



Ministry for the
Environment
Manatū Mō Te Taiao

Our Regulatory Stewardship Strategy 2017

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Making Aotearoa New Zealand
the most liveable place in the world
Aotearoa - he whenua mana kura mō te tangata

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Introduction

The Ministry for the Environment's purpose is that "We make Aotearoa New Zealand the most liveable place in the world."

Our job is to make sure our environment supports New Zealand's prosperity – cultural, social and economic – without compromising it for future generations. We are stewards for the environment, so that we continue to have a prosperous Aotearoa New Zealand, now and in the future.

Typically the full implications of the choices we make only become clear generations later, so being a good steward means we need to take a long-term view.

Natural resources are a key enabler and contributor to the Government's growth agenda, and to our economic prosperity. As a resource-based economy with an environmental-based brand, our task is to ensure New Zealanders manage and invest in our resources carefully to support long-term prosperity.

Ultimately the trends we see in our environment reflect the sum of the choices all New Zealanders make every day. They reflect a collective impact, and will require a collective response. To be successful we must work together with a range of partners – Māori / iwi, businesses, environmental groups, local and central government, research institutions, and the general public – to find answers that work for everyone.

We need to remove barriers for people to be involved, and provide the evidence people need to make more informed choices and good decisions.

On the regulatory front, we are continuing to work with other agencies, to develop an approach for measuring and driving improvements in the effectiveness of our systems. This year's Strategy represents another step along that path, with in-depth assessments of our regulatory systems and a set of high-level criteria that are common across government.

Our assessments have told us that expectations are rising, tensions between overlapping goals are growing, and demands for collaborative approaches that support a long-term sustainable view are here to stay. We need to:

- grow further our ability to understand the system we are stewards of, including improving the available data and how we use it and communicate it
- understand and leverage the connections between all the instruments we and others have available, and the ecosystems that we are managing, with a long-term perspective
- manage our own resources, with our partners at all levels of government and outside it, to ensure we undertake the right reviews at the right time in the right way, and implement them effectively and efficiently.

This is a challenge and an opportunity for all New Zealanders and the choices they make every day.

1 What is Regulatory Stewardship

Under the State Sector Act 1988,¹ the Ministry for the Environment has regulatory stewardship responsibilities for the legislation it administers. A good regulatory steward ensures regulation is, and will remain, ‘fit for purpose’ over time. In 2015, the Government asked seven of the main regulatory agencies² to publish annual assessments of the current state of their regulatory systems, plans for amendments to regulation and new regulation, and their views of important emerging issues for regulation.

This second annual Regulatory Stewardship Strategy is our evolving response to the Government’s request. It covers how we develop and maintain the regulatory systems for which we are responsible, including both longer-term perspectives and day-to-day support of our regulatory partners – the Environmental Protection Authority and local authorities.

Common definitions across agencies

- A **regulatory system** is a set of formal and informal rules, norms and sanctions, and designated actors, actions and practices that work together to shape people's behaviour or interactions in pursuit of a broad goal or outcome.
- A **regulated party** is a person or organisation that is subject to behavioural expectations, obligations and/or sanctions within a regulatory system.
- A **regulatory agency** is any agency (other than courts, tribunals and other independent appeal bodies) that has one or more of the following responsibilities for the whole or part of a regulatory system: monitoring, evaluation, performance reporting, policy advice, policy and operational design, implementation, administration, information provision, standard-setting, licensing and approvals, or compliance and enforcement.

¹ Section 32, as amended in 2013.

² Ministry for the Environment, along with the Ministry of Business, Innovation and Employment; Ministry of Primary Industries; Ministry of Transport, Ministry of Justice and the Department of Internal Affairs and Department of Inland Revenue.

2 Roles in the environmental management system

Role of the Ministry for the Environment

The Ministry for the Environment's purpose is that "We make Aotearoa New Zealand the most liveable place in the world". We are stewards for the environment, so that we continue to have a prosperous Aotearoa New Zealand, now and in the future.

We are the Government's primary adviser on how human interactions and uses impact on the environment, both nationally and internationally. We set policy on how the New Zealand environment is managed. We advise the Government on the system of institutions, laws, regulations, policies and economic incentives that form the framework for environmental management, as well as monitoring the performance of the system.

We lead cross-government activity on climate change, and are supported by many other government agencies. We also coordinate national and international reporting on greenhouse gas emissions, removals and projections.

We work within international forums to promote action on important international environmental issues. This ensures New Zealand's interests are protected and advanced in the work of international organisations, and that New Zealand meets its obligations under multilateral environment agreements it has ratified.

The environmental management system is regulated by 12 main Acts and underpinned by nearly 200 regulations, codes of practice and notices, National Policy Statements, and National Environmental Standards. Our legislative responsibilities span the whole environmental system, relating primarily to managing how people interact with the natural and built environment across the six environmental domains.

Role of others in the environmental management system

We often operate in a high-level policy role, with detailed policy design or implementation being handled by other entities at national or local levels. It involves a broad range of participants, and each has a different view about how natural resources should be managed to support the economy, conservation, recreation and customary purposes.

We work with the Environmental Protection Authority (EPA) to develop policy and regulations. The EPA has regulatory functions that include making decisions on environmental matters, ensuring compliance with rules, and monitoring environmental management on behalf of the Minister for the Environment.

We are currently working with the EPA and the Ministry of Business, Innovation and Employment (MBIE) on actions to reduce workplace harm. In addition, to ensure the successful implementation of the regulatory framework that underpins the Exclusive Economic Zone (EEZ), the Ministry will work closely with the EPA to ensure it has robust capability and systems in place to fulfil the obligations under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act). Extensive work is also being done with other central government agencies (especially those within the Natural Resources Sector).

We invest significantly in maintaining relationships with local authorities and providing guidance and tools to support Resource Management Act 1991 (RMA) plan making and implementation. The role of local government is crucial because it makes most resource management decisions, due to the devolved nature of the RMA, and is responsible for most monitoring and enforcement activity. The RMA is the main legislation for making decisions on the use of resources. As well as managing air, soil, fresh water and coastal marine areas, the RMA regulates land use (including subdivision) and the provision of infrastructure, which are integral components of New Zealand's planning system.

Relationships with iwi and Māori under Te Tiriti o Waitangi (the Treaty of Waitangi) are significant across most of our work programmes. Other partnerships span:

- Crown entities
- business
- non-governmental organisations
- the wider community.

Working with the Land and Water Forum on freshwater reform has been a valuable exercise. It has also been a useful model for collaborative engagement and planning that is expected to become more frequent at all levels of the environmental management system. We have also worked with local authorities to develop guidance for collaboration planning processes. The partnership model is reflected in the range of non-regulatory mechanisms that support our regulatory strategy: science, information, funding and sharing best practice.

All of our advice should ultimately be framed within our overall mission as an agency and our strategic priorities of:

- leadership
- information
- system capability and capacity
- kaitiakitanga.

Why environmental regulation matters

The natural and built environment is important to New Zealanders for many reasons. Most fundamentally, it supplies our basic needs: clean air, water, food and a place to live. Much of New Zealand's international competitive advantage lies in the quality and quantity of its environment and natural resources. Maintaining high environmental standards is essential for market access and New Zealand's economic growth and continued prosperity, as well as for creating high-quality environments (built and natural) for New Zealanders to live in.

Ecological systems are constantly changing, as are the demands placed on them. The extent to which we can use the environment before we start to put it and its resources at risk is limited. Often, the full implications of the environmental policies and interventions made in the past only become clear generations later. This means environmental regulation must support New Zealand's prosperity by allowing ongoing access and use of the natural environment, while at the same time protecting it for future generations.

