 42.13 to 42.15] which agreed:

    61.1. councils determine the sufficiency of a collaborative group's consensus before drafting and notifying a plan

    61.2. the decision on sufficiency be challengeable by submission to the Minister who would appoint a commissioner to reconsider the decision

62. agree that the council's determination of the sufficiency of a collaborative groups' consensus, and subsequent challenge to the Minister is not required, as councils will work closely with collaborative groups and set their terms of reference

63. agree to rescind recommendations 42.38 and 42.39 of CAB Min (13) 18/8 which agreed to rights to appeal to the Environment Court:

    63.1. on points of law where the council's final decisions on the plan are consistent with the consensus of the collaborative group

    63.2. on merit by way of rehearing where the council's final decisions on the plan are not consistent with the consensus of the collaborative group

64. agree that the collaborative planning process include the right to appeal to the Environment Court:

    64.1. on points of law where the council's final decisions on the plan are:

        64.1.1. consistent with the recommendations of the review panel; or

        64.1.2. not consistent with the recommendations of the review panel in order to ensure compliance with relevant legislation, including Treaty settlement legislation

    64.2. on merit by way of rehearing where the council's final decisions on the plan are not consistent with the recommendations of the review panel except if for the reasons in recommendation 64.1.2

65. invite the Minister for the Environment to report back to Cabinet in March 2015 to seek agreement to detailed proposals about the stakeholders that councils must consider when appointing collaborative groups

66. invite the Minister for the Environment to report back to Cabinet in March 2015 to seek agreement to detailed proposals about the nature of the Minister of Conservation's involvement in collaborative processes for coastal planning

67. agree that the RMA be amended to include a provision in relation to the collaborative planning process that will:

67.1. enable councils which have already begun collaborative processes under Schedule 1 to transition to the new planning track and associated appeal rights; and

67.2. be available to councils upon application to the Minister for the Environment who must be satisfied that the existing process meets certain requirements, including that the process to date is sufficiently similar to the proposed collaborative planning process

Changes to improve the efficiency of the plan-making process

68. agree to introduce an option for limited notification where directly affected parties can be easily identified

69. agree to include a requirement for a council to request approval from the Minister for the Environment to extend the 2 year statutory timeframe for making decisions on a proposed plan or pan change under Schedule 1, and modify or apply the process in section 37 as appropriate

70. agree that the Minister for the Environment, on receipt of a request, may approve or reject a request for extension

71. agree to amend section 80 of the RMA to state that Part 5 of the Act (including sections 66, 74 and 75) apply with all necessary modifications, including to give effect to a proposed Regional Policy Statement when a council is preparing a combined plan

72. agree to rescind the previous Cabinet decision regarding the changes to the consultation process for plan making (in Schedule 1 of the RMA) [Cab Min (13) 18/8 recommendation 48]

Expand EPA functions to support certain decision-making processes

73. agree to amend the RMA to enable the Environmental Protection Authority to provide services, on the request of the Minister for the Environment, to a decision maker appointed to decide an RMA matter or through the streamlined planning process

74. agree to make consequential amendments to the Environmental Protection Authority Act 2011 to amend the definition of an environment Act, so that it includes any Act that amends RMA processes for deciding matters

Supporting housing, property rights, and the functioning of the RMA in the urban environment

Easier permissions for housing and small developments to improve affordability

Consent exemption for minor rule breaches

75. agree to rescind the previous Cabinet decisions relating to consent exemptions [Cab Min (13) 15/8 recommendations 18-19]

76. agree to amend the RMA to introduce a consent waiver for rule breaches that:

76.1. enables, but does not require, councils to waive the requirement to apply for resource consent on a case-by-case basis, provided identified waiver criteria are satisfied

76.2. enables councils not to process a resource consent application if a waiver is granted

76.3. requires councils to use the following criteria before waiving the requirement for resource consent and deciding that the activity can proceed without resource consent:

76.3.1. the rule breach is

76.3.1.1. insignificant and of a technical nature, or

76.3.1.2. a temporary activity

76.3.2. there will be no adverse environmental effects that are discernible from those of a permitted activity

76.3.3. there will be less than minor adverse effects on other parties

76.3.4. sufficient information has been received or is available through other council processes (e.g. building consents) for the council to be reasonably satisfied that the criteria have been met

76.4. requires the council to record any decision to apply the waiver and its reasons

76.5. requires the council to issue a written decision that grants the waiver

76.6. provides that the matters in sections 104-104E of the RMA covering the matters to be considered in consent applications do not apply

77. agree to require councils to avoid any unnecessary delay in making a determination to apply the waiver and in issuing a written decision

Consent exemption for inter-boundary rule breaches with neighbour's approval

78. agree to amend the RMA to require a resource consent waiver be granted if:

78.1. the only rule breach or breaches occurring as a result of the activity are inter-boundary rule breaches

78.2. the owner(s) of land whose boundaries are affected by the rule breach(s) has given written approval

78.3. the person undertaking the activity has provided the consent authority with copies of the written approval and copies of scaled site plans signed by the person giving written approval

79. agree to require the council to keep a record that the criteria for resource consent waiver was met

Streamlined assessment process for boundary infringements and subdivisions

80. agree to change the RMA to require that, for applications for inter-boundary rule breaches, the only person or persons who may be affected shall be those whose land has a boundary affected by the infringement [Replaces Cab Min (13) 15/8 recommendation 27]

81. note that consent authorities have existing powers to refuse applications for subdivision consent even if written approvals have been provided by affected parties

82. agree to reconfirm the previous Cabinet decision [Cab Min (13) 15/8 recommendations 20.3, 22 and 26] to:

82.1. *introduce a definition of "inter-boundary rule breach", making it clear that such breaches relate to district land use rules and activities where a boundary is affected by the presence of a structure on one side (for example, where a structure breaches a daylight recession plane or causes a daylight infringement, where a structure is too high in relation to the distance from the boundary, or where a structure is closer to the boundary than permitted)*

82.2. *change the RMA to require that an application shall not be publicly notified or limited notified where the activity is:*

82.2.1. *a controlled activity; or*

82.2.2. *an activity type identified as non-notified in regulations including the national template*

82.3. *change the RMA to require that for applications for subdivisions that are controlled, restricted discretionary or discretionary activities the only person or persons who may be considered affected shall be the owners of the infrastructure assets to which the proposed subdivision is to connect*

83. agree to reconfirm the previous Cabinet decision [Cab Min (13) 15/8 recommendation 25] that when considering an application for a resource consent under section 104, a consent authority must have regard to any voluntary form of environmental compensation, off-setting or similar measure which is not encompassed by section 5(2)(c)

84. agree to amend the RMA to require that an application must not be publicly notified (but may be limited notified) where the activity is:

84.1. a subdivision that is controlled, restricted discretionary, or a discretionary activity, or

84.2. an inter-boundary rule breach

[replaces Cab Min (13) 15/8 recommendation 28]

Fast-track process for simple applications

85. agree to rescind previous Cabinet decisions relating to a fast track consenting process [Cab Min (13) 15/8 recommendations 20-20.2.3]

86. agree to amend the RMA to introduce a new 10 working day time limit which will apply where the activity meets the following criteria:

86.1. the activity is:

86.1.1. a controlled activity (meaning that consent must be granted but may be subject to conditions) except for a subdivision of land and any other activity on the site associated with that subdivision application, or

86.1.2. an activity identified in regulations as being one whose application will be processed in 10 working days, and

86.1.3. there are no other resource consent applications needed in relation to the proposal or to undertake the activity, except where they also meet the criteria above

86.2. the application includes an address for electronic service.

87. agree that, for applications subject to the new 10 working day process:

87.1. the consent authority will be afforded 10 working days to:

87.1.1. accept or reject the application

87.1.2. make the notification decision

87.1.3. decide whether to grant or decline consent

87.2. if the application is fully or limited notified (for reasons including special circumstances or because the applicant requests full notification or because a rule or national environmental standard requires notification) the application will cease to be subject to the 10 working day process and the standard timeframes for notified applications will apply

87.3. the current provisions regarding additional information requests will apply. The consent authority will be able request additional information any number of times. However, the processing clock time can only stop for the first request.

88. agree that applications that are subject to the new 10 working day timeframe be subject to a simplified set of information requirements

89. agree that the Resource Management (Discount on Administrative Charges) Regulations 2010 be amended as necessary to apply to the new 10 working day process

90. agree to

90.1. introduce a new regulation making power to enable regulations to be made that:

90.1.1. require consent applications to be processed according to the 10 working day timeframe where the activity is identified in this regulation or where it meets criteria set in the regulation

90.1.2. apply only to simple and straight forward applications, where the activity, scale or complexity of the application and assessment required warrant a 10 day (as opposed to 20 day) process

90.1.3. provide that certain information required under Schedule 4 including an assessment of effects are not required where they are disproportionate to the effects of the activity.

90.2. require that, before making regulations requiring consent applications be processed in a 10 day timeframe, the Minister must assess the likely scale and effects of the activity and determine whether requiring an assessment of effects and other assessments required by Schedule 4 is appropriate

90.3. amend regulations to provide for a template application form and decision document for the 10 working day process

[replaces Cab Min (13) 15/9 recommendations 20.4-21]

Making subdivisions permitted unless restricted by plans

91. agree to reconfirm the previous Cabinet decision [Cab Min (13) 18/8 recommendation 62] to amend the RMA to provide that subdivision can be undertaken unless it contravenes a national environmental standard, or a rule in a plan or proposed plan, even if it is not authorised by a resource consent

No right of appeal to the Environment Court for boundary infringements and subdivisions (unless non-complying activities)

92. agree to amend the RMA to remove the right of appeal to the Environment Court on decisions arising from controlled, restricted discretionary, or a discretionary resource consent applications for:

    92.1. subdivision of land , or

    92.2. an inter-boundary rule breach

<u>Reducing cost, complexity and legal risks</u>

Regulation-making powers: Non-notification of simple proposals with limited effects and limited involvement of affected parties for certain activities

93. agree to amend the RMA to provide for a new regulation making power to enable regulations that:

    93.1. provide that applications must be processed without public notification and

    93.2. restrict the persons who may be considered affected by that activity to the classes of persons identified in the regulations

    [Replaces Cab Min (13) 15/8 recommendation 23]

94. note that existing provisions allow for activities to be identified as non-notified applications in plan rules and national environmental standards

95. agree that the RMA specify that any matters provided for in regulations made under this provision should prevail over any contrary provision in an operative or proposed plan or variation, including where a plan specifies that an application must be publicly or limited notified or must not be notified and/or specifies a class of persons who must be considered affected by an application

Regulation-making powers: Consent decisions issued with a fixed fee

96. agree to reconfirm previous Cabinet decisions relating to setting fixed consent processing fees [Cab Min (13) 15/8 recommendation 36] to:

