


31 July 2025

Ref: OIA25-TW14



Via email:



Dear ,

On 22 July 2025 the Infrastructure Commission (the Commission) accepted a partial transfer of your Official Information Act (OIA) request dated 15 July 2025 to Hon Chris Bishop under section 14 of the Official Information Act on the grounds that some of the information you requested was more closely connected with the functions of the Commission.

The part of your request transferred to the Commission was for:-

".... copies of all documents listed in your response to written question 32214 (2025)".

Information being released

Three Commission documents listed in the response to written question 32214 (2025) have been identified to be in scope of your request and are itemised in the table below.

Documents in scope of this request				
Item	Date	Document Reference and Description	Decision	Section of the OIA applied
1.	19 December 2023	TW-2023-322 Infrastructure and The Resource Management and Planning System – Early matters for consideration	Release in part	s9(2)(a)
2.	19 March 2024	TW-2024-373 Targeted Amendments for RMA Amendment Bill #2 to support infrastructure provision	Release in part	s9(2)(a)

3.	16 May 2024	TW-2024-407 Priority Resource Management Reforms for Infrastructure in Phase 2 and links to Phase 3	Release in part	s9(2)(a)
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I have decided to release the documents listed above, subject to some information being withheld under section 9(2)(a) of the OIA to protect individuals' privacy.

We note that due to the passage of time, some of the commentary in our advice may no longer be current, but this advice did reflect our best understanding of the proposal at the time.

In making my decision, I have considered the public interest considerations in section 9(1) of the Official Information Act.

Please note that this letter (with your personal details removed) and the enclosed document may be published on the Commission's website.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely



Peter Nunns
General Manager – Strategy

Infrastructure and the Resource Management and Planning System – Early matters for consideration

Date: 19 December 2023

Report No: TW-2023-322

To	Action sought	Deadline
To Hon Chris Bishop, Minister for Infrastructure	Christmas reading and consideration for decisions in early 2024 on resource management system reforms	23 January 2024
CC Simon Court MP, Parliamentary Under-Secretary to the Minister for Infrastructure		

Contact details

Name	Role	Phone
Georgia Kahan	Policy Advisor	
Paul Alexander	Director, Policy	s9(2)(a)
Barbara Tebbs	General Manager, Policy	s9(2)(a)

Actions for the Minister's office staff

Forward this report to the Parliamentary Under-Secretary to the Minister for Infrastructure (if agreed by the Minister)

Return this report to The Infrastructure Commission | Te Waihanga with any written feedback

Minister's Comments

Recommendations

We recommend that you:

1. **Agree** to forward this briefing to the Parliamentary Under-Secretary to the Minister for Infrastructure

Agree / disagree

2. **Note** that this briefing provides advice, to support your infrastructure portfolio, outlining considerations for your second phase of RMA reform, and that the Infrastructure Commission will work with the lead agency, the Ministry for the Environment (MfE), on more comprehensive advice in early 2024.

3. **Agree** to discuss this briefing with Infrastructure Commission officials in early 2024

Agree / disagree

4. **Direct** the Commission to work directly with MfE and other relevant agencies to provide advice in early 2024 on an overall approach to national direction that supports more effective and efficient provision of infrastructure including options, timing and resourcing implications.

Agree / disagree



Barbara Tebbs
GM Policy

Hon Chris Bishop
Minister for Infrastructure

____ / ____ / ____

Infrastructure and the Resource Management and Planning System – Early matters for consideration

Purpose of this Report

1. The purpose of this briefing is to provide an overview of the resource management and planning system, focussing on:
 - national direction under the RMA
 - key areas that could form part of the second phase of RMA legislative amendments.
2. This advice is provided ahead of, and complementary to, wider advice on changes to the RMA system that the Ministry for the Environment (MfE) is leading. It focuses specifically on matters impacting the delivery of infrastructure, to support your objectives for the infrastructure portfolio and to inform your wider considerations of changes to the resource management and planning system.
3. This briefing is initial advice from the Infrastructure Commission | Te Waihanga (the Commission). We can provide more detailed advice on any of these matters and advice on the third phase of wider system reform options, including separate environment and planning legislation, as needed. We understand the MfE will be leading work on a Cabinet Paper early next year providing an overview of RM reform over this term, to which we will contribute.

Summary of Key Points

4. If done well, targeted resource management reforms could greatly improve infrastructure provision, unlock housing and renewable energy, and help build better resilience to weather events.
5. **National direction** is currently incoherent. Most national direction under the RMA is framed as environmental effects to manage, whereas other jurisdictions focus on activities and sectors. In reviewing the system, the aim should be for greater coherence and a consolidated approach that addresses inconsistencies and duplication across existing and any new national direction.
6. There are short to medium term options to develop direction for infrastructure activities:
 - The infrastructure chapter developed for the National Planning Framework can be readily adapted into an initial National Policy Statement (NPS) on infrastructure under the RMA.
 - The Commission developed a first set of infrastructure standards for the National Planning Framework that can be adapted as an Infrastructure National Environmental Standard (NES), which could reduce the complexity of consenting processes.

- Consider a 'one stop shop' approach to provisions and pathways for infrastructure across all national direction.
7. Infrastructure provision is highly impacted by the approach to national direction instruments. We can provide further advice on the interactions with freshwater management, indigenous biodiversity and the NZ Coastal Policy Statement. Cabinet will need to consider early advice on National Policy Statements in relation to Renewable Energy Generation, Highly Productive Land, and Natural Hazards, which are highly relevant for infrastructure providers.
 8. In addition, there are other planning tools and approaches to consenting and re-consenting infrastructure:
 - The 2019 Planning Standards provide an opportunity to drive more consistent approaches to district and regional plans, and could be extended to include zones for activities such as ports, and lifting baselines for permitted activity.
 - Long-lived and essential infrastructure faces upcoming significant and time-consuming re-consenting processes that could be re-examined to test the value/resource trade-offs.
 9. The Commission supports consideration of the following areas, which would improve the planning and consenting of infrastructure, for **inclusion in a package of RMA Amendments in 2024**:
 - Spatial Planning - particularly identifying national networks such as road, rail, transmission and telecommunications
 - Expanding the criteria for requiring authorities in line with the Natural and Built Environment Act (NBA)
 - Amendments to designations to better support advanced land and corridor protection for infrastructure
 - Improvements to plan-making provisions.