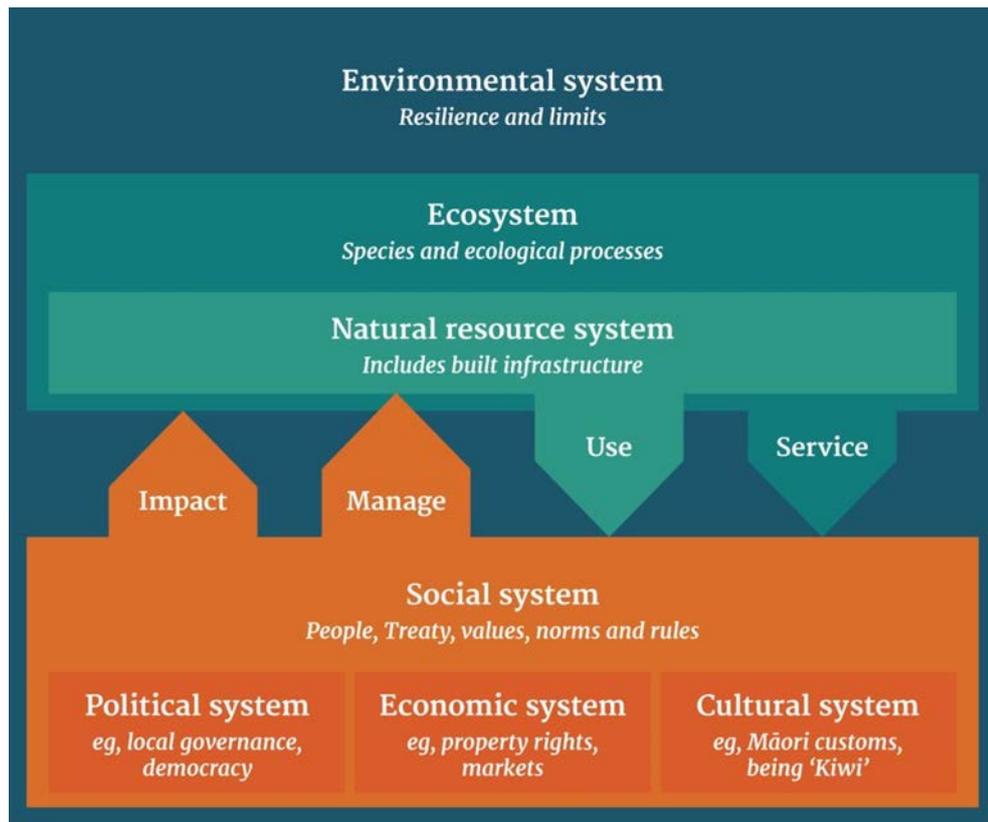
The environment confers mana and provides sustenance to Māori. It has shaped the living culture of Māori, and the Māori culture has in turn shaped the New Zealand environment over many generations. It is the resting place for those who have died, with many features of the natural landscape representing important ancestors. The environment is important to tāngata

whenua as a form of personal and tribal identity, a symbol of social stability and an important source of emotional and spiritual strength.

Environmental management system

The term ‘environmental management system’ describes the numerous and complex interactions and interdependencies between New Zealand’s environmental and social processes (see figure 1). This system is determined, in part, by the biophysical reality of resources, but also by how these resources are used, managed and valued. It is a dynamic system made up of political, economic, cultural and social drivers.

Figure 1: Environmental management system

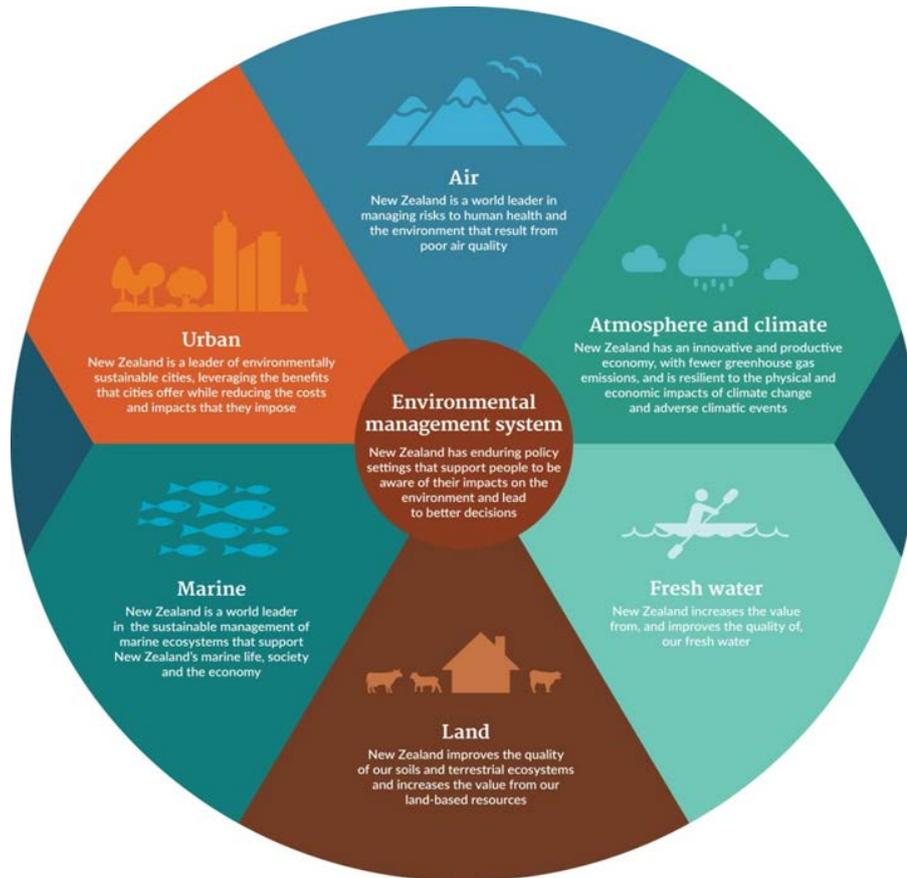


Water, land management, and climate change are not simply environmental issues – any action on these issues has economic, social and cultural implications. Social and economic systems drive how people value, use and manage natural resources. Therefore, much of what government seeks to achieve across its wider policy programme and ministerial portfolios depends on the performance of the environmental management system.

As such, a long-term, cross-sector view in decision-making is essential. This approach resonates with the holistic way Māori consider their relationship with the environment. The phrase “ki uta ki tai” – “from the mountains to the sea” is often used to describe how the environment should be viewed and managed.

We use a ‘domain’ approach to understand the different components of the environmental management system. This approach focuses on each domain, allowing us to build coherent understanding within each one, before viewing the system as a whole. The domains are Air, Atmosphere and Climate, Fresh water, Land, Marine and Urban (see figure 2).

Figure 2: What success looks like in the environmental management system domains in 2045



Though we use a domain approach to understand and manage the environmental management system, it is important to recognise that domains do not operate in isolation from one another. Both ecosystems and the influence of activities and management interventions connect domains in many ways.

3 The Ministry for the Environment's strategy for managing our regulatory systems

Our strategic direction

We take a long-term approach to our work programme, and have developed the following four long-term outcomes and strategic priorities (see figure 3), underpinned by a domain-based outcomes framework (with supporting targets and measures from 2020–40).

Figure 3: Our strategic direction: Ministry for the Environment's long-term outcomes and strategic priorities

Our Strategic Priorities <i>What needs doing first in the system</i>	Our long-term Outcomes <i>What we seek to achieve</i>
<p>Leadership: Driving continuous improvement across the environmental management system by articulating a clear view and leading change</p> <p>Information: Collecting, broadening, and communicating trusted information needed to deliver the long-term outcomes</p> <p>System capability and capacity: Building our capacity and working within the system to support better decision-making</p> <p>Kaitiakitanga: Enabling iwi/hapū to undertake kaitianga and ensuring analysis is based in iwi perspectives</p>	<p>The capacity of the environment to sustain itself is safeguarded</p> <p>The use of the environment and its natural resources is optimised for the betterment of society and the economy</p> <p>Risks to people and the environment are known, understood and well managed</p> <p>People are enabled to make and implement decisions that benefit society and the environment</p>

These long-term outcomes and strategic priorities provide us with a clear direction of travel. They also provide the context in which we undertake regulatory stewardship. The way that we set and deliver environmental regulation must support and continue to support our long-term outcomes and strategic priorities.

How do we determine our regulatory priorities?