    96.1. change the RMA to improve transparency of consent processing fees by introducing a regulation-making power that would enable regulations to implement:

        96.1.1. a requirement for councils to set a fixed fee for processing certain classes of consent application, including classes of additional charges that may sometimes apply such as further information requests;

        96.1.2. in respect of the fixed fees, a schedule categorising classes of fixed fees, based on the complexity of applications and the type of activity being undertaken by the council, but not assigning any cost figure to any class;

96.1.3. a requirement for councils to apply the schedule when setting their fees;

96.1.4. a requirement for councils to publish a list of their fixed fees

97. agree that regulations for fixed fees may include a charge for granting a resource consent waiver

98. note that regulations in the future may specify the types of activities and/or applications, or a percentage of them, which must have fees fixed in line with the schedule

99. note that changes to improve transparency on charging and cost recovery for resource consent activities will be introduced through regulations relating to improving council accountability measures

Clarification of the legal scope of consent conditions

100. agree to reconfirm the previous Cabinet decision to limit the scope of consent conditions [Cab Min (13) 15/8 recommendation 29] by requiring that consent conditions imposed by councils must be directly connected to either:

100.1. the provision which is breached by the proposed activity; or

100.2. the adverse effects of the proposed activity on the environment; or

100.3. content that has been volunteered or agreed to by the applicant

101. note that the Ministry for the Environment will work with councils to provide additional guidance on best practice for consent conditions

Running efficient hearings and reducing the risk of appeal

Notification decisions will be made in reference to environmental effects and the policies and objectives of plans

102. agree to rescind the previous Cabinet decision regarding the notification test [Cab Min (13) 18/8 recommendation 63]

103. agree to amend the RMA to introduce a new approach to determining whether or not an application should be processed on a non-notified, limited notified, or publically notified basis, which requires the effects of discretionary and non-complying applications to be assessed subject to the policies and objectives of the relevant plan

104. note that the above change will not affect Treaty Settlements, the status of a protected customary rights group or the status of a customary marine title group

105. agree to clarify other notification provisions by

105.1. retaining the scope to notify when an applicant requests notification

105.2. retaining the scope to notify when special circumstances exist in relation to the application (despite preclusions to notification in in plans, national environmental standards or the RMA)

105.3. removing scope for applications to be notified at the consent authority's discretion

106. note that this provision would not apply to applications for controlled activities and any other application whose notification status is determined elsewhere in the RMA, by a regulation, or by a national environmental standard

Independent commissioners to determine an application

107. agree to amend the RMA to require that, where a hearing is required to determine a resource consent application, the hearing must be heard by an independent commissioner or commissioners

Reasons for public or limited notification must be recorded

108. agree to reconfirm the previous Cabinet decision [Cab Min (13) 15/8 recommendation 32] to make amendments to the public notice form contained in regulations to require councils to state the reason that a consent was required for the activity and why it was notified

109. agree to introduce a new form through regulations that specifies what information must be contained in the notice that is served to individuals for limited and fully notified applications

110. agree to amend the RMA to require that, if a resource consent application is publicly notified or limited notified on the basis of adverse effects, the consent authority must record those effects

111. agree to rescind the previous Cabinet decisions regarding pre-hearing meetings [Cab Min (13) 15/8 recommendations 33-33.6]

112. agree to change the RMA to require:

    112.1. councils to have regard to, at a council hearing, the outcome of any pre-hearing meeting

    112.2. the Environment Court to have regard to the outcome of any pre-hearing meeting and any hearing reports prepared by councils in determining an appeal

Requiring submissions to be struck out in certain circumstances

113. agree to reconfirm the previous Cabinet decision [Cab Min (13) 15/8 recommendation 31] to make the following amendments to the RMA to ensure submissions on consents are related to the reason(s) the consent was applied for and the reason(s) for notification:

    113.1. requiring that councils must strike out the whole, or a part, of a consent submission in certain circumstances to be outlined in the RMA;

    113.2. ensuring that the RMA clearly sets out the circumstances in which councils must strike out the whole, or a part, of a consent submission, which will include where:

        113.2.1. issues raised do not relate to the reason(s) for notification;

        113.2.2. issues raised are not relevant to the consent decision;

        113.2.3. issues raised have no basis in the RMA;

        113.2.4. issues raised have no reasonable chance of succeeding;

        113.2.5. evidence is not provided to support issues raised, such as claims of adverse effects;

        113.2.6. evidence provided is not independent, impartial or objective;

    113.3. ensuring that the RMA clearly sets out that councils are not required to strike out the whole, or a part, of a consent submission, regardless of

whether it relates to the reason(s) for notification, if doing so would compromise the application of Part 2 of the RMA to the process (the purpose and principles of the RMA)

113.4. ensuring no Environment Court appeal rights are available against a decision to strike out whole, or a part, of a consent submission, beyond existing objection rights

Commissioners to be paid on a fixed fee basis and councils to fix the applicant's fee for the hearings process before it starts

114. agree to introduce a new regulation making power that can require consent authorities and local authorities to pay commissioner(s) for resource consent and plan hearings on a fixed-fee basis and to set the overall fee for a consent or plan hearing, payable by the applicant, prior to the hearing commencing

Dealing with objections and appeals fairly and efficiently

Scope of appeals to be limited to the matters raised in appellants submission

115. agree to reconfirm the previous Cabinet decision [Cab Min (13) 15/8 recommendation 35.1] to empower faster resolution of Environment Court hearings on consent appeals

115.1. where appeals to the Environment Court are made by a submitter, those appeals are limited to the issues raised in the person's submission

Applicant can object to an independent commissioner

116. agree to reconfirm the previous Cabinet decision [Cab Min (13) 18/8 recommendation 68] to make the following amendments to the RMA to allow access to independent decision-making on consent objections:

116.1. provide consent applicants the ability to choose whether an objection they make against a consent decision or consent condition be heard by an independent decision maker that is not the first instance decision maker

116.2. where an applicant selects this option, enable councils to charge applicants for the costs of the objection being heard and decided independently

116.3. ensure that the rights of the applicant to appeal the objection decision to the Environment Court are preserved

116.4. ensure that the independent decision maker has the power to call for further evidence, beyond the reports received from hearing and pre-hearing stages, if it will help them to make a decision on the objection

117. note that the ability to request an independent commissioner to decide on an objection applies only to the consent applicant

Environment Court process improvements: Use of dispute resolution strengthened and consideration of judicial conference required to narrow issues in contention

118. agree to reconfirm the previous Cabinet decisions [Cab Min (13) 15/8 recommendations 35.2-35.5] to empower faster resolution of Environment Court hearings on consent appeals:

118.1. ensure that the Court gives due consideration to the merits of requiring a conference for all appeals lodged

118.2. require that a conference required by the Court be attended by a person who has the authority to make a decision, whether that authority is provided by delegation or otherwise

118.3. enable the Court to require alternative dispute resolution in the first instance, with parties being required to seek leave of the Court to not participate

118.4. require that alternative dispute resolution be attended by a person who has the authority to make a decision, whether that authority is provided by delegation or otherwise

Environment Court process improvements: Greater flexibility in the use of Environment Court decision makers

119. agree to reconfirm the previous Cabinet decisions [Cab Min (13) 18/8 recommendation 70] to amend the RMA to extend powers of Environment Judges and Commissioners sitting alone to:

119.1. provide the Principal Environment Judge with the ability to extend the powers of Environment Judges sitting alone so that they can also make orders on any matter at issue in consent appeals

119.2. ensure that the Principal Environment Judge can confer these powers without the agreement of parties to the proceedings and without the need for a Conference

119.3. provide any Environment Judge with the ability to delegate the powers that apply to them when sitting alone, to an Environment Commissioner sitting alone

119.4. ensure that these powers can only be delegated after a Conference where an Environment Judge has determined that an Environment Commissioner sitting alone can exercise the powers

119.5. ensure that any additional powers delegated to an Environment Judge sitting alone by the Principal Environment Judge cannot be transferred to an Environment Commissioner in this manner

119.6. ensure that the Court does not require agreement from parties to proceedings to extend the powers of an Environment Commissioner sitting alone

119.7. ensure that the existing powers of Environment Commissioners remain the default if no Conference occurs

119.8. ensure that decisions by Environment Judges and Environment Commissioners when sitting alone are considered to be decisions of the Environment Court

119.9. ensure that powers to direct how evidence is to be given are unaffected where Environment Judges or Environment Commissioners are sitting alone

120. agree, in addition to the matters above, to require the Environment Court to have specific regard to any pre-hearing and hearing reports prepared by councils in determining an appeal

Environment Court process improvements: Fee waiver

121. note that Cabinet agreed to proposals to increase Environment Court fees, as part of the Ministry of Justice Civil Fees Review in May 2013 [CAB Min (13) 16/10 refers]

122. note that the Ministry of Justice Civil Fees Review [CAB Min (13) 16/10 refers] recommended an amendment to the RMA to enable the introduction of fee waiver criteria into the Resource Management (Forms, Fees and Procedure) Regulations 2003

123. note that these proposals will be included in the drafting instructions and that increases to the Environment Court fees will be made by way of changes to the Resource Management (Forms, Fees and Procedure) Regulations 2003 later in 2015

Environment Court Declarations on Notification Decisions

124. agree to repeal section 115(3) of the Resource Management Amendment Act 2005, which enables resource consent notification decisions to be challenged in the Environment Court by way of declaration, rather than only through the High Court by way of judicial review on points of law

<u>Ensuring property rights are given due consideration</u>

Ability for the Environment Court to direct councils to acquire land

125. agree, in cases where a plan provision renders land or part of land incapable of reasonable use, and places an unfair and unreasonable burden on the person with an interest in that land or part of it, the Environment Court may direct the council, as the council considers appropriate, to either:

    125.1. modify, delete or replace the provision in accordance with its direction (as is currently provided); or

    125.2. acquire all or part of the estate or interest in the land by agreement under the Public Works Act 1981

126. agree that this new power to acquire all or part of the estate or an interest in land will be available only for operative provisions of plans or proposed plans, but will not be available for regional coastal plans

127. agree to prevent the Court from directing councils to acquire all or part of the estate or an interest in land where the landowners purchased a property after the plan restriction in question was first notified or otherwise included in the relevant plan in substantially the same form as it ultimately took when it became operative

128. agree that compensation will be payable for all or part of an estate or interest in land ordered to be taken and will be assessed under the Public Works Act 1981 as if the restrictions did not apply

Improving processes

A suite of technical amendments to reduce BOI cost and complexity

Reducing costs and complexity of the Board of Inquiry process

129. agree to reconfirm the previous Cabinet decisions relating to the nationally significant proposals process [Cab Min (13) 15/8 recommendation 39, except recommendation 39.2] to:

129.1. make the following changes to the RMA to reduce costs and complexity of the Environmental Protection Authority (EPA) nationally significant proposals process require:

129.1.1. the public notice for a nationally significant proposal to include a summary of the description of the proposal and a summary of the Minister's reasons for making a direction

129.1.2. the public notice to be included in a newspaper(s) circulating in the area likely to be directly affected by the proposal

129.1.3. a summary of this notice to be included in the major national newspapers where information about the proposal can be found

129.2. improve the ability for electronic provision of information and access to information related to nationally significant proposals

129.3. remove the requirement for draft decisions that relate to notices of requirements to be served on affected landowners and occupiers unless they are already a party to the process

129.4. enable Boards of Inquiry to request the EPA to provide planning advice

129.5. increase the period in which a decision is made on a call-in request, so that a matter can be called in up to five days before the commencement of the hearing

129.6. enable the EPA to recover debts from the nationally significant proposals process as a debt to the EPA, therefore allowing the EPA to pursue commercial avenues for unpaid debts

129.7. provide the EPA discretion to suspend processing of a proposal where there are outstanding debts, provided the EPA has made written demand for payment of the amount outstanding and provided the applicant 20 working days' notice of their intention to suspend processing if payment is not made

130. agree, in addition to the above matters, to require Boards of Inquiry to have regard to cost effective processes when carrying out their duties [replaces Cab Min (13) 15/8 recommendation 39.2]

131. agree to amend the RMA to improve the nationally significant proposals process administered by the EPA by:

131.1. enabling the EPA to direct the proceedings of a Board of Inquiry deciding on a nationally significant proposal

131.2. enabling the EPA to fix the place and the commencement date and time of a hearing on an nationally significant proposal

131.3. requiring that Boards of Inquiry must have specific regard to the estimated level of processing funding set by the EPA for the consideration of an nationally significant proposal

132. note that the RMA currently requires that if a hearing is to be held it must be held near the area to which the matter relates

Changes to the composition of the Board

133. agree to amend the RMA to improve the Nationally Significant Proposal process administered by the EPA by enabling more flexibility in the composition of a Board of Inquiry

134. agree to make optional the current requirement that a Board of Inquiry be chaired by a current, former or retired Environment Judge or retired High Court Judge

135. agree to a requirement for the Minister for the Environment to consider include legal expertise when appointing a Board

136. note that it will be important to appoint a chair or member to a Board of Inquiry with appropriate experience in cross-examination to mitigate risks of successful appeal on points of law on natural justice grounds

Minor changes to the PWA

137. note that Cabinet has previously agreed to a number of changes relating to the Public Works Act 1981 (PWA) to provide a fairer and more efficient land acquisition process [CAB Min (13) 20/9A refers]

138. note the unintended consequence identified during drafting that tenants as defined in the Residential Tenancies Act 1986 (RTA) could be eligible for the increased PWA solatium payments, which is inconsistent with current practice and the intent of the policy

139. agree to:

139.1. amend the PWA to clarify that tenants under the RTA do not qualify for the PWA section 72 'up to $50,000 solatium' and the new 'up to $25,000 solatium'; and

139.2. make limited consequential amendments to the PWA which fill gaps or provide clarity to ensure that tenants under the RTA are treated in the same way regarding compensation as 'weekly and monthly' tenants under the PWA

Streamlined public notices and servicing of documents requirements

140. agree that all RMA public notices in newspapers be reduced in size

141. agree that councils are required to publish a more detailed RMA public notice on a publically accessible website

142. agree that public notices must use plain English

143. agree to insert a definition of plain English into the RMA to change the content of public notices

144. agree to amend the RMA to ensure that all plans, plan changes and all consents which require public notification must be made available on a publically accessible website

145. agree that councils be required to physically service parties with documents only where this explicitly requested

146. agree to amend the RMA to require applicants and submitters to provide an email address to the council upon application or submission to facilitate electronic servicing of documents

147. agree to make consequential amendments to the Resource Management including (Forms, Fees, and Procedure) Regulations 2003 and definitions within the RMA to achieve the above changes

Coastal and marine issues

Allowing councils to remove abandoned coastal structures

148. agree to amending the RMA to provide regional councils with discretion to remove unconsented structures (including where permitted in a plan) that do not warrant a formal inquiry under the Marine and Coastal Area (Takutai Moana) Act 2011

149. agree that, in reaching a decision that an inquiry is not warranted, a regional council must be satisfied that:

    149.1. efforts have been made to locate an owner but have been unsuccessful; and

    149.2. the structure is likely to have no, or minimal value to any owner or to the community

150. agree that regional councils be authorised to remove a structure at their discretion either:

    150.1. in accordance with any provisions in the regional coastal plan; or

    150.2. without obtaining a resource consent or without the need to comply with any conditions in a regional coastal plan (where removal is a permitted activity) if in the councils view any adverse effects of removal are not more than minor

Aquaculture permits

151. agree to rescind the previous Cabinet decision relating to aquaculture activities [Cab Min (13) 18/8 recommendation 80] which sought to clarity when resource consent is required

Improving Council Performance

Enhanced council monitoring requirements

152. agree to reconfirm the following prior Cabinet agreements relating to improving council accountability measures [Cab Min (13) 15/8 recommendations 47-49]:

    152.1. to change the RMA to require councils to monitor their performance in delivering services and engaging with the public in exercising their functions and duties under the RMA

152.2. to change the RMA to enable regulations to be made which prescribe how councils must carry out their monitoring obligations, including what information must be collected, what methodologies must be used, and how and when the information is to be reported

152.3. that the proposals to change the RMA that relate to improving council accountability measures will come into effect on the date the Bill comes into force

Other matters

153. note that the Resource Legislation Amendment Bill 2015 has a category 2 priority (to be passed in 2015) on the 2015 legislative programme

154. note that the regulatory impact analysis (RIA) did not meet requirements for the reform package proposed in this paper

155. note that the transitional arrangements for components of the Resource Legislation Amendment Bill 2015 requires consideration of risks, lead-in times, and connections between components

156. authorise the Minister for the Environment to develop commencement, transitional and savings provisions with the Parliamentary Counsel Office, through the Resource Legislation Amendment Bill 2015 drafting process

157. note that the drafted commencement, transitional and savings provisions will be subject to approval by Cabinet when it considers the Resource Legislation Amendment Bill 2015 for introduction

158. invite the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to implement the proposals set out in the above paragraphs through the Resource Legislation Amendment Bill 2015, in consultation with relevant portfolio Ministers where appropriate

159. authorise the Minister for the Environment to further clarify and develop policy matters relating to the proposals in the paper under CAB (13) 249 in a way not inconsistent with Cabinet decisions

160. agree to make consequential amendments to the RMA and other affected statutes and regulations to give effect to Cabinet decisions on the contents for the 2015 Bill to ensure workability of the agreed amendments

161. invite the Minister for the Environment to report back to Cabinet in March 2015 to seek agreement to a final package of reforms, including a suite of new policy proposals

162. agree that a post-implementation review of the reform package proposed in this paper be undertaken, with the nature and timing of the review to be agreed by the Treasury and the Ministry for the Environment, and signed off by the Minister for the Environment, in consultation with the Minister of Finance and the Minister for Regulatory Reform

163. note the Minister for the Environment is currently considering the costs of the new additions to this reform package and the scale of implementation on the Ministry for the Environment and will request any additional funds through the budget process

164. invite the Minister for the Environment to report back to Cabinet within two months following the introduction of the Bill on a full implementation plan for these reforms

165. note that should Cabinet agree to the changes to the Public Works Act 1981 the Resource Legislation Amendment Bill 2015 will be required to be an Omnibus Bill

166. agree that the Minister for the Environment may share the Cabinet minute arising from this paper, drafts of further Cabinet papers on related issues, drafting instructions to the Parliamentary Counsel Office, subsequent drafts of amendments to the relevant Acts and related documents with the EPA where matters considered relate to the functions of the EPA.

Hon Dr Nick Smith
Minister for the Environment
12 / 2 / 2014

Appendix 1: Policy detail on the RM reform proposals

Enhance management of significant risks from natural hazards

1. In May 2013, Cabinet agreed that sections 106 and 220 are to be amended to enable decision makers to decline or place conditions on subdivision consents where there are significant risks from natural hazards. Sections 106 and 220 will be amended to introduce a risk based approach to subdivision consent decision-making and ensure all natural hazards are considered (rather than a limited list of hazards that currently exists) [Cab Min (13) 15/8 refers].

2. The intent is that subdivision decision-making will include the consideration of low-likelihood and high-consequence hazards that some court decisions have excluded from section 106. The sections will provide an improved backstop where planning has not provided for natural hazards effectively but councils retain the ability to approve subdivision consents with conditions as appropriate.

Strengthen national direction tools, including national planning template

Existing proposals: National Direction

National direction guidance and priorities

3. Cabinet has directed officials to develop guidance to clarify when national direction instruments should be used and an agenda of priority matters to be addressed [CAB Min (13) 18/8 refers]. The guidance is intended to improve understanding of what sorts of matters warrant national direction, reduce investment in proposals that are unlikely to be feasible or beneficial and support the delivery of greater national direction. Publishing a forward agenda of priority matters will provide more certainty to council planners and resource users over the government's priorities.

4. Cabinet has already agreed:

   - to consider what national direction may be required for natural hazards [CAB Min (13) 15/8]
   - that the national planning template will contain detail to support the new legislative changes around the availability of land for urban development [CAB Min (13) 18/8].

5. Work on these priorities is progressing well. I have directed officials to progress national direction to support the availability of land for urban development (including detail to support the legislative changes) as a matter of urgency; therefore it may precede the national planning template.

6. However, there is a need to increase the amount of national direction and deliver it quicker than has been done previously. Officials are working on practice improvements to increase development efficiency; however, there are constraints on the ability of one agency to deliver the increased level of national direction required. I intend to bring proposals to finalise the guidance and forward agenda of priority matters to Cabinet in mid-2015.

Increased flexibility for NPS and NES

100. Currently, national direction tools (national policy statements and national environmental standards) can be costly and take a significant amount of time to develop. For example, the national environmental standard on contaminated land cost around $2.5 million to develop, over 9 years.

101. In June 2013, Cabinet considered and agreed to the following proposals to improve the effectiveness of NPS and NES [Cab Min (13) 18/8 refers]:

Proposal	Description
Combined national policy statement and national environmental standard development	Enabling a combined development processes for NPS and NES, through joint consultation, development and publication will speed up the implementation of national direction and reduce costs.
Scope of national policy statements	National policy statements state objectives and policies but it is unclear how much further they can go in prescribing detailed implementation. This change clarifies that a NPS and the New Zealand Coastal Policy Statement can include more specific direction on how to translate objectives and policies into effective plan provisions (ie objectives, policies and methods). This would allow more specific direction to be given about how the objectives and policies of a national policy statement should be implemented in plans resulting in increased efficiency, reduced council costs and improved consistency and certainty.
Targeted national policy statement or national environmental standard	This change would explicitly allow national policy statements and national environmental standards to be developed in relation to a specific area to address a local resource management issue that has national significance. It is unclear whether a national direction tools can currently be used in this way. It will also allow for appropriately targeted consultation processes in these cases.