Problem definition

New Zealand faces urgent infrastructure challenges and the planning system needs improving

10. Treasury has estimated New Zealand has an infrastructure deficit of \$210 billion. Nationally, we require a resource management system that enables the efficient delivery of new infrastructure and ongoing maintenance and renewals of existing infrastructure.
11. Specifically, New Zealand requires a faster and more enabling consenting system to address the infrastructure deficit and meet climate goals.¹ The costs of consenting are

¹ Research commissioned by the Infrastructure Commission found that Aotearoa New Zealand is projected to miss between 11-34 per cent of the emission reductions required by 2050 due to

unacceptably high compared to international benchmarks; current consenting processes cost infrastructure projects \$1.3 billion every year, with costs escalating by 70% over the last seven years.²

12. Amending the RMA will improve some aspects of infrastructure provision but there is a range of other related matters that also need to be improved over time. For example, planning is poorly integrated with other aspects of infrastructure delivery, such as design and business case processes; and aspects of the business case can be relitigated through consenting decisions despite being tested and with funding agreements in place. An effective planning system would better recognise the public benefits of infrastructure, alongside other desired outcomes such as improving housing affordability, providing social infrastructure, protecting our biodiversity, and meeting climate goals.
13. There are many factors and players which influence the overall functioning of the planning system:
 - The legislative and regulatory architecture set by central government – which is primarily through the RMA and policy and regulatory instruments made under it ('national direction')
 - Regulatory land-use plans (such as district, regional and unitary plans) – developed by local authorities (councils)
 - Consenting processes – primarily by councils or, on occasion, by expert panels
 - Capacity and capability of the system – including funding, resourcing, training, monitoring, enforcement, and access to good data
 - A large 'planning industry' with significant influence.

Clarifying National Direction to improve infrastructure provision

14. Under the RMA, district and regional plans must give effect to national policy statements and national environmental standards, with councils making decisions locally about how to manage the conflicts between different pieces of national direction. These bespoke approaches are expensive for councils to implement and result in inconsistencies of approach, meaning increased cost and complexity for infrastructure providers.
15. Different national direction instruments have been developed at different times, leading to a legacy of incoherence. There are significant benefits that could accrue from a fundamental review that considers an overall architecture to guide the design, application and review of national direction, as part of the overall approach to RM reform.

consenting delays, where investments in the energy and transport sectors will be critical. Infrastructure Consenting for Climate Targets. January 2023. Sapere report commissioned by Te Waihangā available [here](#).

² The Cost of Consenting Infrastructure Projects in New Zealand. July 2021. Sapere report commissioned by Te Waihangā available [here](#).

16. Clearer and coherent national direction and greater use of national standards, including planning standards, would drive efficiency and consistency in district and regional planning processes, benefitting all involved in the planning system, including infrastructure providers.
17. The original intent of the integrated National Planning Framework (NPF) was to provide this clarity and coherence. However, carrying forward all existing national direction in the NPF, while layering more on top, created more inconsistencies. A pragmatic approach from the current position is to **ensure a clear and coherent set of national direction**.

National direction that supports infrastructure provision

18. Current national direction instruments require infrastructure providers to navigate different effects management frameworks, gateway tests, and definitions. The five pieces of national direction that have the largest tensions with infrastructure provision are NPSs on freshwater, indigenous biodiversity, highly productive land, natural hazard decision-making, and the NZ Coastal Policy Statement (NZCPS). For example, the strong avoidance policies of the NZCPS conflict with and prevail over the more enabling policies in other pieces of national direction, such as for renewable energy generation (NPS-REG).
19. At the same time there is no specific, comprehensive national direction on infrastructure. One solution to the complexity of navigating conflicting national direction is to establish infrastructure-specific national direction that resolves the conflicts and clearly articulates the parameters for infrastructure provision. The Commission recently drafted infrastructure content for the transitional National Planning Framework. **As a first step towards comprehensive infrastructure national direction, we recommend adapting this existing content to form the basis for infrastructure national direction.**
20. We are working closely with MfE on immediate options for infrastructure national direction, while ensuring the sustainable management of resources and conformance with high environmental standards.

Early prioritisation decisions on existing national direction

21. There are also some early decisions about prioritising immediate changes to national direction ahead of a broader consolidation process. Ministers will be receiving briefings from the relevant lead agencies.
22. Enabling an increase in renewable electricity generation (REG) requires immediate decisions on the NPS-REG and the NPS on Electricity Transmission (NPS-ET). Increasing REG also requires a review of the provisions in the NZCPS and a consenting pathway for renewable energy (see TW-2023-319 on fast track consenting for infrastructure). Related to these NPSs there is an immediate need for updated national direction on telecommunications facilities, and policy and standards for electricity generation and distribution, where considerable investment is needed to meet growing electricity demand.

23. The NPS-Highly Productive Land needs technical amendment to enable the development of new specified infrastructure, such as solar farms, but with its span across 15% of land – including land close to urban centres – has wider implications for infrastructure and housing development.
24. A draft NPS on Natural Hazards Decision Making (NPS-NHDM) was developed as part of an urgent response to the North Island weather events, with initial consultation completed in November 2023. The focus of the NPS-NHDM is avoiding new development in areas with high natural hazard risk but it is not suited to the regulation of linear infrastructure. The NPS-NHDM needs further review to clarify scope and to integrate it into planning processes and the DPMC-led work on the regulatory system to strengthen the resilience of New Zealand's critical infrastructure.

More effective process for reviewing national direction

25. Most national direction under the RMA is framed as environmental effects to manage rather than being scoped from the perspective of the activities or sectors that deliver the social and economic outcomes sought for New Zealand. This focus on environmental effects, without resolving conflicts between instruments (e.g. freshwater, coastal environment, biodiversity) contributes to incoherence and inconsistency when these instruments are applied to a sector or activity (e.g. farming, quarrying, linear infrastructure building, forestry).
26. Other jurisdictions, such as the United Kingdom, organise national direction by activities and sectors, ensuring a more consistent and clear approach setting out the parameters for the operations of that sector. **In reviewing the system of national direction under the RMA, we recommend consideration of how different instruments apply to sectors and activities, starting with national direction on the provision of infrastructure.**
27. We agree with MfE and other agencies that it will be resource-intensive to continue developing individual national direction as has been done in the past. **We support a consolidated approach, addressing inconsistencies and duplication across existing and any new national direction.** Such a consolidated approach is not a 'quick fix' but will, over time, achieve coherent and consistent national direction under the RMA.
28. Practical options for consolidating national direction for infrastructure include:
- tasking an independent body, such as a Board of Inquiry or similar process, to both develop new direction, and also address inconsistencies between national direction instruments
 - focussed amendments to infrastructure provisions in specific national direction instruments
 - a 'one stop shop' approach that consolidates provisions and pathways for infrastructure in a specific infrastructure-focussed national direction instrument (e.g.

it could include both a National Policy Statement and a National Environmental Standard for infrastructure)

- more comprehensive change leading to an integrated infrastructure planning framework.