In addition to alignment with our strategic direction, we use several other factors to determine our regulatory approach and help frame our regulatory priorities. These include:

- non-discretionary obligations (ie, statutory obligations) and alignment with international agreements and obligations
- long- and medium-term environmental stewardship considerations as identified by Environmental Reporting and National Monitoring System findings
- feedback from our stakeholders and from within our business, and what this tells us about where and how regulatory adjustments may be necessary

- supporting ministerial priorities, Cabinet-mandated work and the Government’s Business Growth Agenda – we have a significant role in delivering the Business Growth Agenda Natural Resources Sector priorities.³

Robust analysis and implementation support for changes to regulatory systems

We place a high priority on quality. In general, our approach to quality advice supports clear problem definition, impact analysis, and guidance to ensure the case for regulations (and their design and delivery) is robust. This includes:

- training, tools and internal processes to support good commissioning of work, backed by similar arrangements for effective peer review
- regular assessments of nearly 20 per cent of advice that has been sent, followed by feedback to staff involved and adjustment of overall guidance, tools and processes.

Externally, we have extensive partnerships with local authorities and others engaged in planning to promote sharing of knowledge and best practice. In fresh water, guidance on implementing the National Policy Statement for Freshwater Management is developed through such partnerships.

Our regulatory approach is increasingly supported by investment in science, support for and integration of data on environmental outcomes, the development of models, and collating the results through mechanisms such as the Environmental Reporting work programme. Improved understanding of evidence and drivers supports improved policy and implementation at national and local levels.

Regulatory impact analysis (RIA) is a part of the many tools and processes we use to measure and improve our advice. All of our regulatory proposals must meet RIA requirements. We have embedded the RIA approach into our policy advice (see figure 4). This means we are clear about the nature and significance of the problems we are addressing and the intended objectives.

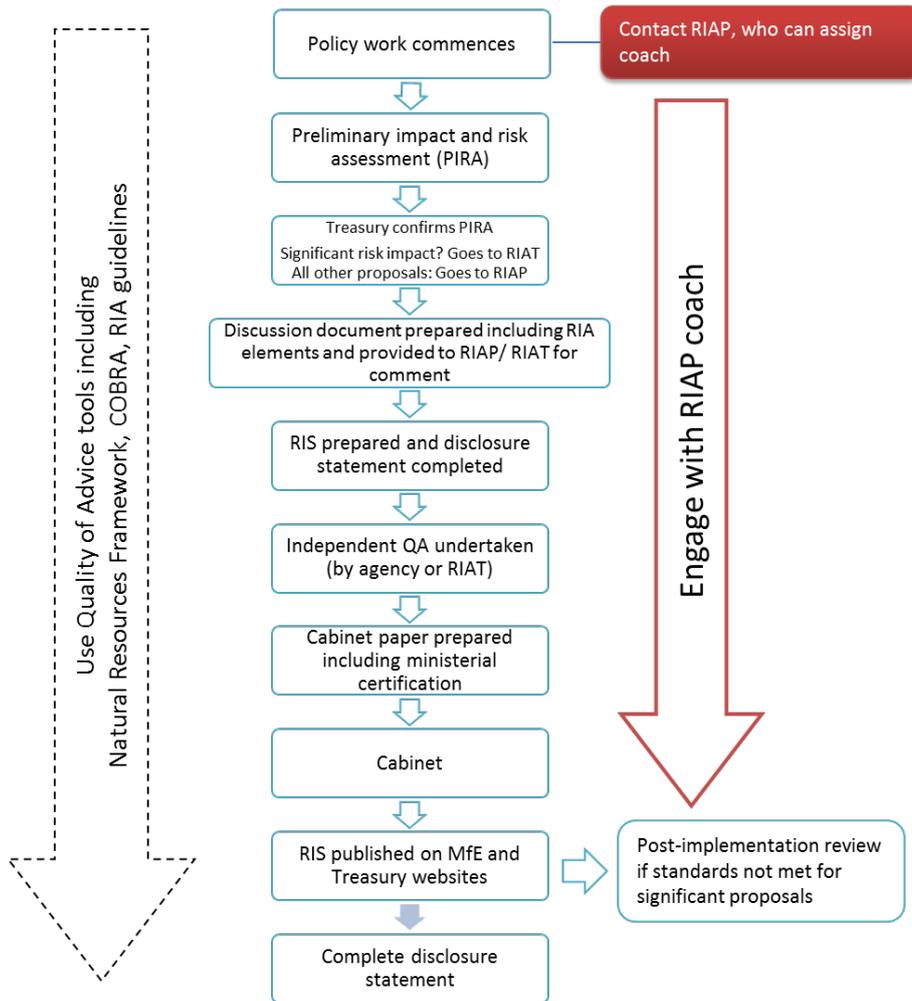
Consistent with this approach, we consider both regulatory and non-regulatory options (eg, product stewardship, education and marketing campaigns, and funding schemes) to determine how best to address the problem and achieve the objectives. We expect non-regulatory options, especially in partnership with different levels of government, iwi and stakeholders, to become more common in achieving lasting change in environmental outcomes.

Our independent Regulatory Impact Analysis Panel assesses our regulatory impact statements to determine whether they meet the requirements for a regulatory impact statement to be complete, ie convincing, clear and concise, and consulted.

³ These priorities are:

- encouraging regional economic development with certain and timely processes for allocating access to resources
- freeing up urban land supply and accelerating access and the use of it
- improving the efficiency of freshwater allocation and usage within limits, and encouraging investment in water storage and irrigation
- developing New Zealand’s aquaculture, fisheries and other marine resources, while maintaining marine biodiversity and sustainability
- improving energy efficiency and use of renewable energy to raise productivity, reduce carbon emissions, and promote consumer choice.

Figure 4: Ministry for the Environment’s regulatory impact analysis process



Note: COBRA = costs opportunities benefits risks analysis; MfE = Ministry for the Environment; QA = quality assessment; RIA = regulatory impact analysis; RIAP = MfE’s Regulatory Impact Analysis Panel; RIAT = Treasury’s Regulatory Impact Analysis Team; RIS = Regulatory Impact Statement.

4 Monitoring, review and reporting

Monitoring

We have a mixture of monitoring arrangements, which reflect the range of different systems and instruments we administer. Internal monitoring systems include the National Monitoring System for the RMA and the Environmental Reporting system with Statistics New Zealand. These allow us to understand how (and how well) systems work. We also draw heavily on councils and stakeholders, public consultation, and data collected under individual systems and by other agencies.

National Monitoring System

The National Monitoring System identifies and captures consistent and comparable information on how the RMA is implemented.

It provides robust information on the implementation of the RMA and the performance of tools (national policy statements, national environmental standards, and water conservation orders). This information is used to produce a picture of the impact of the functions, tools and processes of the RMA.

We continue to improve the availability, consistency and comparability of RMA information, and to streamline data collection.

The data collected under the National Monitoring System will contribute significantly to our information base and ability to measure performance. It will also enhance the ability of councils and local communities to compare performance and identify best practice. This will provide information to support better local decision-making and planning.

Environmental reporting

Our major monitoring mechanism for environmental outcomes is the Environmental Reporting Act 2015, where we jointly operate a statutorily independent and statistically robust public reporting cycle with Statistics New Zealand. The environmental reporting system provides regular, independent and robust reports that detail the current state of New Zealand's biophysical environment. Information on biodiversity and ecosystems will feature in the fresh water, land and marine domains. Every three years, a comprehensive report (the Environment Aotearoa synthesis report) brings together information on the air, atmosphere and climate, fresh water, land and marine domains.

We are undertaking work to improve quality and consistency of environmental monitoring, and the data that underpins reporting. Several collaborative initiatives with regional councils will address issues of consistency, representativeness and accessibility.

Specific mechanisms are in place to measure climate change emissions, air quality exceedances, waste minimisation, and water monitoring (Land, Air, Water Aotearoa – www.lawa.org.nz).

International monitoring

Periodically, New Zealand's environmental performance is assessed by international agencies. This information is useful for assessing how the international community views New Zealand,

and it is an effective way to promote discussion and debate about whether New Zealand's environmental regulatory settings are right.

For example, the Organisation for Economic Co-operation and Development (OECD) reviews New Zealand's environmental performance. These reviews are designed to help OECD member countries improve their individual and collective performances in environmental management with the goal of achieving sustainable development. The review evaluates progress on actions taken to date and results achieved. These results are assessed against the country's own stated intentions, international commitments, and the aims of the OECD's environmental programme.