102. In order to ensure NES powers can be used as intended and provide greater national direction in a timely way, I am no longer recommending introducing an additional consultation requirement for NES, to align with NPS provisions. I expect that the publication of national direction guidance and a rolling forward agenda of priorities will improve the effectiveness of public engagement in the development of national direction.

<u>New Proposals: National Direction</u>

103. Despite the above policies previously agreed by Cabinet, there are still limitations that prevent national direction from effectively addressing emerging resource management issues without the need to amend the RMA. For example, amendments to the RMA were required to address blanket tree protection rules and there are limitations on the way national direction could address stock exclusion. Further changes may also be necessary if national

direction is to be effective in managing natural hazards and managing water within limits.

Further proposals to increase flexibility of NES

104. I am proposing the following further changes to ensure NES are sufficiently flexible to address emerging issues:

Proposal	Description
Overriding existing use rights	NES could override existing use rights for the purposes of managing soil, water and coastal water, and air.
Overriding resource consents	NESs could directly override resource consents for the purposes of managing soil, water and coastal water, and air.
Triggering review of land-use consents	An NES could trigger a review of land-use consents for the purposes of managing soil, water and coastal water, and air.
Enabling more lenient council rules	An NES could specify that council rules could be more lenient (i.e. imposing lower standards for environmental effects) or more stringent than NES provisions. Enabling more lenient rules would increase flexibility for NESs to enable development and provide default rules (from which councils may depart based on specific district/region circumstances).
Enabling charging for monitoring permitted activities	An NES could specify that councils can charge to monitor activities permitted by the NES. The proposal would enable central government to classify more activities as permitted because of increased certainty that requirements would be monitored and enforced.
Requirements for councils	An NES could specify requirements for how councils undertake their functions to achieve standards. The proposal would improve the ability for central government to track progress and require councils to implement specific measures to achieve standards.

105. The proposed changes will enable effective national direction for stock exclusion.

106. The proposed changes will increase the range of powers available through NES, but will not directly impact stakeholders. Any subsequent proposal to use these powers through an NES would be subject to public consultation, Cabinet approval, and safeguards such as judicial review and regulations disallowance.

Existing Proposals: Template

National Planning template

7. I propose legislative change to provide for a mandatory national planning template that will reduce the complexity of plans and provide a home for national direction. The national planning template will be able to prescribe the structure and format of resource management plans and policy statements, and to prescribe content on matters that require national direction or national consistency.

8. This proposal was considered and agreed by Cabinet in June 2013 [Cab Min (13) 18/8 refers]. I am not proposing any substantive changes to the policy agreed by Cabinet at that time, although I am seeking to clarify the link between the template and the electronic provision of plans.

9. The national planning template will provide the following benefits:

   - Once the template is implemented, the structure and format of plans will be the same across the country. This will reduce the time and cost involved in developing, using, monitoring, and auditing plans.
   - The template will provide a mechanism for articulating national planning direction, by including National Policy Statements and National Environmental Standards, and through mandatory template content.
   - Having all plans in the same format will provide an incentive to reduce overlap between regional and district provisions, and make it easier to combine plans in future.

10. The first national planning template will be a major project, and the success of the reform is dependent on getting it right. This will take some time. While the template is being developed, National Policy Statements and National Environmental Standards will continue to be developed and I expect they will be incorporated into the template once it is finished.

11. The first version of the national planning template will be required to be gazetted within two years of enactment of the Resource Legislation Amendment Bill 2015, with implementation by councils to follow over the following five years, as previously agreed by Cabinet.

<u>Proposals not being progressed</u>

Single plan

12. Cabinet has previously agreed to amend the RMA to require all local authorities to combine their planning provisions into a single amalgamated plan (single plan) per district [CAB Min (13) 18/8 refers]. The single plan was to meet the requirements of the template and be available on a website (with search functions) one year after the template was introduced. A council planning agreement was required to specify how the single amalgamated plan will be achieved.

13. I am no longer recommending that a Council Planning Agreement and a single amalgamated plan be required for each district, as I believe the expected benefits of this proposal can be better met through the national planning template which will bring more standardisation in plans, and require improvements in the electronic availability and searchability of plans. I propose to require local authorities to bring all existing plans applying in a district (district plan, regional plans and regional policy statement(s)) on to a single searchable

internet site, for each district or other area agreed by councils. This will enable home owners and commercial operators to find all the rules relating to their property or activity in a single place.

14. Cabinet has previously agreed that, as a minimum, the first version of the national planning template will include standardised formatting and structure, including electronic form [CAB Min (13) 18/8 refers]. I am now seeking to clarify that the national planning template will be able to specify both electronic requirements relating to councils' plans once they are made consistent with the template, and the requirements for the internet site on which the plans relating to a district are made available.

15. The requirements for the internet site are likely to include the level of searchability, and the identification of any overlapping planning provisions such as rules. However, I propose to allow the exact requirements to be worked through with local government during the development of the template.

NES consultation with Iwi

16. Cabinet had previously agreed to an additional step to the NES development process which would require consultation with iwi and the public. This change was in line with existing requirements for NPS.

17. The timeframe for developing NES has been a concern for the government, in that it takes on average 3-5 years to deliver a new tool. It is my ambition to have a more streamlined process for the development of national direction tools. However this proposal to amend the RMA to require an additional step of iwi consultation in the development of NES would make the process slower and contrary to the my above objective.

18. I am therefore no longer recommending that this change be pursued as it does not fit with my objective of providing more national direction in a timely way.

19. I consider that the current consultation requirements will be adequately supported by the publication of national direction guidance and a rolling forward agenda of priorities. These will improve the effectiveness of iwi and public engagement in the development of national direction without adding time to the overall process.

20. There is still a formal requirement for the Minister to consult with iwi on an NES.

Faster and more flexible plan-making processes, while encouraging collaborative resolution

Existing proposals

Māori participation

21. Councils are currently required to consult under the RMA with iwi authorities ahead of notifying a plan and seeking formal submissions. There are also a variety of Treaty related arrangements in place between iwi and some councils. The RM reform package aims to provide the right incentives to encourage positive working relationships early in the planning process between iwi authorities and councils.

22. The effectiveness of existing relationships between iwi and councils varies across the country. In some regions poor relationships have resulted in uncertainty and disputes, including costly adversarial policy and consenting processes.

23. I am proposing the following reforms which are specifically designed to improve Māori participation in resource management processes:

- Iwi participation arrangements
- Enhanced consultation requirements.

Iwi participation arrangements

24. I propose that voluntary 'iwi participation arrangements' be provided for through the RMA as a way to incentivise effective working relationships between iwi and councils. Under this proposal, councils will be required to invite iwi authorities to form an iwi participation arrangement that details how iwi and the council will work together thorough the planning process.

25. Any potential delays to planning processes will be minimised as, if an iwi authority does not respond to an invitation to enter into an iwi participation arrangement, the council is not required to suspend the preparation of the policy statement or plan, or suspend any other part of a process described in Schedule 1.

26. The iwi participation arrangement is both a trigger for councils to engage with iwi authorities and a way to further clarify the role of tangata whenua, through iwi authorities, in the planning process.

27. This proposal was considered and agreed by Cabinet in June 2013 [Cab Min (13) 18/8 refers] and I am not proposing any significant changes to the proposals agreed by Cabinet at that time.

Enhanced consultation requirements

28. I propose the following changes to the RMA, which will increase consultation requirements with iwi on plan-making processes:

a. require councils to invite iwi to participate in planning processes, as part of an iwi participation arrangement

b. require councils to provide a relevant draft policy statement or plan to iwi authorities

c. require councils to have particular regard to any advice received on the draft plan, and to allow adequate time and opportunity for the iwi authorities to consider and provide advice

d. require councils to summarise all advice received by iwi authorities and outline their response in section 32 reports

e. require councils to consult tangata whenua if it is appropriate to appoint a commissioner with understanding of tikanga Māori and of the perspectives of local iwi or hapū.

29. These proposals were considered and agreed by Cabinet in June 2013 [Cab Min (13) 18/8 refers]. I am not proposing any significant changes to the proposals agreed by Cabinet at that time.

Note: Provision for Treaty settlements

30. It is noted that Treaty settlements will explicitly be referred to and prevail over any changes to the RMA. Where iwi or hapū have agreed a role in the planning process that is greater than what will be provided for in the Bill, those obligations will be maintained.

Impact of the Māori participation proposals

31. This package of reforms will enhance the participation of Māori in resource management processes. Enhanced and early front-end engagement with iwi authorities will build positive working relationships and help ensure Māori issues are confronted and resolved early, to reduce disagreement and litigation. The improved policy framework will result in greater efficiency and less uncertainty in the RM system, without substantially increasing costs and time at the front-end of the policy making process.

<u>New proposals</u>

Changes to plan-making processes

32. I propose the following three changes to the plan-making process:

    a. allowing limited-notification for plan changes where there are only a small number of clearly identifiable parties directly affected

    b. Ministerial approval for extensions to the two year time limit for making decisions on plans

    c. clarifying that when developing a combined plan that includes a proposed regional policy statement (RPS), council may modify the requirements of Part 5 as necessary in order to give effect to the proposed/ operative RPS

    d. introducing the streamlined planning process.

Limited notification

33. Currently all proposed plan changes must be fully notified. I propose that limited notification should be an available option for plan changes where directly affected parties can be easily identified. This criterion would guide councils when it would be appropriate to use limited notification rather than full notification. It is likely that the majority of proposed plan changes will still be fully notified.

Enforcement of 2-year timeframe

34. I intend to amend the RMA to provide for stricter enforcement of the 2 year time limit for councils to make decisions on plans (from notification). While the time taken for councils to make decision on plans has reduced since the 2 year requirement was introduced in 2005, 23% of plans still take longer than 2 years between notification and decisions.

35. I propose to require that a council must request approval from the Minister for the Environment to extend the 2 year time limit for making decisions on a proposed plan or plan change under Schedule 1 and modify or apply the process in section 37 as appropriate. The Minister will be able to approve or decline an extension after considering the request or use the powers of intervention available under the RMA.

Clarifying interaction between RPS and combined plans

36. I also propose to amend section 80 of the RMA (with regard to combined regional and district documents), to clarify that when developing a combined plan that includes a proposed regional policy statement (RPS), councils may develop their regional and/or district level provisions to give effect to the proposed RPS. This will reduce uncertainty over the legal weighting and incorporation of a proposed RPS during the process of preparing a combined plan. It may also reduce future challenges and misinterpretation of the weighting of proposed RPS's as defined in section 43AA of the RMA in the development of a combined plan.

