

Legislative Statement | Natural and Built Environment and Spatial Planning Repeal and Interim Arrangements Bill First Reading

Presented to the House of Representatives in accordance with Standing Order 272.

The Bill is to be introduced under urgency on 19 December 2023.

Introduction

1. This legislative statement supports the reading of the Natural and Built Environment and Spatial Planning Repeal and Interim Arrangements Bill (the Bill). The Bill will repeal the Natural and Built Environment Act 2023 (NBA) and Spatial Planning Act 2023 (SPA).
2. The proposal delivers on the coalition government's commitment to repealing the NBA and SPA before Christmas 2023.
3. Repeal of the NBA and SPA will largely be a technical process focused on transitioning and saving some parts of the NBA that are already in use to enable an orderly repeal; and reversing consequential and other amendments made by the NBA and SPA to other legislation (with some limited exceptions).

Background

4. Since these Acts were introduced in August 2023, a limited number of NBA functions have begun to be implemented. This Bill addresses these matters to ensure users of the resource management system have a clear understanding of how their interests are affected by the repeal.
5. The Resource Management Act 1991 (RMA) remains in effect for most planning and resource consenting decisions. A timely repeal process of the NBA and SPA will ensure this status quo is maintained and removes the implementation burden from local government.
6. The government acknowledges the current RMA needs replacing. The repeal of the NBA and SPA is the first part of a three-phase programme to improve the resource management system that will also include:
 - introducing a fast-track infrastructure consenting regime (within the first 100 days) and making other targeted amendments to the RMA
 - amending or developing national direction under the RMA
 - replacing the current RMA by introducing new resource management legislation into Parliament by the end of this term.

Transitional and Savings Provisions

7. The transitional and savings provisions in the Bill include:
 - provisions for some aspects of the NBA compliance framework that are already in effect
 - provisions relevant to the granting, duration and public notification of freshwater consents
 - provisions relating to any Mana Whakahono ā Rohe and joint management agreements initiated under the NBA
 - provisions in relation to NBA requiring authority applications and notices of requirement

- provisions that relate to NBA transfer of powers
 - provisions to ensure Treaty settlements and other arrangements, and rights and interests under the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, are upheld
 - provision to retain section 104 of the NBA, with appropriate modifications to align it with the Resource Management Act 1991 This is to provide visibility of Te Ture Whaimana, a key aspect of the Waikato River settlement
8. Spatial planning processes have not been triggered and no decisions have been made under the SPA, therefore no transitional or savings provisions are required.

Consequential provisions

9. The NBA and the SPA amended other acts and secondary legislation. Most of these amendments changed references to RMA provisions to NBA provisions and have been reversed.

Amendments to the RMA provisions related to Freshwater

10. The Bill includes an amendment to the RMA to extend the statutory deadline for when new council freshwater planning instruments must be notified by three years – from 31 December 2024 to 31 December 2027; this will provide time to replace the NPS-FM and allow councils the option of ceasing work on the existing NPS-FM.

Fast track provisions

11. The Bill will retain the NBA fast track consenting process (including the institutional roles) with any necessary amendments as required for workability purposes, until the replacement fast-track infrastructure consenting regime is developed and put in place.
12. The Bill provides that Part 2 (purpose and principles) of the RMA will apply to decision-making roles and functions where Part 1 of the NBA currently applies in relation to NBA fast-track consenting, this is to better integrate with the existing regulatory framework under the RMA.

Informing Māori and stakeholders

13. Given the timeframes for the repeal, only limited engagement with Post-Settlement Governance Entities and other Māori groups has been able to occur. The Government is comfortable their clear commitment and coalition agreement to repeal the NBA and SPA provides a mandate to progress this quickly.

Conclusion

14. The Bill will progress the Government's commitment to repeal the NBA and SPA. This initial phase of improving the resource management system is focused on:
- transitioning and saving some matters to enable an orderly repeal
 - reversing consequential and other amendments made by the NBA and SPA to other legislation
 - retaining the NBA fast track consenting process