The OECD released its third Environmental Performance Review of New Zealand on 20 March 2017, at an event led by Minister Smith and Simon Upton (Director, Environment Division OECD). Previous reviews were undertaken in 1996 and 2007. The report says that New Zealand is one of the most dynamic economies in the OECD, and has built an international reputation based on our fantastic environment. But in achieving this, the OECD has noted that we are starting to reach environmental limits. This is not news to us – we recognise our stewardship role as part of our purpose of making Aotearoa New Zealand the most liveable place in the world.

There are 50 recommendations in the report, and of those two strong themes have emerged which emphasise the need to continue:

- broadening how we harness market forces to better manage our natural resources
- evolving system-wide and collaborative approaches to our environmental and economic long-term strategies such as addressing climate change and increasing the added value of our export products.

We are in the process of carefully considering the review and looking at how the recommendations can be incorporated into our advice, where appropriate.

Freshwater monitoring

An area for further development is the implementation of an effective monitoring and evaluation framework for fresh water. We will assess progress toward medium- and long-term objectives and overarching goals of the freshwater reforms. Specifically, this will enable evaluation of the environmental outcomes and the environmental, economic and social impacts of freshwater management. This will include evaluating interventions (eg, the National Policy Statement for Freshwater Management, water funds, and collaborative planning) as well as evaluating the application of the water reform policy in council plans.

Waste monitoring

The Waste Disposal Levy component of the waste regulatory system is subject to three-yearly statutory reviews to assess its effectiveness. These reviews include analysis of compliance levels and progress against the purpose of the levy. There is also a well-developed engagement programme with levy collectors and territorial authorities which includes helping these parties comply with statutory obligations. Further work could be done to monitor the effectiveness of other areas of the waste regulatory system, although limited resourcing and information presents barriers to carrying out this work.

Implementation and compliance

We often operate in a high-level policy role, with detailed policy design, implementation and compliance with systems carried out by other entities at national or local levels; primarily, these are the EPA and local government.

Atmosphere and climate

The EPA is responsible under the Climate Change Response Act 2002 for ensuring compliance with the New Zealand Emissions Trading Scheme (NZ ETS). The EPA encourages people involved in the NZ ETS to follow the rules, and responds when it seems that people are falling short of their obligations.

The EPA is also the enforcement agency for matters relating to ozone-depleting substances (under the Ozone Layer Protection Act 1996). Non-compliance can result in penalties, including the person's permit being revoked and a fine being imposed.

Marine

Responsibilities for the EEZ Act are largely split between the Ministry and the EPA. We largely administer the EEZ Act and its implementing regulations and policies. The EPA is responsible for considering applications for marine consents, monitoring compliance with the EEZ Act and any conditions on marine consents, carrying out enforcement, and promoting public awareness of the requirements of the EEZ Act and associated regulations.

Responsibilities for managing the coastal environment under the RMA sit with a range of government agencies. We administer the RMA, develop national direction instruments for coastal areas under the RMA (in the case of the New Zealand Coastal Policy Statement, in conjunction with the Department of Conservation) and respond to national priorities to do with managing the environment.

The Department of Conservation (DoC) is responsible for preparing and reviewing the New Zealand Coastal Policy Statement (NZCPS), including providing implementation support to councils, and prepares the approval of regional coastal plans through the Minister of Conservation.

Local authorities implement the RMA at regional and local levels. They prepare policy statements and plans under the RMA that identify resource management issues and establish objectives and environmental outcomes which policies, rules or other methods seek to achieve. Local authorities also grant resource consents for activities involving the use of natural and physical resources and monitor activities in their areas to ensure activities meet requirements under the RMA, plan rules and resource consents.

Resource Management Act 1991

The Ministry's role in administering the RMA is to set a framework within which other parties set outcomes, design policies, or apply policies to specific cases. Although the number of national direction instruments under it is growing, fundamentally the RMA devolves decision-making to communities (through their elected councils) for what they want and how to achieve it.

In practice, our compliance and enforcement activity consists mainly of engagement with local authorities regarding plan development, consenting, monitoring and enforcement. This activity has focused primarily on guidance and support for councils, combined with public reporting of processes and, increasingly, of outcomes.

Hazardous substances and new organisms

Enforcement matters relating to hazardous substances (HS) and new organisms (NO) under the Hazardous Substances and New Organisms Act 1996 (HSNO) are assigned to enforcement agencies with responsibility for specific areas. For example:

- new organisms – Ministry for Primary Industries
- hazardous substances in places of work – WorkSafe New Zealand
- hazardous substances in relation to travel and transport – New Zealand Transport Agency, New Zealand Police, Civil Aviation Authority of New Zealand, Maritime New Zealand
- hazardous substances at the border – New Zealand Customs Service
- hazardous substances in relation to public health – Ministry of Health.

We are working with the EPA to implement a new outcomes framework for new organisms, to improve our ability to monitor the impacts of new organisms on New Zealand's economy, society and culture. We also intend to improve the system for monitoring hazardous substances, to better identify more long-term effects on the environment.

Waste

The Ministry and Territorial Authorities have enforcement powers under the Waste Minimisation Act 2008 (WMA) to ensure compliance with this Act. Our enforcement and compliance activity in practice consists mostly of engagement with Territorial Authorities and operators of levied fills to provide guidance and support. A strong compliance assurance programme is in place for operators of levied fills. The EPA is also the enforcement agency for matters relating to hazardous waste (under the Import and Export (Restrictions) Amendment Act 2011).

5 General Acts and priorities for 2017–18

Acts not part of our regulatory systems

The following Acts are not part of the regulatory systems we have defined for the Ministry. This is because they relate to obligations that bear only on ourselves, or establish other institutions and their powers, rather than imposing direct obligations on regulated parties.

Environment Act 1986

The Environment Act 1986 established the Parliamentary Commissioner for the Environment and the Ministry for the Environment. The Act aims to ensure that, in the management of natural and physical resources, full and balanced account is taken of:

- the intrinsic values of ecosystems
- all values that are placed by individuals and groups on the quality of the environment
- the principles of the Treaty of Waitangi
- the sustainability of natural and physical resources
- the needs of future generations.

Environment Canterbury (Transitional Governance Arrangements) Act 2016

The Environment Canterbury (Transitional Governance Arrangements) Act set up governance arrangements for Canterbury Regional Council during the 2016 to 2019 local authority election-cycle and replaced the governance arrangements in place since 2010. It provides for:

- a majority of members of the Council to be elected by the people of the Canterbury region
- the continuation of some of the modified resource management processes that have operated under the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 to remain available to the Council to further progress issues for managing fresh water within the Canterbury region

Environmental Protection Authority Act 2011

The purpose of the Environmental Protection Authority Act 2011 is to establish an Environmental Protection Authority and to provide for its functions and operation. This Act establishes the EPA and provides for its functions and operations.

Environmental Reporting Act 2015

The purpose of the Environmental Reporting Act 2015 is to require regular reports on New Zealand's environment. This Act makes responsibilities for independent, fair and accurate environmental reporting explicit, and sets the broad framework for the scope of reporting and timing for reporting products. Regulations were made in 2016 to set topics to be reported on when environmental reports are produced under the Act.

Priorities and reviews for 2017–18

The Ministry's purpose is to make New Zealand the most liveable place in the world. That comes from understanding how we depend on nature to thrive and continuing to strengthen our stewardship role. Within this overarching framework, our regulatory priorities for 2017-18 include:

- Implementing reforms to the RMA which create:
 - a. better alignment and integration across the resource management system
 - b. proportional and adaptable resource management processes
 - c. robust and durable resource management decisions.
- Reviewing the current framework for resource management and planning.
- Providing advice to Government on further developing reforms in the marine/coastal space:
 - Marine protection reform, including the proposed Kermadec Ocean Sanctuary, Marine Protected Areas reform and Recreational Fishing Parks in the Hauraki Gulf and Marlborough Sounds
 - Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 reform, including developing regulations for decommissioning of offshore petroleum facilities and updating the permitted activity regulations.
- Policy development on possible changes to the Climate Change Response Act 2002 to increase regulatory durability and predictability along with improving scheme flexibility for the Government, and to assist New Zealand (NZ) to meet its Paris Agreement target to reduce emissions by 30 per cent of 2005 levels by 2030.

The Ministry is also cooperating with the Parliamentary Counsel Office on the Access to Subordinate Instruments Project, and are currently reviewing the first set of analysed legislation.