37. The Ministry for the Environment intends to produce guidance on the use of Part 5 when preparing and changing regional and district plans by amending the writing provisions for plans section of the QP website.

38. In June 2013, Cabinet agreed to an enhanced statutory consultation process for plan-making in Schedule 1 of the RMA [Cab Min (13) 18/8 refers]. I recommend that this proposal is not progressed (with the exception of the iwi participation and consultation arrangements). I believe that the new suite of planning process options being created through these reforms will ensure that appropriate consultation is undertaken.

The new streamlined planning process

39. The current plan making system under Schedule 1 of the RMA, does not enable councils to respond quickly to issues that require immediate planning action. In certain circumstances this has resulted in special legislation being developed to enable faster plan making.

40. I recommend the RMA be amended to enable a new streamlined planning process to be available to councils, on request, for a planning proposal. This will allow an expeditious and proportional plan making process to be provided in particular circumstances, as an alternative to Schedule 1.

41. Because councils would be able to jointly request a streamlined planning process to combine or align plan provisions, this would replace the need for the Joint Council Planning Process (JCPP) and would offer greater time savings.

1. Under the new streamlined planning process, councils will be able to request a streamlined planning process for a specific issue. A streamlined planning process could be requested to address :

    1. implementation of a national direction
    2. an issue where there are public policy reasons for urgency
    3. a significant community need
    4. the need to align or combine plan provisions, or develop a combined planning document

5. a specific issue in a plan/ policy statement which has resulted in unintended consequences

6. or any other matter, in light of the above matters.

2. I recommend that the RMA sets out entry criteria for councils to meet and specifies the information council(s) must provide when making a request to the Minister. In its request, a council(s) will need to include a description of the issue and how it meets any entry criteria, an explanation of why the council requires the streamlined planning process, identification of affected parties, a summary of any consultation undertaken (including iwi consultation), the implications for Treaty settlement legislation or iwi participation arrangements and the desired process and timeframes.

3. It is proposed that on receiving a request, the Minister would be required to consult with other relevant Ministers and consider any obligations in Treaty settlement legislation or iwi participation arrangements. The Minister will also be required to consult with the council about possible timeframes, process steps and expectations.

4. If the Minister decides that there is sufficient justification for providing a streamlined planning process, the Minister will direct that the council follow a streamlined planning process. The direction would set out the process steps to be followed, the timeframes and a statement of expectations for the council.

5. The Minister's direction to the council would be a disallowable instrument and would be notified in the Gazette.

6. To improve certainty about what a streamlined planning process would contain, I propose that the RMA specifies that, as a minimum, a streamlined planning process will include:

   - consultation on the planning proposal with affected parties (including the Minister) and iwi
   - an opportunity for written submissions
   - a report showing how comments have been considered and any modifications to the planning proposal, including an assessment of costs and benefits.

7. The Minister for the Environment would be able to consider the inclusion of further process steps depending on the issue for example :

   - pre-notification consultation
   - hearing process with tailored hearing panel
   - an independent review process.

8. The council, having followed the terms of the direction, will be required to provide a draft decision on the planning proposal to the Minister for approval. It is proposed that decision making criteria be included to guide the Minister when deciding whether to approve the councils draft plan or plan change. These criteria would be whether the council has followed the terms of the direction, the draft decision complies with national direction and the requirements of the RMA.

9. If the Minister approves the draft decision, it will be notified by the council and become operative. If the Minister is not satisfied with the draft decision, it is

proposed that the Minister could request changes are made but only if these are consistent with any submission made by the Minister and the expectations set out in the direction. The Minister would also have the power to reject the council's draft decision.

10. A council could request a streamlined planning proposal in respect of either a proposed regional policy statement, proposed regional coastal plan, proposed regional plan or proposed district plan or any proposed change to an operative regional policy statement, operative regional or district plan or variation or combined document.

11. Where the planning proposal is a proposed regional coastal plan or proposed change or variation to a regional coastal plan I recommend that the responsible Minister will be the Minister of Conservation.

12. I recommend that the streamlined planning process should not provide for an opportunity for a right of appeal (other than judicial review). This is because the appeals process is a significant source of delay and would compromise the objectives of providing a streamlined planning process. The streamlined planning process involves local and national decision-making, and judicial review will still be available to ensure accountability.

Amended EPA functions

13. The functions and powers of the EPA are conferred on it by the Environmental Protection Authority Act 2011 (EPA Act) as well as any of the environmental Acts specified in the EPA Act, including the RMA. Through this provision, the RMA provides a role for the EPA in providing services to major hearings, which has created specialist experience in the area within the Authority.

14. However, the provisions in the EPA Act have recently been found to be too narrow, as they do not enable a role for the EPA in relevant processes that are established in non-environmental legislation. This recently occurred in relation to the Christchurch Plan review, as it was established under an Order In Council under the Christchurch Earthquake Recovery Act (CER), a non-environmental Act. An urgent amendment to the Order in Council was required to resolve this issue.

15. To avoid this occurring in the future I propose amending the RMA to expand the functions of the EPA so it may respond to my request to provide services to a decision maker appointed under any Act that amends RMA processes, without the need for an Order in Council. This will also require a consequential change to the EPA Act to amend the definition of 'environmental Act' to include those Acts that amend RMA processes.

<u>Amended proposals</u>

Collaborative planning

16. A collaborative planning process for freshwater has previously been agreed by Cabinet [Cab Min (13) 18/8 refers]. The proposed process is based on the recommendations of the Land and Water Forum. There is broad stakeholder support for a collaborative process.

17. I believe that greater collaboration in planning is needed in order to address the adversarial and uncertain nature of the planning system in general, and the complexity of some issues planned for under the RMA. The more collaborative

planning process could be beneficial for a wider range of planning issues than just freshwater related matters. Therefore, I propose that the optional collaborative planning process be expanded to be available to all councils for all planning processes.

18. I am also recommending the following additional changes to the collaborative planning process which are intended to simplify the process, reduce costs, and clarify previous decisions made by Cabinet [CAB Min (13) 18/8 refers]. I propose:

    a. aligning the review panel hearing procedures with the changes proposed under Schedule 1, by limiting oral submissions to situations where the review panel asks a submitter to present (written submissions will remain open to all parties)

    b. removing the council decision on the sufficiency of the collaborative group's report, and subsequent independent adjudication if there are submissions to the Minister for the Environment

    c. including the right to appeal to the Environment Court for matters that have been through the collaborative planning process:

        i. on points of law, where the council's final decisions on the plan are:

            - consistent with the recommendations of the review panel; or

            - not consistent with the recommendations of the review panel in order to ensure compliance with relevant legislation, including treaty settlements; and

        ii. on merit, by way of rehearing where the council's final decisions on the plan are not consistent with the recommendations of the review panel

    d. allowing flexibility for regional councils to reduce the number of territorial authority members on collaborative groups to account for larger collaborative processes that span a number of districts.

19. The broader application of the collaborative process means that the range of stakeholders that should be considered by the council when appointing members of a collaborative group will vary by planning matter. Previous decisions by Cabinet specified a narrow range of stakeholders that must be considered. I intend to report back to Cabinet in March 2015 to seek agreement to detailed proposals about the stakeholders that councils must consider when appointing collaborative groups.

20. The Minister for Conservation has a statutory role in relation to coastal planning. Further work is needed to develop a process and specify the nature of the Minister of Conservation's involvement in a collaborative process for coastal planning. I intend to report back to Cabinet in March 2015 to clarify this matter.

21. Finally, I propose to allow regional councils who have started ad hoc collaborative water planning processes under Schedule 1 to move into the new collaborative process with the approval of the Minister for the Environment. In order to enter the collaborative process in this way, their process to date would

need to meet certain requirements, including that it demonstrates the same intent as the proposed process, as some regional councils have in anticipation of the collaborative process.

Proposals not being progressed

Joint Council Planning Process, Joint Planning Agreement, and Council Planning Agreement

22. The previously agreed Joint Council Planning Process (JCPP) and the supporting Joint Planning Agreement are no longer required. This process was designed to incentivise collaboration between councils and better integrate planning provisions (so users experience more consistent rules across council boundaries).

23. I consider that the objectives of the JCPP process can be met through the proposed national planning template and the option of the streamlined process. Councils can also use existing section 80 to prepare combined plans under the First Schedule, however in that case, the existing appeal provisions would apply.

24. Therefore, I recommend that all previous Cabinet decisions relating to the JCPP and the supporting Joint Planning Agreement are rescinded.

Easier permissions for housing and small developments to improve affordability

Existing proposals

Consent exemption for minor rule breaches

25. Under the RMA, resource consent is required where an activity breaches rules in a plan. In many cases, these breaches are minor in nature and have effects which are indistinguishable from permitted activities in a plan.

26. I recommend that councils be given the discretion to exempt minor rule breaches from the need for consent where:

    - there is a rule breach of a technical nature; and
    - the effects are indistinguishable from a permitted activity, temporary, and where no one is affected.

27. This proposal was considered and agreed by Cabinet in May 2013 [Cab Min (13) 15/8 refers]. I do not propose any substantive change to the policy agreed at that time.

Consent exemption for boundary infringements with neighbour's approval

28. I also recommend waiving the need for consent for activities where a boundary rule is broken and approval has been given by the party that shares the boundary. A similar proposal was agreed by Cabinet [Cab Min (13) 15/8 refers], where a consent application for such a rule breach would have been determined through a new fast-track process. This new proposal to waive the need for consent has not been considered by Cabinet.

29. These two recommendations will together allow activities that previously required resource consent to be treated as a permitted activity and therefore will:

a. avoid the cost and delay of needing to get consent where it serves little or no purpose, or where agreements between neighbours have already been reached

b. avoid the need to duplicate paperwork from building consent applications where a rule breach is technical in nature

c. apply to residential housing developments and alterations, as well as to industrial, commercial and agricultural buildings

d. authorise councils to do good customer service by avoiding the need to press for applications that serve no purpose.

30. I estimate that these proposals could avoid approximately 10,000 consent applications annually (approximately 15-30% of current applications). This will in turn avoid approximately $6.5 million in application and processing fees spent by applicants alone. They will also free up council staff to focus their time on more complex proposals that will benefit from their detailed attention.

Streamlined assessment process for subdivisions

31. I recommend that public notification be precluded for subdivision applications, except those with non-complying activity status. I also recommend that the only persons who may be considered adversely affected by subdivisions, except those with non-complying activity status, be the owners of the infrastructure assets to which the proposed subdivision is to connect.