Immediate steps to reduce consenting burden

Infrastructure standards

29. There is considerable dead-weight cost across consenting of infrastructure resulting from different consenting standards throughout the country. Consistent national standards (e.g. for earthworks, vegetation trimming) would reduce the need for bespoke consent conditions so reducing the cost burden of consenting. The Commission has recently developed a first set of infrastructure standards covering common activities and finalised a set of network utility rules. There are another 40 potential infrastructure standards that would speed up and improve infrastructure provision, which could be developed. **We recommend promulgating these national standards for common infrastructure activities under the RMA to reduce consenting burden, and a programme to develop further cost saving standards.**
30. There are some system resourcing issues to consider regarding infrastructure national direction and standards. The Commission's resources, and an appropriation from MfE, funded previous work. MfE and the Commission can advise on options, such as an 'NES-Infrastructure' or guidance, and the resource implications of these options. Another option to consider could be some industry co-funding of initial standards development (e.g. by network utility providers) before work is advanced through a normal policy process.

Planning Standards, permitted activities and extending existing consents

31. There is an opportunity to be more directive through the 2019 Planning Standards to support more consistent approaches to plans and definitions and directly influence District Plans. These could be extended to include zones for particular infrastructure-focussed activity such as ports, airports or quarries. Zones could be used to lift the permitted activity baselines, supported by infrastructure national direction.
32. Another option to reduce re-consenting burden is to consider extending permits for established and significant infrastructure such as ports and hydro projects. There is currently significant re-consenting of large projects on the horizon, which risks consuming significant planning resources for limited value.
33. Similarly, some activities that are currently prescribed under the RMA could be classed as permitted for some national providers, such as the New Zealand Transport Agency and KiwiRail, reducing the associated consenting burden. This permitting could be modelled on the Fast Track COVID-19 Act, but with changes to address some of the implementation hurdles.

Early RMA Amendments to consider in addition to Fast Track Legislation

34. The following points summarise the key areas for consideration for early RMA amendments that will support infrastructure provision. They build on our advice relating to the repeal process for the Natural and Built Environment Act (NBA) and the Spatial Planning Act (SPA) [TW-2023-310 refers].
35. If directed, we will work directly with MfE to address these points:
- Spatial planning
 - Expanding the criteria for requiring authorities
 - Better supporting advanced land and corridor protection for infrastructure
 - Improving plan-making processes.

Mandatory and directive Spatial Planning

36. We support the briefing provided by the Spatial Planning Policy Office (BRF-3968) and the ongoing process of advice led by them. Effective spatial planning takes time and resources but is essential to getting the settings right for infrastructure, housing growth and other development opportunities such as renewable energy. These points outline important considerations regarding spatial planning:
- Legislation is more effective than national direction to implement spatial planning because legislation can better align different planning and investment frameworks and require implementation agreements.
 - Spatial plans should link to regulatory land use plans (under the RMA), local government funding plans (under the Local Government Act), and regional land transport plans (under the Land Transport Management Act). The Auckland Plan 2050, by comparison, didn't have any legislative links with transport and council plans, and only a moderate link with regulatory land use plans. As noted in our earlier advice to you (TW-2023-310 refers), there are opportunities for spatial plans to be more directive than was provided for in the SPA, and for processes to be further simplified.
 - The urban growth partnerships provide a good basis from which to build further spatial planning. A recent stocktake by the Spatial Planning Policy Office highlights the challenge of multiple formats and data incompatibilities, making a strong case for at least some co-ordination role to build a national picture of infrastructure and other trans-regional issues. This fits with your considerations about 'one source of truth' for data, and open standards.
 - The long-term horizons of spatial plans mean there will always be some need for flexibility. As much as possible, spatial plans should be designed to succeed under a range of possible futures to avoid falling into time consuming cycles of reviews. For

example, spatial plans could specify what would need to happen under different growth scenarios or different climate change projections.

- We will work with other agencies and provide further advice in early 2024 on how spatial planning can complement the development of a 30-year infrastructure plan, infrastructure priority list, and city and regional deals, and how identification through regional spatial plans can be reflected in subsequent designation and consenting processes.

Expanding the criteria for requiring authorities in line with the NBA

37. We support further changes following the repeal legislation to give a broader range of infrastructure providers the ability to use designation powers, by widening the eligibility of 'requiring authorities', for example by including port operators and electricity generators. This would better recognise the wider range of infrastructure providers (such as those in the private sector) that provide infrastructure with a strong public benefit.

Changes to designation provisions to support advance land protection for infrastructure

38. Your Cabinet paper on 'Fixing the Housing Crisis' outlines the Government's intention to investigate land protection options to lower infrastructure costs. One of the ways to lower costs is through improvements to the designations regime under the RMA. Designations allow some types of infrastructure works to proceed without the need for a land use consent. They also prohibit any activity within a designated site that would prevent or hinder a project or work to which the designation relates, effectively protecting that piece of land for use in the future.
39. Over time, designations have become more complex and unwieldy. Historically, the durability and flexibility of designations has supported the long-lived nature of public good infrastructure. Nowadays, the legal tests and high volumes of information sought from applicants have become increasingly unworkable and costly. It is very difficult to use designations to protect infrastructure corridors at a point in time before detailed construction design is complete but the need to protect the corridor is clear.
40. Changing the default designation lapse period from 5 to (at least) 10 years would be easy to achieve through amendments to the RMA. This would better recognise the long-time frames required to plan and design infrastructure. Longer designation periods would contribute to ensuring land is suitably serviced by infrastructure but allowing some flexibility over when the infrastructure is built, to maximise cost-efficiency.
41. We acknowledge that decisions on designations need to be balanced against the imposition on private land rights, restrictions on land-use (such as housing) and the uncertainty that a longer lapse time can bring, so there is always a judgement call. Some of the difficulties with compensation and public acquisition of land, through amendments to the Public Works Act, could help mitigate concerns about property rights.