The legislative tools that sit under the RMA are used to set a consistent direction on topics of national importance. These legislative tools for national direction are national policy statements, national environmental standards and regulations for administrative matters.

In September 2016 we updated the list of priorities that will be addressed nationally using one of the RMA legislative tools. The purpose of the list is to give communities, businesses and councils more certainty about what national guidance is being progressed and when that guidance might be completed. Each priority topic will go through a formal development process, including public consultation and the chance to make a submission. We are also working to identify new priorities, and plan to update the list of national direction priorities in late 2017/early 2018.

- See the table below for the updated priorities and links to further information.

Table 1: Ministry for the Environment's national direction priorities for 2017/18

Topic	Indicative date of completion	Description	For more information see the following web pages
Telecommunication facilities (amendments)	Came into effect on 1 January 2017	Changes to bring the existing national environmental standards up to date with current technology and to expand permitted activities outside the road reserve.	About the National Environmental Standards for Telecommunication Facilities 2016
Urban development capacity	Came into effect on 1 December 2016	Requirements for councils to provide sufficient capacity for urban development to meet demand for housing and business needs.	National Policy Statement on Urban Development Capacity
Plantation forestry	Early 2017	Nationally consistent rules to manage plantation forestry with more efficiency and certainty, and maintain or improve environmental outcomes.	About the proposed National Environmental Standard for Plantation Forestry
Freshwater management (proposed amendments to the National Policy Statement)	Cabinet decisions on proposal due soon	Potential amendments to clarify how existing policies are to be applied.	Clean Water Package 2017
Stock exclusion from water bodies	Cabinet decisions on proposal due soon	A nationally-consistent approach to exclude stock from water ways, starting with dairy cattle and pigs and ultimately applying to beef cattle and deer.	Clean Water Package 2017
Drinking water	Late 2018	Review the existing national environmental standards and users' guide to assess effectiveness and any requirement for updating and amending.	About the National Environmental Standards for Sources of Human Drinking Water
Pest control	New regulations come into force on 1 April 2017	Simplifying the regulatory regime for certain toxins used to manage pest mammals and fish by removing duplication between the RMA and other legislation, including the Hazardous Substances and New Organisms Act.	Streamlining the regulatory regime for pest control
Aquaculture	Consultation on National Environmental Standard mid-2017	Nationally-consistent and efficient approach for existing marine farms to obtain replacement consents, and strengthen biosecurity management nationally.	National direction for aquaculture
Air (amendments to the National Environmental Standard)	Late 2017	Updating the provisions relating to particulate matter to reflect the costs of compliance and current science on health impacts.	About the National Environmental Standards for Air Quality
Contaminants in soil (amendments to the National Environmental Standard)	Mid-2017	Changes to make the existing national environmental standard more targeted toward risks from contaminants.	Proposed amendments to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

Topic	Indicative date of completion	Description	For more information see the following web pages
End-of-life tyres	Late 2017	Nationally-consistent rules for the responsible storage of end-of-life tyres.	Proposed National Environmental Standard for the Outdoor Storage of Tyres
Dam safety	Early 2018	Developing a set of rules and conditions to ensure best-practice dam safety management is applied to all relevant dams.	
Biodiversity	Late 2018	Set out objectives and policies about managing natural and physical resources to maintain indigenous biodiversity.	About a national policy statement for biodiversity
Natural hazards	Late 2018	Guidance on managing significant risks from natural hazards.	Managing natural hazards in New Zealand

6 Regulatory systems⁴

To assess our regulatory systems, we first had to define them in a consistent way. See Appendix B – Ministry for the Environment regulatory systems for how these systems connect with the underlying statutory frameworks, and the other agencies and entities involved in managing them.

Assessment approach

In identifying whether our regulatory systems are fit for purpose, the approach taken here has been to assess systems solely against their legislated purpose. Over time, we would also seek to assess the effectiveness of these systems in achieving our long-term outcomes. The following is a summary assessment based on our own customised methodology which draws on:

- monitoring and reviews of individual systems
- external assessment and reporting
- internal monitoring systems.

This work will:

- help us meet statutory obligations and reporting requirements against respective outcomes frameworks and strategic plans
- address Performance Improvement Framework reviews and Treasury and Productivity Commission recommendations on best practice regulation
- provide better alignment across agencies in understanding the regulatory system and its performance
- support decisions on work programmes and allocation of resources.

See Appendix A – Regulatory systems against common agency for a categorisation of our regulatory system by four criteria which are common across agencies. Although the categories are identical, each agency has assessed its own systems using a methodology that reflects its own challenges and opportunities.

The categorisation was informed by our own set of 32 questions (see Appendix C – Ministry for the Environment assessment methodology – Questions grouped by common agency) each of which has four answers to choose from, representing the following range:

- best practice / excellent
- acceptable
- developing / needs improvement
- unaware / needs significant improvement.

⁴ A **regulatory system** is a set of formal and informal rules, norms and sanctions, and designated actors, actions and practices that work together to shape people's behaviour or interactions in pursuit of a broad goal or outcome.

Assessment findings across systems

Main issues facing our regulatory systems

Because of the diffuse but interrelated nature of the environmental management system, one of the main challenges for our regulatory systems is for action in one domain (eg, land) to support, or at least not hinder, outcomes in other domains (eg, fresh water and the coast). To do this, we need to anticipate the implications of change in one part of an interconnected system (including insight into causes, consequences and cumulative effects) and develop regulatory solutions that benefit multiple domains simultaneously.

Other issues facing our systems are:

- rising public expectations regarding the quality and effectiveness of local planning, and the consequent monitoring and enforcement activity
- tensions over how resources are allocated, used and conserved, conflicts between resource uses (particularly recreational, cultural and activities that extract resources or discharge into the environment), and growing awareness of cross-domain impacts (eg, land uses impact fresh water and ultimately the marine environment, such as through sediment)
- valuing natural capital and resources in a way that ensures impacts and dependencies are taken into account without discounting what cannot be quantified, while allowing for timeframes that can span decades, due to lagged environmental and cumulative effects
- demand for collaborative approaches at national and local levels, varying political and public appetite for changing the *status quo* (ie, genetically modified organisms, waste management), tensions between central and national direction on environmental issues and localised decision-making, and how to ensure New Zealanders feel the system encourages their participation and input
- how to address iwi rights and interests in a post-settlement era
- how to ensure New Zealand actions decisions from international forums it is signatory to (eg, Montreal Protocol on Substances that Deplete the Ozone Layer) and appropriately responds to global environmental trends and pressures (eg, climate change).

Although we face major challenges, we are positioned, with our many partners, to address these effectively in the coming years. Several significant reviews are under way within our current systems, including the RMA and the NZ ETS. Also, major reforms are being implemented on other systems and will be for some years to come, such as fresh water and the marine environment.

Poor compliance is a problem for many of the regulatory systems we administer, with issues such as insufficient resources, training and guidance faced by agencies responsible for compliance, monitoring and enforcement (CME). We have committed to specific interventions to improve compliance, such as developing best practice guidelines on CME under the RMA. We are also considering taking a whole-of-Ministry approach to providing greater leadership on CME, and improving compliance across all regulatory systems we administer.

Condition and fitness for purpose

The following table summarises common messages from our individual system assessments against the common agency criteria.

Condition and Fitness for Purpose against Common Agency Criteria			
Effectiveness	Efficiency	Durability and Resilience	Fair and Accountable
To what extent do the systems deliver the intended outcomes and impacts?	To what extent do the systems minimise the unintended consequences and undue costs and burdens?	How well do the systems cope with variation, change and pressures?	How well do the systems respect rights and deliver good process?
<p>Generally the Ministry's systems deliver all or most of the intended outcomes, but legal and environmental timeframes can be lengthy, making impacts hard to measure.</p> <p>Resource constraints (skills and financial), compliance and enforcement, and implementation can raise concerns.</p>	<p>More investment is required in understanding the value-add of the Ministry's regulatory systems, especially whether long-term best value is being delivered as opposed to managing shorter-term risks.</p> <p>Process efficiency is generally high but inflexibility limits innovation. At the same time, variations in local approaches, undertaken for a range of reasons, create inconsistency and inefficiency for users.</p>	<p>Reviews are undertaken at reasonable frequency but the resulting changes challenge councils' and users' ability to implement.</p> <p>Integrated management across environmental domains (eg, land/coast) remains a challenge.</p>	<p>Central government roles are generally limited and deliverables are achieved.</p> <p>Local discretion and the resulting variation make tracking performance difficult.</p> <p>Councils usually understand their obligations. However, in the rest of the regulated community the ability to carry out these obligations varies (especially for small businesses).</p>

More broadly, a number of areas for improvement have been identified from looking at more detail within each system assessment, and reviewing common themes. A number of these areas fall under more than one of the criteria above.