Environment Court appeals

32. I recommend that where appeals to the Environment Court are made by a submitter, those appeals are limited to the issues raised in the person's submission. Submissions will be limited to matters that formed the basis of the decision to notify. Currently, submitters can appeal the whole or any part of a consent authority's resource consent decision to the Environment Court. Appeals can be brought against decisions on matters that were not the reasons the applicant needed a resource consent, nor the reasons the application was notified. The wide scope of appeal rights can compromise the efficiency of the Environment Court hearing process.

Scope of Submissions

33. I recommend that resource consent submissions be limited to the specific effects that resulted in the application being notified. Currently, resource consent submissions can comment on any matters, regardless of whether those matters relate to the reasons that the application was notified. Consequently, applicants must address a wider range of issues than the plan intended or for which the consent authority considered public input necessary. This can increase the time and cost of the consent process and is a source of considerable uncertainty for applicants.

Fast-track process for simple applications

34. Despite my proposals to avoid the need for consent in many instances, I still recommend the creation of a new 10-day fast track consenting process similar to the one considered and agreed by Cabinet in May 2013 [Cab Min (13) 15/8 refers].

35. Fast-track decisions will be made in half the usual 20 working day period and the pathway will apply to all applications for controlled activities (excluding subdivision), which constitute almost 20% of all applications. In addition, the fast-track pathway will apply to any activity types listed in regulations I intend to develop and introduce later.

36. A fast-track proposal was considered and agreed by Cabinet in May 2013 [Cab Min (13) 15/8 refers] and applied to a wider range of activity types. However, I recommend that this is narrowed to controlled activities and those in regulations only, as other proposals included in this package will avoid the need for consent all together for many developments.

Making subdivisions permitted unless restricted by plans

37. To undertake a subdivision, the person subdividing the land must hold either resource consent (subdivision consent) or a certificate of compliance (a council certificate proving that the subdivision was permitted by the plan). Section 11 of the RMA states that subdivisions are restricted unless expressly allowed by plans.

38. I propose to reverse the presumption in the RMA so that subdivisions are allowed unless expressly restricted. Almost all district plans require resource consents for subdivisions, so this change will not lead to unfettered or inappropriate subdivision of land. Rather, the change signals that the way to provide for new residential or commercial land uses (for example) is through the development of plans, not through individual subdivision applications.

Clarification of the legal scope of consent conditions

39. There is currently no clear statutory direction on what kinds of conditions can be placed on consents. This leads to uncertainty for applicants and can lead to consent authorities placing conditions on resource consents that are outside of the scope of the RMA.

40. I recommend that, unless agreed to by the applicant, consent conditions must be directly related to an adverse effect of the activity or proposal for which consent is required.

41. This proposal was considered and agreed by Cabinet in May 2013 [Cab Min (13) 15/8 refers]. I do not propose any substantive change to the policy agreed at that time.

42. This change will:

    a. provide more certainty to resource consent applicants regarding the scope of consent conditions that may be imposed

    b. ensure the RMA reflects best practice across the resource management sector (as established by the Newbury test)

    c. minimise the cost associated with the consenting system.

<u>New proposals</u>

Environment Court appeals

43. I recommend that the right of appeal to the Environment Court be removed for decisions arising from controlled, restricted discretionary, or a discretionary resource consent applications for:

    a. subdivision of land, or

    b. an inter-boundary rule breach.

Reducing cost, complexity, and legal risks

Existing proposals

Non-notification of simple proposals with limited effects

44. Cabinet has previously agreed to change the RMA to introduce a new approach to determining whether or not an application should be processed on a non-notified, limited notified, or publicly notified basis [CAB Min (13)18/8 refers].

45. In the new approach, existing provisions were to be retained allowing councils to notify applications at their 'discretion' (introduced in the Resource Management Amendment Act 2009) or where special circumstances exist. There has been some uncertainty regarding the power that 'discretion' provides when operating alongside the 'special circumstances' or the mandatory requirements to notify or not to notify.

46. In order to increase certainty for councils and consent applicants I recommend that the reference to general discretion is removed. The special circumstances provision has precedence and is well established in case law, so I recommend that this provision be retained. This means that, in practice, councils will maintain the power to notify applications that are unusual or exceptional using the special circumstances provisions.

47. Where an application does not meet the special circumstances provisions or the grounds for mandatory notification, it would not be notified. This change is in alignment with overall objective of the amendments to this part of the RMA, to create more certainty for all parties on the decision-making process for consent applications.

Fixed Fees

48. There is currently little certainty for applicants relating to the potential final cost of resource consents. Councils generally charge an initial lodgement fee or deposit and note that additional processing charges and disbursements may be incurred and passed on to the applicant. The final charge to the applicant may be more or less than the initial lodgement fee.

49. I recommend that councils be required to fix, and make public, certain consent charges. I also recommend that I am given new regulation-making powers to facilitate the fixed fee requirements. Regulations would provide the framework under which consent fees must be set, but councils would still be responsible for determining the actual fees. The proposed fixed fee provisions do not prevent councils from determining the extent to which they use rates to subsidise the consent process.

50. This proposal was considered and agreed by Cabinet in May 2013 [Cab Min (13) 15/8 refers]. I do not propose any substantive change to the policy agreed at that time.

51. This proposal will:

    a. give resource consent applicants certainty about the total costs of the consent process at the outset.

    b. create more consistency in the cost of gaining resource consent across the country.

    c. create more transparency in consent charging regimes.

Running efficient hearings and reducing the risk of appeal

Existing proposals

Narrowing submitters' input to the reasons for notification and requiring submissions to be struck out in certain circumstances

52. While the RMA allows councils to strike out submissions, there is insufficient criteria and guidance available to enable these provisions to be used effectively. This can result in uncertainty, delays and additional costs for all parties.

53. I propose to ensure that these processes are focused and efficient by:

    a. requiring that councils must strike out the whole, or a part, of a consent submission in certain circumstances

    b. requiring councils to state in the public notice the reason that a consent was required for the activity (e.g. which rule(s) it breaches), why it was notified in order to increase clarity around where issues lie, and that councils must strike out submission in some circumstances

    c. ensuring that the RMA clearly sets out the circumstances in which councils must strike out the whole, or a part, of a consent submission. These circumstances would include where:

        - issues raised do not relate to the reason(s) for notification
        - issues raised are not relevant to the consent decision
        - issues raised have no basis in the RMA
        - issues raised have no reasonable chance of succeeding
        - evidence is not provided to support issues raised such as claims of adverse effects
        - evidence provided is not independent, impartial or objective

    d. ensuring that the RMA clearly sets out that councils are not required to strike out the whole, or a part, of a consent submission, regardless of whether it relates to the reason(s) for notification, if doing so would materially compromise the application of Part 2 of the RMA to the process (the purpose and principles of the RMA)

e. ensuring no Environment Court appeal rights are available against a decision to strike out whole, or a part, of a consent submission, beyond existing objection rights.

New proposals

Hearings commissioners to be paid on a fixed fee basis and councils to fix a budget for each hearing before it begins

54. Hearings commissioners are usually paid on an hourly or daily rate and the cost of their time (preparing for, siting on, and writing up hearings decisions) is a large proportion of the overall costs of a notified resource consent process.

55. I propose to require consent authorities and local authorities[1] to pay hearings commissioners on a fixed fee basis. I also propose to require consent authorities and local authorities to fix the fee for notified resource consent and plan hearings, prior to the hearing commencing. This will involve a new regulation making power.

56. Being paid on a fixed fee basis will incentivise commissioners to run hearings more efficiently. The change will complement other reform proposals, existing provisions, or changes coming into effect in March this year aimed at speeding up the hearing process. These include commissioners deciding who they hear from at a hearing (current proposal), evidence being taken as read and the pre-provision of expert evidence.

57. By setting a fixed fee for the hearings process, consent authorities and local authorities (in the case of plan hearings) will be encouraged to manage the process more efficiently (for example, estimating costs, managing input from specialists, legal advice, staff time, venue costs). The fixed fee will give applicants more certainty about the overall cost of the hearings process before it starts.

58. It will be up to each consent authority and local authority to determine its own remuneration policy for commissioners including the amount they will actually be paid. However, the regulation may set out an optional method for calculating their fixed fees. The regulation may also set out a method for fixing the fee for the hearings process overall. This could be based, for example, on the complexity of the application and/or the number of submissions received.

59. Note this change will not apply to the payment of local government elected members (who I propose will only be on plan hearings) as their fees are set under the Local Government Act.

60. Both these changes will enable consent authorities and local authorities to more accurately estimate fees for notified resource consents and plan changes which will significantly increase certainty for applicants and reduce the overall costs.

61. Key risks associated with this policy are that: commissioners may have a perverse incentive to cut hearings short, it may be difficult to get good commissioners and the quality of decisions may be negatively affected which could increase appeals. For plan hearings, unforeseen issues may arise at hearings that require more time or more input from specialists, although the

[1] Consent authorities administer notified resource consent and private plan change applications, local authorities (territorial or regional councils) administer all other plan-related hearings.

regulation may mitigate this by allowing councils to exclude council plan hearings from the policy.

Dealing with objections and appeals fairly and efficiently

Existing proposals

Environment Court process improvements

62. Cabinet previously considered and agreed a range of proposals to reduce the risk of notification and appeals on resource consent applications in May and June 2013 [Cab Min (13) 15/8 and Cab Min (13) 18/8 refer]. I propose that the following previously agreed proposals be reconfirmed to apply to resource consent applications and appeals on consent decisions:

- Treatment of subdivision consents (reversal of presumption, and non-notified if anticipated by planning documents)
- Requirement to outline reasons for notification in the public notification
- Narrowing the focus of submissions
- Evidence and submissions to be limited to matters in dispute
- Scope of appeals to be limited to the matters raised in the appellant's submission
- Applicant can object to an independent commissioner
- Use of alternative disputes resolution strengthened
- Consideration of judicial conference required to narrow issues in contention
- Greater flexibility in the use of Environment Court decision makers
- Environment Court Fee waiver.

New proposals

Independent commissioners to determine an application

63. Currently applicants or submitters can request that hearings be conducted by an independent commissioner. I recommend that the RMA be amended to require that all consent hearings are undertaken, and decisions on those applications made, by independent commissioners. This will separate implementation decisions from planning decisions, and will focus consent decision makers on interpreting and implementing the plan.

64. This is a significant change to the way consent hearings are run as it will preclude elected officials from sitting on panels to determine consent applications in their districts or regions. However, I am confident that this change will produce consent hearings that are more satisfactory for everyone involved. This is because hearings will be run by professionals who are resource management experts and are experienced, qualified, and fully independent.

65. There need not be any increase in costs for applicants as a result of this change, because frequently professional commissioners can run hearings on their own or in small panels, and with a high level of efficiency.

66. This approach will support other changes in this package that improve the way submissions and evidence will be considered at or before hearings.