42. One option to consider is a dedicated fund (or further investigation of the financing challenges of land protection) for central government to publicly acquire the land for infrastructure protection, while trying to minimise the uncertainty posed by corridor protection.³
43. Improvements to the designations regime would support better corridor protection but there are also changes needed to the Public Works Act 1981 (PWA). We support including the PWA in the fast-track infrastructure consenting pathway, though acknowledge it will be one of the more complex additions. Further legislative amendments could also be considered to allow significant infrastructure projects to secure land in advance of when it is needed for the project.
44. We will continue to work with the Ministry of Housing and Urban Development and other agencies such as Land Information New Zealand and MfE to progress proposals for advanced land protection, such as through changes to the designation regime and PWA.

Plan making processes

45. Changes to RMA plan making processes could be introduced to the RMA e.g. the provisions from the NBA restricting rights of appeal could be brought across into the RMA. We also support greater use of independent hearings panels, as used during the development of the Auckland Unitary Plan. These panels provide rigour to the plan-making process and are an independent check and balance for local government decision-makers.

³ Recommendation 16c of the New Zealand Infrastructure Strategy

Targeted Amendments for RMA Amendment Bill #2 to support infrastructure provision

Date: 19 March 2024

Report No: TW-2024-373

To Hon Chris Bishop	Action sought	Deadline
Hon Chris Bishop, Minister for Infrastructure	Note that the Commission intends to seek targeted feedback from infrastructure stakeholders. Consider this advice prior to RM Ministers' meeting on RMA Amendment Bill #2 Priorities in April.	27 March 2024, alongside advice you will be receiving from MfE.

Attachments

- Appendix A: Recommended amendments to Part 5 (Subpart 1) National Direction
- Appendix B: Other potential amendments to test further with agencies and stakeholders

Contact details

Name	Role	Phone
Paul Alexander	Director Infrastructure Planning	s9(2)(a)
Tanya Perrott	Principal Advisor, Policy	
Barbara Tebbs	GM Policy	s9(2)(a)

Purpose

1. The purpose of this aide memoire is to provide you with the Infrastructure Commission's suggested priorities for targeted amendments for inclusion in the Resource Management Act (RMA) Amendment Bill #2. This is in response to the process you commenced by writing to your Ministerial colleagues.
2. We also **outline our proposal to test some of the ideas with infrastructure stakeholders** (on an informal basis) during the next three weeks, so that we have a greater understanding of infrastructure priorities prior to your final decisions on Bill content.

Context

3. Our recommended targeted RMA amendments would better enable infrastructure while managing environmental impacts, during the period before replacement legislation can be fully implemented. These amendments would complement the Fast-Track Approvals legislation, and make new national direction for infrastructure more effective and timely.
4. We have assessed proposals based on the criteria agreed with the Ministry for the Environment (MfE) relating to your stated priorities; urgency; impact; and ease of drafting and implementing. We have prioritised changes that would result in more balanced treatment of infrastructure vis a vis environmental matters; impact across a wide range of infrastructure sectors; and reduce unnecessary burdens and implementation costs for applicants and system actors such as local government.
5. We understand that this year's amendments to the RMA should be consistent with the likely direction of fundamental RM reform, but also consider that fundamental reform may take some time to take full effect. In line with this we assume there will also be a comprehensive programme of national direction developed over the next two years.
6. We have tested some of the proposals with other relevant agencies, but not yet with a wider range of external infrastructure stakeholders. We have provided MfE with further detail on each proposal to support collective advice you will receive in the coming weeks.

Infrastructure Priorities

Adding Infrastructure to Part 2 (Section 6) of the RMA

7. Part 2 – Sections 5 (purpose), 6 (matters of national importance) and 7 (other matters) – plays a significant role in guiding decision-making processes under the RMA, framing national direction which flows through into plans and then consenting decisions. The current lack of specific recognition of **the role infrastructure plays to support the well-being of present and future generations** in Part 2 means this is constantly debated through planning and consenting decisions despite the national and regional benefits of infrastructure. The debate and uncertainty slows the delivery of infrastructure projects and creates unnecessary costs for all parties. Other matters in both sections 6 and 7 are often given greater weighting (including amenity, see below).
8. We consider it important and urgent to address this issue, given the current application of case law, the cascading effect across decision-making in the system, and its impact on the content of new national direction on infrastructure. Technical Advisory Groups dating back to 2010 have highlighted this issue, and the Natural and Built Environment Act (NBEA) included infrastructure as an outcome supported by policy work.

9. If this is of interest, there are drafting solutions to work from in the final NBEA¹ or exposure draft that also incorporate **renewable energy**. Our preference is that both are included in section 6 as matters of national importance.

Amending the approach to amenity in Part 2 (Section 7)

10. The RMA has been criticised for a status quo bias, with its emphasis on avoiding and remedying adverse effects of activities and not fully recognising dynamic change such as urban formation, the development of renewable energy, and adapting to climate change.
11. Section 7c *'the maintenance and enhancement of amenity values'* has often been used to reinforce a status quo bias, constraining both infrastructure and housing development. This section could be amended to make it clear that amenity doesn't have to be maintained, that amenity can be 'maintained' while also being changed, and that changes in amenity are not necessarily an adverse effect. For example, it could be replaced with words from the National Policy Statement on Urban Development (NPS-UD): *"amenity values that develop and change over time in response to the diverse and changing needs of people, communities, and future generations"*. This would cover amenity in both urban and rural environments. We are aware that the Ministry of Housing and Urban Development (HUD) would support such an amendment, and have also identified other NBEA changes that could also be used in an RMA context so that decision-makers cannot consider certain effects which lead to status quo bias.
12. Decisions on amenity are related to your decision on infrastructure and other changes to Section 6. The use of 'amenity' to reinforce the status quo would have less impact if there were stronger direction in section 6 that gave the benefits of infrastructure some priority over amenity.