These areas for improvement include:

- Managing overlapping objectives well within our systems and across systems. The balance between being supportive of growth and other objectives remains a significant tension, along with difficulties in defining urban goals.

Tensions between different statutory instruments and institutions are known but often require statutory change or significant resourcing to address effectively. This is a particular issue for councils which have to manage a number of specific regimes within the RMA framework (air, coast, water) as well as integrate their RMA approaches with their Local Government Act and other planning obligations. The regulatory system for the marine domain as a whole is also complex and not well integrated across artificial boundaries.

Progress has been made but this balancing will always remain a challenge due to the complexity of goals, overlapping decisions, and long timeframes.

- The planning system remains a challenging system to understand and improve.

The new national planning standards will provide an opportunity for greater standardisation to reduce complexity for regulators and regulated parties.

- Ensuring that reviews are strategic in timing and supported by adequate resourcing at design and implementation.

The Air Quality regulatory system for example is highly effective within its current scope, and adds value to NZ society in providing a consistent minimum standard for air quality across the country, but is outdated and needs to align better with international trends and

science, hence the current review. Similarly, a wider review of the planning system has been signalled by Government. We need to ensure that such reviews occur without unnecessary delay.

- Risks are being considered in depth as regimes are reviewed – but there are challenges in implementation capacity, monitoring and alignment with other regulatory systems. Regulation can also have unintended consequences such as diversion of waste to non-levied landfills to avoid the Waste Disposal Levy. Smaller business may not fully understand their obligations under the Emissions Trading Scheme. These challenges also apply to compliance, monitoring and enforcement where understanding of rules and the consequences of no compliance can vary significantly even at the council level, let alone with business and the public.

Low understanding of, and compliance with, complex workplace hazardous substances rules should be improved by the transfer to WorkSafe under the Health and Safety at Work Act. Approaches to RMA enforcement also remain variable but work is ongoing.

- Resourcing and prioritisation remain major challenges for local government generally in fulfilling roles under our regulatory systems and their other obligations. Skills are generally available across systems as a whole, and the Ministry for the Environment (MfE) has strongly engaged staff, but MfE, EPA and councils struggle to maintain required workforces within available resourcing. Aligning all hazardous substances with global classification requirements and reviewing to ensure net benefits to society will require significant resourcing.

This set of challenges is a priority for Natural Resource Sector agencies to work together in coordinating within existing resources and identifying where cases exist for future budget initiatives.

- Better communication is needed within central government and across levels of government. Understanding by government of regulated communities is generally high, but engagement between MfE and local government in design and implementation stages could certainly be improved.

This is an area where significant progress has been made in recent years, particularly in building and maintaining links with councils, undertaking joint development of guidance and facilitating sharing of best practice and training opportunities.

Looking across both the table and the bullets above, there are clear areas of relative strength and weakness, suggesting where additional effort might best be directed (see the following table).

Stronger	Weaker / More opportunities
System purposes are clear and well aligned with Government goals.	Need to better understand each system’s value-add and how it contributes to the desired outcomes.
We have a good understanding of the operating environment and regulated communities.	Adequacy of resources varies within and across different levels of government in order to effectively implement, monitor and achieve compliance with obligations.
We have generally been proactive in identifying the need or opportunity for improvements.	Need more consistent use of benchmarking, and a more strategic focus for when and how widely reviews are carried out across our systems and others. Achieving these things would better enable us to identify opportunities to achieve outcomes more effectively and efficiently

We have an overall strategy for improvement in our own activities and the regulatory systems for which we are responsible. This is intended to address the issues identified above, and the concerns noted regarding their condition and fitness for purpose.

The primary mechanisms are: improving our information systems; more consistent and ongoing engagement with stakeholders; and focusing our efforts through clear priorities and well signalled reviews that are scoped and delivered through partnerships.

- We have generated improved information to support our regulatory systems, from the specifics of water metering data to National Monitoring System for the RMA, and the general cycle of environmental reporting which is now well established.
- We also manage a number of funds that can assist with resourcing and capability (Waste Minimisation, Freshwater Improvement, Community Environment) and provides programmes such as Making Good Decisions and RMA 101, along with workshops and exchanges for regional council staff to build capability.

Regulatory systems: Descriptions, assessments and planned activity

The following assessments all follow a common format:

- system description
- assessment of condition and fitness for purpose
- planned activity for 2017-18.

[Appendix B](#) then pulls together all the Assessments of Condition and Fitness for Purpose to allow easy comparison.

System – Atmosphere and Climate

System description

The Climate Change Response Act 2002 established the NZ ETS, New Zealand's main domestic policy instrument for addressing climate change. Seven regulations and four orders sit under this Act covering a broad scope of technical regulations including general exemptions, fishing allocation plans, eligible industrial activities, removal activities, stationary energy and industrial processes, synthetic greenhouse gas levies, unique emissions factors, waste, forestry and fossil fuels. The Act also put in place a legal framework that enabled New Zealand to ratify the Kyoto Protocol and to meet its obligations under the United Nations Framework Convention on Climate Change.

The NZ ETS was designed to put a price on greenhouse gas emissions and removals throughout the New Zealand economy. The legislated purpose of the NZ ETS is to support global efforts to reduce greenhouse gas emissions by helping New Zealand meet its international obligations, and by reducing New Zealand's own emissions. Emissions are priced by requiring the surrender of 'emission units,' the supply of units through allocations to eligible activities and growing forests, and by imposing an import levy on some types of chemicals contained in goods. The NZ ETS regulatory system establishes detailed rules for participants to meet their obligations to report emissions and removals and surrender emission units, or pay the levy, and for emission units to be allocated to persons who are eligible to receive them, including those performing removal activities.

The scope of this element of the Ministry's regulatory stewardship survey is constrained to only the NZ ETS. Future evaluations will include the non-NZ ETS parts of the Climate Change Response Act 2002, as well as atmosphere regulations (the Ozone Layer Protection Act 1996).

Portfolio	Climate
Key statutes	Climate Change Response Act 2002
Other government agencies with substantial role	<ul style="list-style-type: none"> • Environmental Protection Authority • Ministry for Primary Industries

Condition and fitness for purpose

Effectiveness	Efficiency	Durability and Resilience	Fair and Accountable
To what extent does the system deliver the intended outcomes and impacts?	To what extent does the system minimise the unintended consequences and undue costs and burdens?	How well does the system cope with variation, change and pressures?	How well does the system respect rights and deliver good process?
The system delivers on the intended objectives, which are clearly described but difficult to measure progress against. Key risks and regulatory overlaps have been identified and considered. The relevant agencies have the required financial and human resources to deliver the system. There are minor concerns with the lack of transparency and the degree of discretion, and consequent uncertainty, around compliance issues. These are being reviewed at present.	The system is regularly benchmarked against similar international systems. However, the overall value-add of the system is not clearly understood. The available evidence is generally sector-specific, or only indicates correlation rather than causation. An attempt to ascertain the overall value-add of the system in the future would be beneficial.	Changes to the operating context, system vulnerabilities and opportunities for changes are regularly assessed. Slight barriers to changing the system have been identified, including regulatory uncertainty and a lack of alignment between policies. However, these have not prevented the system from keeping pace with overall changes to the operating context.	MfE, the EPA and the Ministry for Primary Industries (MPI) agree on the system objectives and their respective roles and responsibilities. All deliver their statutory and non-statutory deliverables and timeframes, and the regulated community largely understands its obligations. Communication with the regulated community is mostly appropriate.

Planned activity for 2017–18

The Ministry is currently reviewing and assessing the operation and effectiveness of the NZ ETS to 2020 and beyond, to ensure the New Zealand economy is well prepared in the context of a strengthening international response to climate change and potentially higher carbon prices in the 2020s.