Ensuring property rights are given due consideration

New Proposals

Ability for the Environment Court to direct councils to acquire land

67. I propose to amend section 85 of the RMA to introduce a new remedy for landowners whose land is subject to an operative planning provision that:

    a. renders their land incapable of reasonable use, and

    b. places an unfair and unreasonable burden on them.

68. Currently the Environment Court is able to require a council to modify, delete or replace the provision that has caused the land to be incapable of reasonable use. This results in private property rights trumping community needs and does not allow an optimal solution to be found.

69. I recommend to amend the RMA so that the Environment Court can, where land has been rendered incapable of reasonable use by a plan provision, require a council to either:

    a. modify, delete, or replace the provision; or

    b. acquire all or part of the relevant land or an interest in it.

70. The choice of which remedy is used would be the council's, but it could only acquire land or an interest in land if the owner consents.

71. The proposed amendment adopts an approach that requires policy approval by Cabinet in the following areas:

    a. the Environment Court will be able to direct a council to either change the provision in accordance with its direction, or in the case of an operative provision, acquire all or part of the land or an interest in the land subject to the owner's consent, in cases where the threshold tests in section 85 are met;

    b. the remedy will not be available to owners who purchased a property after the plan restriction in question was first notified or otherwise included in the relevant plan; and

    c. compensation will be payable for all or part of an estate or interest in land ordered to be taken and will be assessed under the PWA, and as if the restrictions did not apply.

72. The procedures outlined above are broadly consistent with those that the Environment Court is required to follow when ordering the taking of land by a requiring authority for a public work under section 185 of the RMA.

73. I consider that this amendment will provide an alternative remedy that allows councils to find more optimal solutions where their plan significantly impacts on

individual private property rights. Currently the only option available is to change the content of the plan, which has already been considered and agreed by the wider community. However, allowing the purchase of affected land provides a new way of resolving these issues that retains a community's vision and goals, as outlined in their plan.

74. This provision will come into force upon Royal Assent, and will apply to any section 85 applications filed after that date.

Improving processes

Existing proposals

Board of Inquiry process improvements

75. In May 2013, Cabinet agreed to make the following changes to the RMA to reduce costs and complexity of the Environmental Protection Authority (EPA) nationally significant proposals (NSP) process [Cab Min (13) 15/8 refers]. I recommend that the following previously agreed proposals be reconfirmed:

    a. require the public notice for a nationally significant proposal to include a summary of the description of the proposal and a summary of the Minister's reasons for making a direction; and be included in a newspaper(s) circulating in the area likely to be directly affected by the proposal; and include a summary of this notice in the major national newspapers where information about the proposal can be found

    b. require Boards of Inquiry to have regard to cost effective processes when carrying out their duties

    c. improve the ability for electronic provision of information and access to information related to proposals of national significance

    d. remove the requirement for draft decisions that relate to notices of requirements to be served on affected landowners and occupiers unless they are already a party to the process

    e. enable Boards of Inquiry to request the EPA to provide planning advice

    f. increase the period in which a decision is made on a call in request, so that a matter can be called in up to five days before the commencement of the hearing

    g. enable the EPA to recover debts from the nationally significant proposals process as a debt to the EPA, therefore allowing the EPA to pursue commercial avenues for unpaid debts

    h. provide the EPA discretion to suspend processing of a proposal where there are outstanding debts, provided the EPA has made written demand for payment of the amount outstanding and provided the applicant 20 working days' notice of their intention to suspend processing if payment is not made.

New Proposals

Board of Inquiry process improvements

76. To further improve the overall time and cost of Board of Inquiry process, I also propose to:

    a. require that Boards of Inquiry must have regard to the estimated level of processing funding set by the EPA for the consideration of an NSP

    b. expand the functions of the EPA to allow the EPA to direct a Board of Inquiry on procedural matters

    c. create direct powers for the EPA to choose the locality, commencement date and time of a hearing.

77. These changes will improve the time and cost certainty of the overall Board of Inquiry process.

Changes to the composition of the Board

78. Currently a Board of Inquiry must be chaired by a current, former or retired Environment Court judge, or a retired High Court Judge. This requirement which has a higher associated process cost was added in 2005 when the appeal rights to a Board of Inquiry decision were truncated. This one size fits all approach to the composition of a Board is inflexible given there now exists a pool of suitable and more cost effective substitutes as a result of the Making Good Decisions training program.

79. I propose to:

    a. make optional the current requirement for a Board of Inquiry to be chaired by a current, former or retired Environment Judge or a retired High Court Judge

    b. balance this provision with a requirement for the Minister for the Environment to include legal expertise when appointing a Board.

80. These changes will provide greater flexibility in Board appointments and may reduce the adversarial nature of Board of Inquiry processes.

Notification decisions will be made in reference to environmental effects and policies and objectives of plans

81. Currently, the full notification test for resource consent applications is based solely on the adverse environmental effects of the proposal. This decision does not take into account whether or not the plan anticipates the proposed activity through its objectives and policies and can lead to a second round of public input and litigation at the consent stage, even if the proposal at hand is consistent with decisions that have already been through a process of public input at the plan-making stage.

82. I propose to amend the RMA to require the effects of a proposal to be considered in the context of the objectives and policies of the relevant plan. This will introduce a revised notification test, noting that this package includes a wider set of revised and reduced assessment requirements for a number of development types, including housing.

83. By introducing an objectives and policies test for full notification, the proposed amendments aim to achieve time and cost savings and increase certainty for applicants by avoiding full notification for proposals that are deemed to be

consistent with the intent of the relevant plan. It will also incentivise better quality plans and place greater emphasis on up-front decision-making.

Amended proposals

Streamlined public notices and servicing of documents requirements

84. I propose to require that all RMA public notices be in plain English and be made available on publically accessible websites. I am also proposing to reduce newspaper advertisement costs by requiring that newspaper public notices include only the most relevant information about an application and where to find further information online.

85. I also propose that greater servicing of documents to parties occurs via online platforms, which will result in reduced levels of paper servicing and avoid unnecessary costs. Applicants and submitters will be required to provide email addresses to the council and all application correspondence including submissions or notices will be sent electronically. This means there will be no requirement for councils to physically service parties with documents unless where it is explicitly requested.

86. The proposed changes will:

    a. reduce the end user costs incurred from advertising, printing and postage;

    b. make greater use of existing electronic platforms to increase public engagement;

    c. provide greater flexibility in the methods by which documents are serviced under the RMA;

    d. make RMA processes more resilient to any future changes in the frequency of postal delivery; and

    e. align RMA processes with changing social and technology preferences and wider government initiatives.

87. This proposal was previously considered by Cabinet, however only in relation to Board of Inquiry processes. I now recommend that this provision apply to all hearings processes.

Minor changes to the PWA

88. Cabinet has previously agreed to a number of changes to the Public Works Act 1981 (PWA) to provide a fairer and more efficient land acquisition process. [CAB Min (13) 20/9A refers].

89. The Minister for Land Information and I recommend a further minor amendment to the PWA to ensure that tenants under the Residential Tenancies Act do not qualify for solatium payments. This interpretation is consistent with historical and current PWA practice and the change will ensure the true owner of the land (i.e. the lessor) will not be unfairly denied access to the solatium payment.

90. All amendments to the PWA will come into force on the day following Royal assent [CAB Min (13) 20/9A refers].

Coastal and Marine Issues

New proposals

Abandoned coastal structures

91. Currently, many regional councils remove old, derelict and minor structures in the common marine and coastal area to promote the efficient use of space and to manage adverse effects including health and safety problems. However, legal advice has determined that regional councils do not have legal authority to remove these structures, as section 19 of the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA Act) requires them to undertake an inquiry to attempt to find an owner when a structure appears abandoned. If an owner cannot be found, ownership passes to the Crown (DOC).

92. Undertaking inquiries for these structures (which will include thousands of pre-RMA coastal structures) would be impractical and costly for both regional councils and for the Crown. It will also lead to unnecessary ownership costs for the Crown.

93. I propose amending the RMA to provide regional councils with the discretion to remove abandoned coastal structures that do not warrant a formal MACA Act inquiry where:

    a. efforts to locate an owner have been unsuccessful; and

    b. the structure is likely to have no, or minimal value to any owner or to the community.

94. If the effects of removal are more than minor the council would need to undertake removal in accordance with provisions in its regional coastal plan.

95. This proposal will likely require a consequential amendment to the MACA Act.

Aquaculture permits

96. Cabinet previously agreed to amend section 68A of the RMA to clarify when a resource consent is required for aquaculture activities [Cab Min (13) 18/8 refers]. The amendment was designed to clarify the reach of section 68A to address an issue of interpretation of the RMA in relation to a proposed plan change in the Marlborough Sounds Resource Management Plan. However, the change is no longer required because the issue has since been resolved satisfactorily through a Commissioner's decision on the plan change.

97. In addition, I am advised that the proposed clarification might cause unintended interpretation issues for related and important defined terms in numerous other places in the RMA. I therefore propose to rescind the previous Cabinet agreements.

Improved Council performance

Existing proposals

Enhanced council monitoring requirements

98. There are currently significant limitations on the ability of communities, and by association the Government, to monitor the performance of councils in delivering their functions and duties under the RMA. This makes it difficult for communities to determine how their council is performing and to hold them accountable for that performance. In May 2013, Cabinet considered and agreed to additional regulation making powers that would:

    a. require local authorities to monitor the efficiency and effectiveness of the processes it adopts to exercise its powers and perform its functions under the RMA, including timeliness, costs, and customer satisfaction, and

    b. require monitoring to be undertaken in accordance with any regulations.

99. The policy intent of these changes is to ensure that councils understand that implementation of their powers and functions under the RMA should be in a way that meets the expectations of their community. Requirements to monitor timeliness, costs and customer satisfaction and report on this to the community will enable communities to compare the performance of their council with others.

100. The key benefit of improved performance reporting is that councils will have a clear understanding of what they are expected to achieve and how their performance will be measured. They will be able to quickly identify areas of underperformance within their regions and be equipped to respond to improve processes and customer service.

101. These new monitoring proposals also enable regulations to be made to prescribe how councils undertake monitoring, including what information must be collected, what methodologies must be used and how these would be reported. This would lead to standardised information collation, better facilitating council comparisons and improving the quality and consistency of the information received from councils for activities such as the national monitoring system.