Enabling more timely and effective National Direction

13. We recommend amendments to Part 5 Subpart 1 (National Direction) in the RMA, to support the development of more timely and effective national direction on infrastructure (and national direction in general). MfE, HUD, and the Ministry of Business, Innovation and Employment (MBIE) have indicated broad support for such amendments.
14. You have agreed that new national direction for infrastructure should be developed, with an initial approach being to adapt the infrastructure chapter in the draft National Planning Framework (our briefing TW-2023-322 refers). Under-Secretary Simon Court is charged with responsibility for overseeing the development of the direction and we have briefed him about work undertaken so far. The Infrastructure Commission and MfE look forward to

¹ NBEA drafting – *'Infrastructure is provided in a timely and ongoing manner to promote the well-being of both present and future generations.'* Or NBA Exposure draft *'The ongoing provision of infrastructure services to support the well-being of people and communities, including by supporting— (i) the use of land for economic, social, and cultural activities: (ii) an increase in the generation, storage, transmission, and use of renewable energy'*

discussing deliverables and timeframes with you for the delivery of this work after Cabinet consideration of the overall RM reform work programme.

15. We recommend amending the RMA provisions for the **purpose, contents and effect of national policy statements and national environmental standards**, and the **process to develop them** (see Appendix A). These changes would:
 - a) **Enable government to develop and amend national direction more quickly and cost effectively.** Changes would particularly make it easier to develop and amend multiple related pieces of national direction, and to make technical amendments to standards. The new infrastructure direction would greatly benefit from both of these things.
 - b) Provide a pragmatic, low-cost and timely way to **deal with inconsistencies and conflicts between different national direction instruments.** This is particularly an issue for cross-cutting activities such as infrastructure.
 - c) **Enable national direction to have more immediate and certain impact** on consenting decisions.
 - d) **Reduce costs for councils in implementing national direction.**
16. You and your colleagues have also indicated you wish to use the RM Amendment Bill #2 to progress the National Policy Statements on Renewable Energy and Electricity Transmission, and to make targeted changes to the content of other existing national direction (the New Zealand Coastal Policy Statement and National Policy Statements for Freshwater Management, Indigenous Biodiversity and Highly Productive Land). We intend to **input to the work on these instruments, particularly where there are opportunities to address problematic provisions and improve pathways for infrastructure.**
17. Subject to Ministerial decisions on priority and agency resourcing, policy work could take place this year on new infrastructure national direction (objectives, policies and standards) building on a large body of existing policy work and drafting, enabling early progress after passing RMA amendments to streamline national direction processes.

Changes to Designation Provisions to support advance land protection

18. The 'Fixing the Housing Crisis' Cabinet Paper outlines the intention to investigate land protection options to lower infrastructure costs, and one way to do this is through changes to the designations regime. We support the following amendments:
 - **A two-stage designation process with a first stage requiring less detailed information, to identify and protect the infrastructure footprint early,** with further detail closer to the commencement of physical works
 - **Extend the default designation lapse time from 5 to at least 10 years** as this also supports route protection, and better recognises the time to plan and design infrastructure.

- We support other changes being proposed by other agencies, such as **mode-agnostic designations** (e.g. for state highway/railway infrastructure) and **making information requirements more proportionate to their impacts**, such as reducing onerous assessments of alternative proposals.

19. These changes are supported by the Ministry of Transport (MoT), MBIE, and MfE for some amendments. In many cases, policy work and drafting was done for the NBEA, which requires some improvements but provides a basis for RMA amendments.

Other potential amendments to test further with agencies and stakeholders

20. We have identified further potential changes, where our initial analysis suggests they may be of lower immediate impact and priority, but we would like to test their merits with stakeholders. These potential changes are set out in Appendix B.

Other important but non-urgent RMA reforms

21. As previously indicated, we support **mandatory and directive spatial planning** in support of long-term infrastructure planning, and see the need to improve plan making processes, and also support building a **stronger data-driven system** to support both environmental and development outcomes. These are likely to be addressed more thoroughly by the fundamental reform process, though we raise these points in case there are opportunities identified through agency and stakeholder feedback that suggest quick wins can be made through this Bill.

Appendix A:

Recommended amendments to Part 5 (Subpart 1) National Direction

	Proposed amendment	Benefit
1.	<i>Clarify that a single process for developing or amending a national direction instrument can be used for consequential amendments to other pieces of national direction.</i>	This would reduce the costs and timeframes for developing the new infrastructure national direction which will cut across and require amendment to multiple instruments. For an NPS on infrastructure to be most effective, this is expected to require consequential amendments to the NZ Coastal Policy Statement, NPS-Freshwater Management, NPS-Indigenous Biodiversity and NPS-Highly Productive Land.
2.	<i>Streamline the process for making technical amendments or updates to standards.</i>	We anticipate the infrastructure national direction requiring much more use of standards for assessing effects and in consenting activities and setting conditions. It needs to be much easier to make technical updates to these standards, which may not be appropriate to notify for submission (and which may not 'need' Ministerial decision).
3.	<i>Enable a national direction instrument to specify that other instruments do not apply to a particular activity or resource.</i>	This would, for example, allow the infrastructure national direction to be the single or primary source of direction for managing the effects of different infrastructure activities on different environments (or a 'one-stop-shop'). It would be a pragmatic way to deal with inconsistencies in the way that NZCPS, NPS-FM, NPS-IB and NPS-HPL treat infrastructure (and to ensure infrastructure is sufficiently enabled) and avoid the need for infrastructure providers to navigate multiple, inconsistent instruments. It would reduce costs for councils that currently must interpret and decide how to deal with these multiple sources of direction, and it would provide more certain outcomes.
4.	<i>Make it clearer that all types of NPS provisions can be directly inserted into plans; and require the removal of plan provisions that conflict with NPSs, without going through a Schedule 1 process.</i>	This would reduce the need for public plan change processes and the associated costs and delays for NPS direction to having effect on the ground.
5.	<i>Enable NPS policies to more effectively direct consenting decisions, and allow for a combined NPS-NES.</i>	This would reduce the costs of developing separate national direction instruments and complement the changes in 4. to allow for national direction to have immediate effect on consenting decisions. It could also make it clear that NPS provisions must be given effect to in consenting decisions rather than had regard to.

Appendix B:

Other potential amendments to test further with agencies and stakeholders

22. The changes below require further targeted testing with infrastructure stakeholders to determine their priority for inclusion in RMA Amendment Bill #2. Our initial analysis suggests they may be of lower immediate impact or lower priority when considering their impact across multiple infrastructure sectors.

Expand the criteria for Requiring Authorities to make it easier to apply and obtain designation powers

23. Some infrastructure providers (ports (including inland ports), renewable energy generators and emergency services) may benefit from the proposed NBEA changes **to expand the criteria for Requiring Authorities** to make it easier to apply and obtain designation powers. This may help with acquiring land, though there may be other alternatives to consider², and it would be helpful to test with infrastructure providers the merit and urgency of these options. MoT support this for ports to provide longer term certainty for funding and investment purposes, and HUD consider this may support community housing and Kāinga Ora.