This review will also allow the NZ ETS to evolve, particularly with respect to the framework provided by the new climate agreement (Paris Agreement) that will apply after 2020. This may involve the amendment or creation of legislation or regulations to enable and enhance measures aimed at achieving NZ's Paris Agreement target.

Operational improvements will be progressed as needed, including the development of annual amendment regulations in the middle of 2017 to update emissions factors and the prices of the synthetic greenhouse gas levy.

System – Air Quality

System description

The air quality regulatory system aims to manage air quality to provide a guaranteed level of health protection for New Zealanders. The system was designed to restrict and control the release of environmentally and health damaging pollutants into New Zealand’s atmosphere. The regulatory system includes the:

- Resource Management Act 1991 which manages specific air discharges through the consenting process
- National Environmental Standards (NES) for Air Quality that aims to manage outdoor air quality by setting minimum air quality standards that each local authority has to observe and enforce within their airshed/s.

Portfolio	Environment
Key statutes	Resource Management Act 1991 NES for Air Quality
Other government agencies with substantial role	<ul style="list-style-type: none"> • Local authorities (both regional councils and territorial authorities) • Ministry of Transport • Ministry of Business, Innovation and Employment

Condition and fitness for purpose

Effectiveness	Efficiency	Durability and Resilience	Fair and Accountable
<p>To what extent does the system deliver the intended outcomes and impacts?</p> <p>Overall, the air system delivers the intended outcomes and impacts. Significant improvements have been made in the air quality around New Zealand. The key piece of regulation in the air domain space is the National Environmental Standard for Air Quality (NESAQ), which has been in place since 2004. Amendments to the NESAQ are currently being progressed to keep up with international trends and better science. Stakeholder feedback on the system has highlighted that councils are uncertain about the consequences of non-compliance with the NESAQ.</p>	<p>To what extent does the system minimise the unintended consequences and undue costs and burdens?</p> <p>The NESAQ has not set national rules, resulting in each region determining their own air quality plans with inconsistent air quality management approaches being taken throughout New Zealand.</p>	<p>How well does the system cope with variation, change and pressures?</p> <p>The system is reviewed every 5 years; its main mechanism to deal with variation and change. These regular reviews help to detect vulnerabilities and can contribute to avoiding significant system failure. MfE has engaged with MoH, MoT, MBIE, EECA and others on the NESAQ. There are opportunities to improve the way agencies work together to manage home heating, outdoor air quality and warm homes. Engagement has been limited to informing and providing feedback on each agency’s individual pieces of legislation.</p>	<p>How well does the system respect rights and deliver good process?</p> <p>The NESAQ system respects the rights of individual regions and allows regions to develop more stringent rules as they see necessary. The regulated community understands its obligations under the NESAQ. MfE and local government generally agree on the system objectives and their respective roles and responsibilities. The high rate of anticipated non-compliance with the NESAQ from 2017, suggests that it may not be delivering good processes. MfE is currently reviewing the NESAQ which should address these points.</p>

Planned activity for 2017–18

The NESAQ is the Government’s main domestic policy instrument for addressing air quality. The Ministry is currently developing options to amend the NESAQ. This will take into account new scientific understanding on the health impacts of particulate matter pollution, as well as the economic, social and environmental costs related to home heating and air quality.

The Ministry for the Environment is planning research into non-regulatory approaches to address air quality. As an example of this, funding from the Community Environment Fund was provided to Environment Canterbury to develop a public education programme for improving the way people operate woodburners. Environment Canterbury provided a final report on the behaviour change tool in 2016/2017. The Ministry will consider the potential for non-regulatory approaches to improve air quality in other regions.

System – Fresh Water

System description

The freshwater regulatory system is designed to ensure that enforceable quality and quantity limits are set for all New Zealand’s freshwater resources. The primary instrument that provides regulatory direction for freshwater management is the National Policy Statement for Freshwater Management (NPS-FM), a national policy statement issued under the RMA. The Freshwater NPS requires regional councils to limit resource use to ensure that freshwater quality and quantity limits are met. Regional councils are primarily responsible for regulating the use of fresh water. MfE also allocates substantial funding for freshwater clean-up projects and provides implementation support to councils, iwi/hapū and water users.

Relevant regulations under the RMA covering a broad range of activities include:

- Resource Management (Measurement and Reporting of Water Takes) Regulations 2010
- Resource Management (National Environmental Standard for Sources of Human Drinking Water) Regulations 2007
- dissolution of the Waitaki Water Allocation Board.

Portfolio	Environment
Key statutes	Resource Management Act 1991 National Policy Statement for Freshwater Management 2014
Other government agencies with substantial role	<ul style="list-style-type: none">• Ministry for Primary Industries• Department of Conservation• Department of Internal Affairs• Ministry for Business, Innovation and Employment• Te Puni Kōkiri

Condition and fitness for purpose

Effectiveness	Efficiency	Durability and Resilience	Fair and Accountable
<p>To what extent does the system deliver the intended outcomes and impacts?</p>	<p>To what extent does the system minimise the unintended consequences and undue costs and burdens?</p>	<p>How well does the system cope with variation, change and pressures?</p>	<p>How well does the system respect rights and deliver good process?</p>
<p>The system has demonstrated significant impact on regional plans. However, given the legal and environmental timeframes involved, environmental outcomes will not be clear for many years.</p> <p>Financial and human resourcing in the regulated community has also been identified as a barrier to delivering the intended outcomes. These issues will need continued attention in the future.</p>	<p>Councils, iwi and stakeholders report significant costs and resource burdens associated with NPS-FM implementation. Most are adapting their response to the NPS-FM to manage within the constraints.</p>	<p>MfE and MPI assess the operating environment, and proactively make necessary changes; however, the speed of change in national direction has outpaced the ability of councils and the community to address new requirements. The regulated community believes that current RMA processes are inflexible and time-consuming. This impacts on the durability and resilience of the system overall. Councils and sectors report that the inflexibility prevents more innovative or cost-effective alternative means to achieve outcomes.</p>	<p>The system includes a framework process, and some values that must be considered. It leaves regions to determine their own values and objectives and the actions necessary to achieve those objectives.</p> <p>The regulated community has reported resource constraints which may impede full compliance with statutory obligations.</p> <p>Some iwi and stakeholders have expressed concerns about the level of engagement.</p> <p>MfE and MPI work closely with the regulated community to manage such risks; however, there are no clear ways to resolve resource limitations.</p>

Planned activity for 2017–18

The Ministry released a Clean Water discussion document in February 2017 which included proposed amendments to the NPS-FM and proposed stock exclusion regulations under section 360 of the RMA. Following completion of the public submissions process, amendments and new regulations are anticipated mid-2017. Additional regulatory and non-regulatory changes are being developed in conjunction with stakeholders through workshops and working groups.

The Water Directorate provides guidance and support for implementation through its ongoing relationships and work programmes. The Directorate regularly holds exchanges, workshops and training sessions on a range of topics including economic analysis, collaboration, and the inclusion of Māori values. Financial support for specific projects is available via the Freshwater Improvement Fund, Community Environment Fund, and Freshwater Economic Capability Fund.

The Directorate's relationship managers monitor policy implementation informally on an ongoing basis. The formal 2016/2017 NPS-FM implementation review will inform the Directorate's support for regional councils and others to implement the NPS-FM.

The Directorate is currently leading a review of the National Environmental Standards for Sources of Human Drinking Water in 2017-18.

System – Resource Management (including urban/land)

System description

The Resource Management (RM) system is intended to promote the sustainable management of natural and physical resources. The key statutory instrument is the RMA, which attempts to manage competing interests for natural and built resources, including infrastructure within the context of existing ownership and property rights.

The RMA is the principal legislation through which New Zealand's land and coastal environment is managed. It sets out the general framework for the management of air, water, soil, biodiversity, the coastal environment, noise, subdivision and land use. The Ministry administers the RMA, with most decision-making under the RMA devolved to local authorities or Boards of Inquiry appointed by the Minister for the Environment for nationally significant proposals (supported through the EPA).

Thirteen regulations sit under the RMA covering a broad range of activities, including:

- requiring authority approvals
- heritage protection authority approvals
- forms, fees and procedure
- marine pollution
- metering of water takes
- pest control
- dissolution of the Waitaki Water Allocation Board.