102. I am not proposing any changes to the policy agreed by Cabinet at that time [Cab Min (13) 15/8 refers].

Appendix 2: Summary of proposals

	Paper	Policy	Explanation	Status
Enhance management of significant risks from natural hazards	1	Improved management of risks from natural hazards	Requiring that consideration is given to the risks from significant natural hazards when decisions are made on subdivision applications	Previously agreed
Strengthen national direction tools, including national planning template	1	New regulation making power to provide national direction through regulation, stating where activities should be permitted or certain rules should not be made	A new regulation making power would allow the Minister to permit activities or restrict councils from making certain rules for the purposes of: • Avoiding duplication with other legislation • Avoiding restrictions on land use that are not reasonably required to achieve the purpose of the Act.	New
	1	Providing greater flexibility for NES	Further increasing flexibility of NES by enabling them to: • Overriding existing use rights and resource consents • Triggering the review of land-use consents • Enabling council rules to be more lenient • Enabling charging for monitoring permitted activities • Requirements for councils.	New
	1	NPS and NES changes, guidance and practice	Allows for combined development of NES and NPS; requires increased consultation with iwi for NESs to align with requirements for NPS; allows NPS to contain more specific direction for council plans including matters to be considered or methods to be used, constraints on content, and monitoring and reporting requirements; and allows NPS and NES to be more targeted to a specific council area including targeted notification and consultation requirements.	Previously agreed
	1	National Planning Template	Legislative change is proposed to provide for a mandatory national planning template, which will reduce plan complexity and provide a home for national direction.	Previously agreed
	2	*Changes to Part 2, sections 6 and 7*	*Proposes amendments to Part 2, likely to include addition of matters pertaining to the urban environment and management of risks of natural hazards*	*Revised*
Provide for faster and more flexible plan-making processes, while encouraging collaborative resolution	1	Changes to the plan making process	Proposes the following changes to the existing plan making process: • Allowing limited-notification of some plan changes • Enforcing the 2 year time frame for making decisions on plans • Clarifying the status of regional policy statements for combined plans.	New
	1	Enhanced Māori participation	Proposes the creation of voluntary iwi participation arrangements to incentivise effective relationships between iwi and councils. Enhances existing consultation requirements	Previously agreed
	1	Collaborative Planning Process	Creates a collaborative planning process for all resource management issues, based on the process proposed by the Land and Water Forum. (Cabinet has previously agreed this process as it relates to Fresh Water, however is now proposed to cover all resource management issues)	Previously agreed and revised
	1	Streamlined Planning Process	To enable the Council, to request the Minister direct streamlined planning process to be followed, instead of the First Schedule, when for developing a particular plan or plan change	New
	1	Amend EPA functions	Expanding the powers of the EPA to enable it to provide services to other decision-making processes, including the streamlined planning process, when requested	New
Easier permissions for housing and small developments to improve affordability	1	Consent exemption for boundary infringements with neighbour's approval	Avoids the need for resource consent where neighbours have already agreed to accept the effects of the infringement *Not previously agreed by Cabinet, but included here as part of exemption suite	New
	1	Consent exemption for minor rule breaches	Gives councils the power to waive the need for resource consent where, under the circumstances, the effects being controlled are so minor that the full consent process gives little benefit	Previously agreed
	1	Fast-track process for simple applications	Shorter statutory timeframe for councils to deliver consent decisions in 10 days for controlled activities and those specified in regulations	Previously agreed
	1	Making subdivisions permitted unless restricted by plans	Allowing subdivisions to take place without consent unless planning decisions have been made to control them	Previously agreed
	2	*Streamlined assessment process for boundary infringements and subdivisions*	*Restricts involvement of other parties to immediate neighbours only, so focuses the council's assessment on the effects of the proposal and its consistency with the type of development anticipated by plans. Decisions on applications cannot be appealed to the Environment Court,*	*Previously agreed*

	Paper	Policy	Explanation	Status
			unless proposals seek to re-litigate planning decisions (they are non-complying activities)	
Reduced cost, complexity and legal risks	1	Introducing regulation-making powers providing nationwide: • Non-notification of simple proposals with limited effects • Limited involvement of affected parties for certain activities • Fast track processing for simple proposals • Consent decisions issued with a fixed fee	These regulations will allow the nation-wide delivery of consent decisions, for listed activities, without public or limited notification (or with clarified scope for including other parties), on a 10-day timeframe and at fixed cost to applicants. For many applications they will avoid incentives for councils to spend excessive time and money evading legal risks.	Previously agreed
	1	Clarification of the legal scope of consent conditions	Codifies case law to require in the RMA that consent conditions be limited to the effects of the proposal and be fair and reasonable	Previously agreed
	2	*Repeal financial contributions from the RMA*	*Repeals the ability of councils to charge financial contributions under the RMA. A transition period of five years would be provided so councils could explore other funding regimes as necessary*	*New*
Efficient hearings and reduced risk of appeal	1	All decision makers to be given fixed remuneration	Requires local authorities to fix remuneration of resource consent and plan hearing commissioners, and requires councils to set a budget for each hearing, in accordance with new regulations	New
	1	Requiring submissions to be struck out in certain circumstances	Submissions must be struck out where they do not relate to the reasons for notification, are not relevant, do not provide evidence or advance arguments that have no chance of succeeding. Submitters that are struck out will not be able to appeal consent decisions to the Environment Court	Previously agreed
	1	Narrowing submitters' input to the reasons for notification	This ensures submitters on resource consent applications help decision makers make decisions, by focussing their input to the parts of the proposal that warranted public input.	Previously agreed
	2	*Increasing the ability for decision makers to actively manage hearings*	*Enables decision makers to decide witnesses to be called and whether to receive oral or written evidence or submissions*	*New*
Fair and efficient treatment of objections and appeals	1	Applicant can object to an independent commissioner	For applicants this provides an alternative and independent route of objection to local authorities' decisions on consent conditions and costs	New
	1	Environment Court process improvements • Use of dispute resolution strengthened • Consideration of judicial conference required to narrow issues in contention • Greater flexibility in the use of Environment Court decision makers • Fee waiver	These support efficient and speedy resolution of appeals that reach the Environment Court, noting that only those submitters with genuine cases and evidence will be able to advance to the appeal stage, and they may only appeal aspects of the proposal that warranted notification	Previously agreed
Ensuring property rights are given due consideration	1	Ability for the Environment Court to direct councils to acquire land	Where planning provisions have rendered land incapable of reasonable use and places un unfair and unreasonable burden on the landowner, the Environment Court will be able to require councils to either: • Modify, delete, or replace the provision (existing provision); OR • Acquire all or part of the relevant land or an interest in it (new provision).	New
Improve RMA processes more generally, including encouraging greater use of IT and better monitoring	1	Streamlined and electronic public notification requirements and electronic servicing of documents	Requiring advertisement of public notices on websites and reducing the advertisement requirements in newspaper and requiring service of documents to be carried out electronically as much as possible	New
	1	BOI process improvements	This is a suite of technical amendments to the Board of Inquiry process is designed to reduce cost and complexity making greater use of IT and removing unnecessary process steps	Revised
	1	Notification decisions will be made in reference to environmental effects and the policies and objectives of plans	Proposes revised test for notification, which takes into account plan policies and objectives in addition to adverse effects (the status quo)	Revised
	1	Minor changes to the Public Works Act	Amendments to the PWA to ensure a fairer and more efficient land acquisition process	Previously agreed
	1	Enhanced council monitoring requirements	Enables new regulations which prescribe how councils must carry out their monitoring obligations, including what information must be collected, what methodologies must be used, and how and when the information is to be reported	Revised
	1	Abandoned coastal structures	Proposes to provide regional councils with discretion (within criteria) to decide what efforts to go to in determining ownership of abandoned coastal structures and remove those that do not warrant a formal inquiry	New

	Paper	Policy	Explanation	Status
	1	Aquaculture permits	Proposes to rescind previously agreed amendments to s68A of the RMA which clarified when resource consent is required for aquaculture activities. This change is no longer required as the issue it was intended to deal with has been resolved	New
	2	*Coastal occupation charges*	*Proposes to simplify the process by which regional councils can introduce coastal occupation charges*	*New*
	2	*Combined resource consent and concessions process*	*Proposes the creation of an optional joint process for notified and nationally significant proposals that require both conservation concession and resource consent*	*New*
	2	*Integrated resource consent and Reserves Act process*	*Proposes the creation of an optional joint plan change, Reserve Act application and resource consent decision making process*	*New*
	2	*Aligning Ministerial intervention powers with the Local Government Act 2002*	*Proposes the adoption of the powers for Ministerial intervention from the Local Government Act 2002, which will allow the Minister to:* • *Require information* • *Appoint a Crown Review Team* • *Appoint a Crown Observer* • *Appoint a Crown Manager.* *Note the existing LGA power to appoint a Commission is not proposed to be included in the RMA.*	*Revised*
	2	*Rationalising dam safety provisions across the RMA and Building Act*	*Proposes a systematic and consistent regulatory approach in managing dam safety*	*New*
	2	*Enabling alternative consent authorities to provide consent services under the RMA*	*Enabling alternative consent authorities to provide consent services under the RMA*	*New*

Certification by Minister:

Ministers should be prepared to update and amplify the advice below when the submission is discussed at Cabinet/Cabinet committee.

The attached proposal:

Consultation at Ministerial level	☐ **has been** consulted with the Minister of Finance *[required for all submissions seeking new funding]* ☑ **has been** consulted with the following portfolio Ministers: RMA Group of Mins. ☐ **did not need** consultation with other Ministers
Discussion with National caucus	☐ **has been** or ☑ **will be** discussed with the government caucus ☐ **does not need** discussion with the government caucus
Discussion with other parties	☐ **has been** discussed with the following other parties represented in Parliament: ☐ Act Party ☐ Maori Party ☐ United Future Party ☐ Other [specify] ☐ **will be** discussed with the following other parties represented in Parliament: ☑ Act Party ☑ Maori Party ☑ United Future Party ☐ Other [specify] ☐ **does not need** discussion with other parties represented in Parliament

Portfolio	**Date**	**Signature**
Environment	12 / 2 / 2015	

Consultation on Cabinet and Cabinet Committee Submissions

Certification by Department:

Guidance on consultation requirements for Cabinet/Cabinet committee papers is provided in the CabGuide (see Procedures: Consultation): http://www.cabguide.cabinetoffice.govt.nz/procedures/consultation

Departments/agencies consulted: The attached submission has implications for the following departments/agencies whose views have been sought and are accurately reflected in the submission:

The Treasury, Ministry of Business, Innovation and Employment, Department of Conservation, Department of Internal Affairs, Te Puni Kōkiri, Ministry of Transport, Ministry of Justice, and the Ministry for Primary Industries.

Departments/agencies informed: In addition to those listed above, the following departments/agencies have an interest in the submission and have been informed:

Department of the Prime Minister and Cabinet

Others consulted: Other interested groups have been consulted as follows:

The collaborative planning process is based on the recommendations of the Land and Water Forum (LAWF).

The Freshwater Iwi Leaders Group (ILG) and the Freshwater Iwi Advisors Group have had input into the collaborative planning process. Their views have been considered and are woven into the elements of these foundation measures.

Name, Title, Department: Peter Brunt

Date: 12/February/2015	**Signature**

If this form covers two pages ensure that both certification sections are completed and attached at the back of the Cabinet/committee submission