Consistent approaches to the duration of consent for long lived infrastructure assets

24. You are considering **extending the duration of consents** for aquaculture, and extending the duration of port coastal permits through RMA Amendment Bill #1. There is also other nationally significant infrastructure limited to 35-year consents in the coastal marine area, and there are upcoming re-consenting processes for major hydro-electric schemes, e.g. Waitaki and Manapouri.
25. The RMA limits a consent duration to 35 years. It is appropriate that activities that cause effects require a process to update and improve conditions (e.g. such as water discharge quality), and a need for council and community involvement.
26. However, there are some long-lived assets where re-consenting is an expensive and unnecessary process, such as bridges or port wharves where responsible agencies have legislated mandates around safety to manage them. In other cases, there is an argument in support of considering long-lived assets as 'controlled activities' with controlled activity rules, removing the uncertainty for asset owners as to whether they can continue operating and instead focusing on the conditions needed to ensure the adverse effects of the activity are appropriately managed. While some plans include a controlled activity status to

² Another approach is that the operators could be added as Requiring Authorities via regulations (s166(i)).

reconsent this infrastructure, we are aware of this being challenged by local authorities and third parties creating significant costs for all parties.

27. We support a wider consideration of consent durations and re-consenting processes. This could include some focussed work and testing prior to Bill introduction to assess what is achievable (and supports consistency of approach) for RMA Amendment #2 or best left for more fundamental reform.

Amending Non-Complying Activity Status to remove restrictive provisions in Operative Plans

28. Section 104D of the RMA addresses 'non-complying activities' and includes two gateway tests – that the application must either have minor adverse effects (which infrastructure projects often fail to meet, given their size and design constraints) or not be contrary to the objectives and policies of both the operative and proposed RMA plan. If the application fails the gateway test it must be declined. In practice, given case law, any **restrictive or dis-enabling provisions in operative plans can stall development and infrastructure projects until a proposed plan** (including a proposed plan that implements new national direction) **is decided and all appeals resolved**, which can take several years.
29. A recent example is a wastewater infrastructure project which would be supported by a recent plan change, but fails the gateway test because of the more restrictive (but out-dated) operative plan.
30. We consider there are potential drafting solutions to address this issue effectively without fundamentally changing the intent of gateway tests for non-complying activities³. For completeness, consistency with operative plan provisions would still be a relevant consideration at the substantive decision-making stage, but the change suggested would make the consideration less rigid.
31. The current RMA drafting also presents a barrier if new NPS provisions conflict with provisions in an operative plan, and would frustrate the ability of an NPS to have immediate impact on consenting decisions for non-complying activities where there is this conflict. We also consider there are drafting solutions to address this.
32. Another option going further would be to remove non-complying status, but it is in place for a reason, existing plans have been drafted on this basis, and there would be wider consequences if it were removed.

Updating the definition of infrastructure

33. We are considering with MfE whether and how to **update the definition of infrastructure**. This could provide more consistency across different pieces of legislation and reduce the development of bespoke definitions in national direction and plans. We intend to scope the amendments and their merits with MfE. For example, the RMA could include an umbrella

³ For example subsection 104D(1)(b)(ii) to read *"the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity"*, and delete subsection (1)(b)(iii).

broader definition of infrastructure that includes social and green infrastructure, and it could also include definitions of 'critical infrastructure' prioritised for consenting, and 'Regionally Significant infrastructure' that regional councils may add to or make more specific. Alternatively, these definitions could be addressed through the national direction work programme.

Limitations on consent conditions

34. We are aware of concerns regarding onerous conditions applied to consents and designations. This is also being raised by transport operators, including conditions that are costly, lengthy and do not relate directly to the environmental effects of the project⁴. We consider this requires further work, and may also be addressed as part of a national direction workstream.

Streamline processes for technical and minor amendments to existing resource consents

35. Current RMA provisions mean that infrastructure providers who want to make a minor change in consent have to apply for a new consent, with consequent costs and uncertainty. Some of these changes may be minor and with no or minimal environmental effects, such as a change in diameter of a telecommunications dish. We support assessing options with MfE such as notifying changes to council instead of a consent, or if a consent for minor changes is still required then providing direction to process it quickly and as non-notified, and only consider changes in effects.

⁴ Section 108 of the RMA could be altered to impose limits to types and duration of condition, and the link to environmental effects.

Priority Resource Management Reforms for Infrastructure in Phase 2 and links to Phase 3

Date: 16 May 2024

Report No: TW-2024-407

To Hon Chris Bishop	Action sought	Deadline
Hon Chris Bishop, Minister for Infrastructure / Minister Responsible for RMA Reform	Read before the Resource Management Ministers meeting on 22 May. Forward to Under-Secretary Court.	21 May 2024

Attachments

Appendix A: Stephen Selwood's Submission to the Inquiry on the Natural and Built Environment Act

Appendix B: Parliamentary Commissioner for the Environment's Submission on The Natural and Built Environment Bill and the Spatial Planning Bill (Extract – Appendix 1)

Contact details

Name	Role	Phone
Paul Alexander	Director, Infrastructure Planning	s9(2)(a)
Barbara Tebbs	GM, Policy	s9(2)(a)

Purpose and Background

1. In preparation for the RM Ministers Group meeting on 22 May, we draw your attention to what we consider to be the high priority RM reforms for infrastructure provision. At the time of submitting this, we have not seen the final papers for the meeting on 22 May.
2. Our advice on what to do on phase 2 is highly impacted by choices on phase 3 of reforms. In the meantime, we are working constructively with the Ministry for the Environment (MfE) on National Direction and proposed RMA Amendments. We support the direction of phase 3 reforms, but are hearing feedback from stakeholders around the uncertainty of larger reform and a preference for immediate significant improvements to the RMA and national direction.

