

Resource Management legislation to be reformed this parliamentary term

The Government has announced the process to repeal and replace the Resource Management Act 1991 (RMA). We take a closer look at the details here.

Three new Acts

The three new Acts will be the:

- **Natural and Built Environments Act (NBA)** to provide for land use and environmental regulation (the primary replacement for the RMA);
- **Strategic Planning Act (SPA)** to integrate with other legislation relevant to development, and require long-term regional spatial strategies. Strategies will facilitate more efficient land and development markets to improve housing supply, affordability and choice, and climate change mitigation and adaptation; and
- **Climate Change Adaptation Act (CAA)** to address complex legal and technical issues associated with managed retreat and funding and financing adaptation.

The purpose of the Natural and Built Environments Act

The NBA will be drafted first and will integrate management of both natural and built environments. Its purpose will be to promote the quality of the environment to support the wellbeing of present and future generations and to recognise the concept of Te Mana o Te Taiao ('the mana of the environment').

The purpose of the NBA will be achieved by ensuring:

- a) the use, development and protection of natural and built environments is within a system of biophysical limits;
- b) positive outcomes for the environment are identified and promoted;
- c) subject to (a) and (b), the adverse effects of activities on the environment are avoided, remedied or mitigated.

Initial in-principle policy decisions

The purpose and supporting provisions of the NBA recommended by the Randerson Review Panel are proposed to be provisionally adopted. The Minister recommends caution in departing from that drafting.

The initial in-principle policy decisions relating to the NBA purpose and supporting provisions are:

- integrated management of natural and built environments;
- the purpose of the NBA must protect the natural environment and enable development;
- recognising the concept of Te Mana o te Taiao;
- requiring decision makers to give effect to the principles of Te Tiriti o Waitangi and establish a stronger strategic role for Māori;
- proposed system of environmental biophysical limits/minimum standards for environmental outcomes to be central to protecting and sustaining the natural environments biophysical resources¹;
- system of outcomes² to guide those undertaking functions under the NBA to replace existing 'matters

¹ Biophysical resources are freshwater, coastal waters, air, soils, biodiversity, and terrestrial and aquatic habitats.

² Outcomes to be grouped into related subject matters – natural environment, built environment, Tikanga Māori, rural, historic heritage, natural hazards and climate change.

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of national importance' and 'other matters' in Part 2 RMA;

- implementation principles to assist decision makers: it is agreed that in achieving a target or outcome, activities must comply with, and cannot override or be contrary to, biophysical limits; and that Part 2 is implemented through national direction, and plans give effect to national direction.

The system for central government direction under the NBA will be provisionally called the National Planning Framework, and it will set national priorities and direction to guide local decision-making (i.e. mandatory national direction).

Combined plans will be required under the NBA for each region (the existing 100-plus RMA Council planning documents will be reduced to about 14), and the process for developing and changing plans streamlined.

What is the process from here?

The NBA will be progressed first, using a special process involving development of an exposure draft that will be subject to a select committee inquiry ahead of legislation being formally introduced to the House.

The exposure draft will contain the main structure and likely headings of the full NBA. Details such as consenting processes, heritage protection mechanisms, designations, proposals of national significance, Environment Court workings, water conservation, allocation methods, compliance, monitoring and enforcement and transitional arrangements will continue to be developed in parallel to the select committee inquiry.

The SPA and CAA will not have an exposure draft process but will be developed in parallel with the NBA.

The Minister seeks Cabinet's approval to establish a Ministerial Oversight Group (**the Group**) which will have

delegated decision making powers to progress the exposure draft including development of policy and consultation material, and associated powers relating to the SPA and CAA.

Key matters of policy the Group are expected to address include: the purpose and supporting provisions of the NBA; the mandatory national policies and standards to support the NBA, which include the establishment of biophysical limits, outcome and targets; and providing for a single planning document for each region (including the Coastal Marine Area).

Direct engagement with local government, central government agencies and the Parliamentary Commissioner for the Environment is anticipated.

The Government will work with Māori entities on key elements of the NBA including the strengthened recognition of tikanga Māori and Te Tiriti o Waitangi.

Continued engagement with local government is seen as crucial. Local government has significant expertise relevant to reform and will be partners in implementing the new system.

MFE will be the lead agency for developing the NBA and is already working with relevant agencies. It is anticipated there will be collective leadership for the SPA.

What is the timing?

The exposure draft of NBA Bill will be available mid-year and potentially be law by the end of 2022.

The NBA and SPA will be introduced to Parliament at the end of 2021. There are several stages that a bill passes before becoming an Act of Parliament. These stages ensure that a bill is subject to public debate and scrutiny. Some of these stages will also provide an opportunity for a bill to be changed.

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It is intended that the NBA will have its First Reading, be referred to a select committee, have its Second Reading, go to the committee of the whole House, and have its Third Reading and be voted upon by the end of 2022. After this, the NBA will still require Royal assent to become law.

Engagement

Opportunities for formal engagement prior to the formal submission on the bills (once introduced to the House) will be limited to selected stakeholders necessary to ensure the new system works.

Select committee processes will be the primary method of engagement for wider stakeholders and the general public.

We will keep clients informed about opportunities arising.

Want to know more?

If you have any questions about the proposed reform, please contact our specialist [environment, planning, and natural resources team](#).

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