Infrastructure National Direction and designations changes should progress as part of Phase 2 regardless of decisions on Phase 3

3. Regardless of your decisions on phase 3 reform, key infrastructure priorities for phase 2 include:
 - a. Changes to improve **designations**, and **extending requiring authority status** for entities such as ports and emergency services. You have previously signalled support. We are working with MfE on feasible options, eg, on designations, we consider there are manageable ways to reduce excessive information requirements that will improve early route and corridor protection.
 - b. A **National Policy Statement (NPS – Infrastructure)**. There is strong consensus across the infrastructure sector for this. We consider an NPS-Infrastructure has to be integrated and phased alongside other national direction changes (eg, coastal, freshwater, biodiversity, renewable energy etc) because the intersection of infrastructure with these environments is as important as the NPS-Infrastructure direction itself. Similarly, there needs to be a coherent architecture, across all national direction, of the matters that apply to infrastructure.
 - c. **National Environmental Standards for Infrastructure**. We are working with MfE and currently consulting infrastructure sectors, and will shortly report back to you and Under-Secretary Court on programme options. There are some easier wins (such as updating existing standards). There are also multiple options to consider for a comprehensive rolling programme, and setting up such a programme for the longer term involves some of the institutional strengthening referred to in this note.

Fundamental Reforms – support the direction, but it’s been a 15 year wait and counting

4. The timing and ambition of phase 3 are material to your phase 2 RMA changes and integrated National Direction programme. We support the intent of phase 3 reforms that would better enable infrastructure and urban development/housing, be more permissive, and rely more on common standards.
5. While it has been possible to reach consensus on failings with the RMA, it has been much harder to reach consensus on its replacement. The last National-led government spent nine years never getting to a ‘phase 2’ and after another 6 years, many potential immediate improvements for infrastructure are still in limbo.
6. Based on experience to date, it is likely that the implementation of new plans under new legislation could take 5-10 years per region. This would be 5-10 years after the enactment of new legislation before meaningful change on the ground for infrastructure provision. Our sense from infrastructure stakeholders is a desire for meaningful changes to the RMA enabling real step-change improvement now, rather than tweaks and uncertain success of a proposed phase 3.

Legislative change alone – without looking at institutions, approach to data and resources – will not deliver the change needed

7. We strongly advise that any reform programme will need changes to institutional settings. At the least, successful implementation would require an entity charged with oversight for developing and maintaining infrastructure and development standards and national direction alongside the current suite of environmental direction. This function would need to be complemented by a strengthened environmental agency resourced to ensure data-driven decisions, and stronger monitoring and enforcement powers as a counterbalance to a more permissive standards-based system.
8. Stephen Selwood previously mapped out how comprehensive reform could be done¹ [see **Appendix A**]. We can brief you further on this, but the key points are that legislation change alone is not sufficient (his options went further into local government and other institutional changes), and to do reform well is a significant undertaking.
9. If fundamental reform is to be done well it requires consensus in order to stick, and change must be adequately resourced. If there is stronger political will focussed on immediate changes, and insufficient widespread support for fundamental reform, then taking a more staged approach to RMA reform will provide greater certainty for infrastructure providers and other development interests. In considering reform approaches, one lens to apply may be to assess whether the system shift will deliver greater benefit to communities than the costs of change – for example, there is significant sunk cost in plan-change processes.
10. At present, fundamental reform may risk only including legislative change from the RMA into two new statutes, without the necessary institutional changes. Assuming phase 3 is legislative change only, then on balance we consider the best interests of infrastructure provision would be served by strengthening the approach to institutions and data management; and shifting the RMA (and national direction) towards being more enabling within a consensus approach that can be enduring.

If Phase 3 lacks consensus, takes too long, or is only partially progressed, then we would recommend further changes to the RMA instead

11. Our advice on the ambition for phase 2 is, like others, coloured by the approach to phase 3. If there is doubt as to the timing and commitment to phase 3, we would argue for stronger enabling provisions for infrastructure in **Part 2 of the RMA**.
12. The energy sector is arguing for an addition to Section 6 that embeds renewable energy within a wider provision for infrastructure², which we would support. We and others have

¹ [3f19d45e8ea1ab419b2e2f8c4261fcac697c0e43 \(www.parliament.nz\)](https://www.parliament.nz/3f19d45e8ea1ab419b2e2f8c4261fcac697c0e43) Submission to the Environment Select Committee Inquiry on the Natural and Built Environments Bill: Parliamentary Paper https://www.parliament.nz/resource/en-NZ/53SCEN_EVI_111944_EN3782/3f19d45e8ea1ab419b2e2f8c4261fcac697c0e43

² "the securing and enabling of nationally and regionally significant infrastructure".

previously provided options to address the RMA approach to amenity. Other important areas that have missed the cut for inclusion in the RMA Amendment Bills are consent durations and re-consenting of long-lived infrastructure, and spatial planning. However, if there is clear commitment for a phase 3, then we would agree such changes could be deferred.

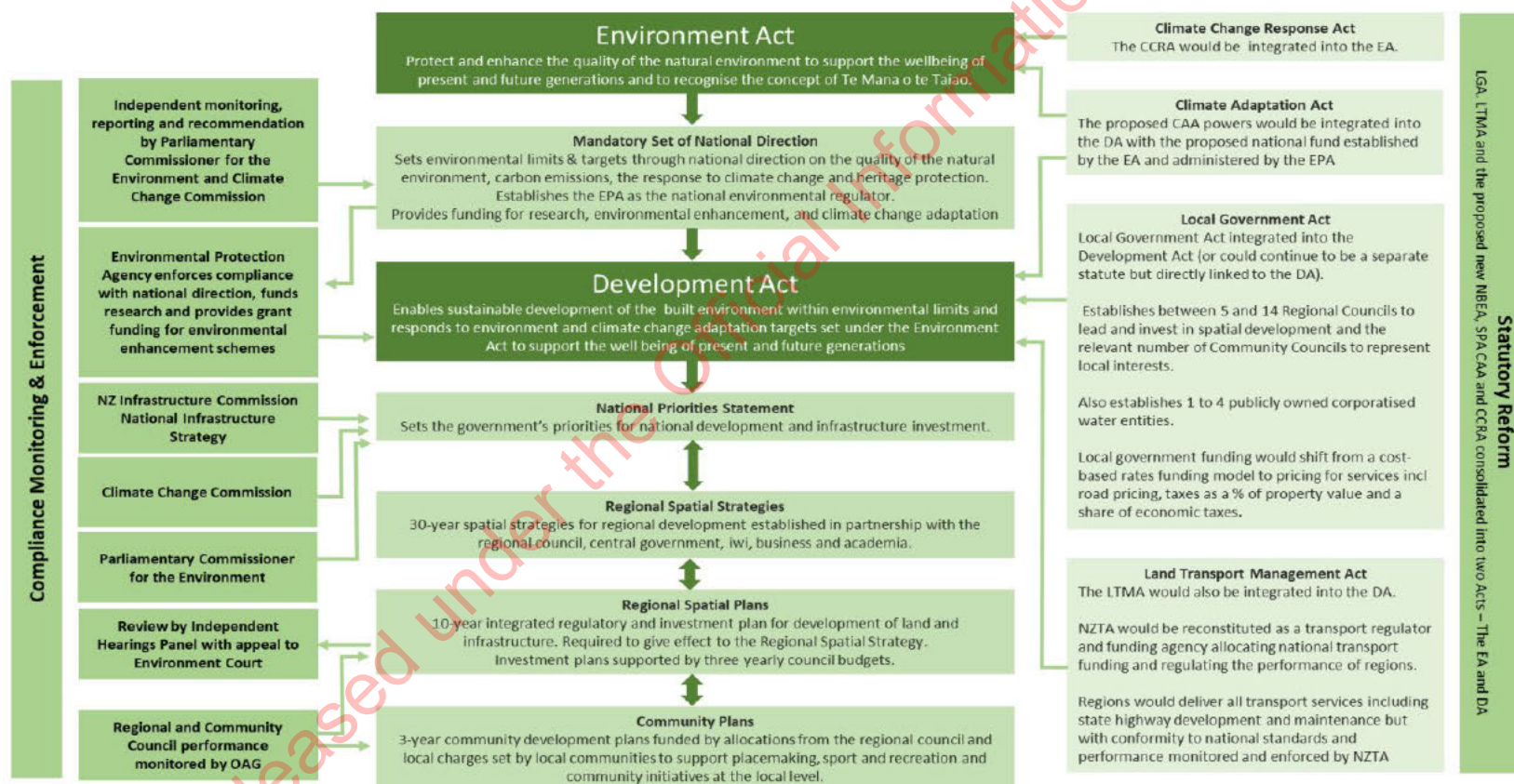
13. If there is not sufficient consensus on a phase 3, we can provide further advice alongside MfE and other agencies on changes to make the RMA more enabling for infrastructure, while preserving a consensus for enduring RM legislation. As the Parliamentary Commissioner for the Environment (PCE) noted in his submission where he argued the NBEA³ was not fit for purpose, 'most if not all of the key changes could be effected through a comprehensive amendment to the RMA'. This included integrated national direction, spatial planning, and dealing with the 'problematic' aspects of amenity. We consider that there are also opportunities for better use and mandating of Planning Standards, and improving plan-making and appeals processes.
14. One approach to reach this point could be, in establishing an expert working group on reform, to include in their terms of reference an option to make more comprehensive change to the RMA.

³ <https://pce.parliament.nz/media/ffeevjzy/pce-submission-on-nbe-and-sp-bills.pdf> Appendix 1 "How amending the RMA to achieve the same purposes might work".

Appendix A

Stephen Selwood's Submission to the Inquiry on the Natural and Built Environment Act

This is provided more as an illustrative example of all the potential components of fundamental reform that may need consideration, and the linkages between legislation beyond the RMA, links to funding, institutional and practice changes.



Submission by Stephen Selwood on the Inquiry on the Natural and Built Environments Bill: Parliamentary Paper, 1 Aug 2021

Appendix B

Parliamentary Commissioner for the Environment's Submission on The Natural and Built Environment Bill and the Spatial Planning Bill (Extract – Appendix 1)

How amending the RMA to achieve the same purposes might work

In the course of analysing the improvements the bills propose and the risks entailed in changing to a new system, I have come to the conclusion that most, if not all, of the key changes could be effected through a comprehensive amendment to the RMA. Briefly the changes could work like this:

- The National Planning Framework is essentially a meta-level piece of national direction. There is nothing in the RMA requiring national direction to be given in the piecemeal way it has been to date. All of the mandatory content proposed for the National Planning Framework could be made mandatory through the provisions governing RMA national direction. The RMA's mandatory requirement for the New Zealand Coastal Policy Statement 2010 is a precedent.
- Limits are possible under the RMA. The National Policy Statement for Freshwater Management 2020 and draft National Policy Statement for Indigenous Biodiversity both contain forms of limits. Adding the proposed limits (and significant area protection) provisions to the primary legislation to ensure they happen should be relatively straight forward.
- Regional spatial plans could be led by regional councils and incorporated as part of existing regional plans. The concepts are compatible. In preparing the 'spatial plan' part of their regional plans, regional councils could be required to undertake a collaborative planning process with their constituent territorial local authorities, with some sort of ratification process for the final product. Links to other Acts (such as the Local Government Act 2002, Urban Development Act 2020, Land Transport Act 1998 etc.) could easily be added to the RMA. They do not need a separate Act.
- Reducing the number of plans would require some creative thinking. Conceptually, district plans could become chapters of the regional plan. Regional councils could lead a collaborative process with their constituent territorial local authorities to identify areas of commonality that could apply regionally, and those which need to be locally specific. The current National Planning Standards show how national direction can help in this regard. There could be some sort of ratification process to ensure local accountability is maintained.
- Including outcomes should be treated with great care for the reasons I have given. The RMA's purpose clause effectively covers off the environmental outcomes that we seek. The use of targets for both the natural and built environment is one way to promote and achieve

positive outcomes and could easily be included in the RMA. Providing for desired social and economic outcomes can also be done in the 'regional spatial strategy' part of plans.

- The 'problematic' aspects of amenity could be handled by listing specific aspects as 'matters that must be disregarded' in plans and consents, similar to the way in which 'private views' are addressed in clauses 108 (b) and 223(8)(c) of the NBEB.
- Updated Te Tiriti o Waitangi provisions could easily replace the existing ones.
- A range of other, smaller improvements could also be made by changing the relevant existing RMA provisions or by adding new ones. These include: improvements to compliance monitoring and enforcement; the ability to curtail consents; giving effect to water conservation orders; decision making principles (which could include te Oranga o te Taiao and the Te Mana o te Wai hierarchy); and allocation principles and methods.

These would be major changes. They would not be easy and would require more work. But whereas past amendments to the RMA have been piecemeal, these would amount to a comprehensive, whole of Act amendment. This approach would capture the positive work that has been done over the past five years while reducing the risks associated with introducing a slew of new legal language that will bring uncertainty and costs in its wake.