There are five National Policy Statements:

- National Policy Statement for Freshwater Management
- National Policy Statement for Renewable Electricity Generation
- National Policy Statement on Electricity Transmission
- National Policy Statement on Urban Development Capacity
- New Zealand Coastal Policy Statement.

There are five National Environmental Standards:

- National Environmental Standard for Air Quality
- National Environmental Standard for Sources of Drinking Water
- National Environmental Standard for Telecommunication Facilities
- National Environmental Standard for Electricity Transmission Activities
- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

Community well-being depends on how effectively the use and conservation of both natural and built resources is combined and co-ordinated. Implementation of the RMA is highly devolved to local authorities. It is based on a hierarchy of planning documents at national, regional and district levels. Unless national or relevant regional policy or standards have been

adopted, it is up to each authority to set out what it sees as the key resource management issues within its jurisdiction and how it will address these through plans, policies, the consenting system and other non-regulatory mechanisms.

This system also includes the Soil Conservation and Rivers Control Act 1941, which makes provision for the conservation of soil resources, the prevention of damage by erosion and to make better provision for the protection of property from damage by floods.

Portfolio	Environment
Key statutes	Resource Management Act 1991
Other government agencies with substantial roles	<ul style="list-style-type: none"> • Plantation Forestry – Ministry for Business, Innovation and Efficiency • Biodiversity – Department of Conservation • Tāngata whenua participation – Department of Internal Affairs • Development Capacity – Ministry for Business, Innovation and Efficiency • Transport – New Zealand Transport Authority • Council performance – Department of Internal Affairs

Condition and fitness for purpose

Effectiveness	Efficiency	Durability and Resilience	Fair and Accountable
To what extent does the system deliver the intended outcomes and impacts?	To what extent does the system minimise the unintended consequences and undue costs and burdens?	How well does the system cope with variation, change and pressures?	How well does the system respect rights and deliver good process?
While the objectives of the system are clear there is limited understanding of how the system contributes to their achievement. There is, however, evidence that the system is not achieving its objectives in some areas, such as the effective allocation of resources, water quality, and urban growth and development. MfE has taken actions to mitigate some key risks to the effectiveness of the system. Human and financial resourcing in the system has been identified as a barrier to the effectiveness of the system. Compliance with and enforcement of the system is a particular area of concern.	The value-add of the system is partially understood. Some processes, eg resource consents, are operating at high levels of overall efficiency and Government has made recent legislative amendments to speed up plan making. However, there remains ongoing uncertainty and variability over the interpretation of some components of the system and the touch points and tensions with other systems are only partially understood. This has resulted in inconsistencies, complexity and potential inefficiencies. These issues will need attention in the future.	There is evidence that the system is not keeping pace with changes to the operating context in a number of key domains (eg, urban growth). Monitoring and evaluation of the system has been limited at all levels, and process and structural barriers limit the ability to make necessary system changes. Central government has recently begun to provide greater national direction and standardisation to address key issues.	Local authorities have considerable discretion to implement the RMA according to the needs of their area. The majority of statutory deliverables and timeframes in the system are being met. Some system processes, eg plan making, are transparent and highly participatory but are also inflexible and time consuming. Understanding accountability and liability for decisions made within the system is an area of concern.

Planned activity for 2017–18

The focus for 2017-18 will be the implementation of the Resource Legislation Amendment Act 2017 (RLAA). RLAA intends to achieve better alignment and integration across the resource management system, proportional and adaptable resource management processes, and robust and durable resource management decisions. Fact sheets with information about the main changes in the RLAA have been placed on MfE's website. MfE will provide more detailed guidance and implementation support to councils on RLAA over 2017-2018. This will include updates to the Quality Planning website to reflect changes from RLAA.

The RLAA introduced National Planning Standards. The focus in 2017-18 will be on the preparation of the standards. This will involve releasing discussion papers on planning standards topics, drafting the planning standards, and releasing the draft planning standards for submissions.

MfE will develop and amend national direction in accordance with the national direction priorities for 2017/18. The priorities for the RM system include air quality, biodiversity, contaminated land, forestry and natural hazards. MfE will also continue to provide implementation support for the National Policy Statement on Urban Development Capacity.

MfE is working to support the RM system in the effective development, implementation and monitoring of national direction instruments. This includes publishing the forward work programme, taking a systems view to the development of national direction instruments and developing new ways to support implementation.

Other planned guidance activities include developing best practice guidance for councils on carrying out their compliance, monitoring and enforcement functions under the RMA.

The National Monitoring System (NMS) will collect and report on the 2016/17 data set. Developing the 2018/19 NMS data requirements will recognise changes associated with RLAA and have a greater focus on environmental outcomes.

MfE will continue to develop the RM Outcomes project to examine the causal links between the RM System's outputs and processes and the outcomes identified in MfE's environmental reporting. The development of measurable outcomes for the urban, land and air domains will enable MfE to assess the performance of the current resource management system.

MfE will also work jointly with other agencies to establish a process to explore fundamental reform of New Zealand's resource management and planning system.

System – Marine and Coast

System description

The marine regulatory system establishes and influences how the marine domain⁵ is adequately managed, used, and protected. The marine domain is governed by a broad set of regulatory programmes and instruments administered by a variety of government agencies. MfE has a key role in this system in that it administers two important pieces of legislation for the sustainable management of activities in New Zealand's marine environment: the RMA and the EEZ Act. The assessment will hence focus on these two key statutes, including regulations and other instruments that sit under them such as the NZCPS.

The EEZ Act aims to protect New Zealand's oceans from the potential environmental risks of activities like petroleum exploration activities, seabed mining, marine energy generation and

⁵ The marine domain encompasses both the near-shore coastal marine area from the Mean High Water Springs up to 12 nautical miles as well as the offshore area extending from 12–200 nautical miles.

carbon capture developments. The EPA is responsible for marine consent decisions under the EEZ Act. Five regulations sit under this Act covering:

- classification of activities
- fees and charges
- discharges and dumping
- burial at sea.

The Fiordland (Te Moana o Atawhenua) Marine Management Act 2005 establishes the Fiordland (Te Moana o Atawhenua) Marine Area, including eight marine reserves. It also establishes the Fiordland Marine Guardians and implements measures to help in the preservation, protection and sustainable management of the marine environment and biological diversity. The Act recognises the local, national and international importance of the Fiordland marine environment, including the distinct biological diversity, outstanding landscape and cultural heritage.

Portfolio	Environment
Key statutes	Resource Management Act 1991 Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
Other government agencies with substantial role	<ul style="list-style-type: none"> • Department of Conservation • Ministry for Primary Industries • Ministry of Business, Innovation and Employment • Ministry of Transport • Ministry of Justice • Environmental Protection Authority • WorkSafe NZ • Maritime NZ • Regional Councils

Condition and fitness for purpose

	Effectiveness	Efficiency	Durability and Resilience	Fair and Accountable
	To what extent does the system deliver the intended outcomes and impacts?	To what extent does the system minimise the unintended consequences and undue costs and burdens?	How well does the system cope with variation, change and pressures?	How well does the system respect rights and deliver good process?
Coast	While the objectives of the system are clear, there has as yet been no comprehensive attempt to review if they are being achieved. Recent work suggests that the system is only achieving some of the desired outcomes. Available information suggests implementation is not	There is limited understanding of the value-add of the system and the consequences it has. Only limited assessment of costs and burdens has been undertaken in the past. Additional investigation is needed to form a holistic system conclusion.	The system has so far been able to make limited changes in reaction to a changing context. However, it has not successfully responded to some of the more challenging issues, such as integrated land-sea management. Work to identify and overcome	Central government agencies in the system generally meet their statutory and non-statutory deliverables. The system accounts for local circumstances by giving the regulated community a certain level of discretion and/or is developed further to account for

	Effectiveness	Efficiency	Durability and Resilience	Fair and Accountable
	effective in some areas. Some attention to these issues may be necessary in the future.		the barriers preventing such changes may be necessary.	altered circumstances, eg by introducing alternative decision making processes. There is variation in the resources available to central and local government agencies.
EEZ	<p>The EEZ regulatory regime has delivered most of its intended outcomes. The system has clearly stated goals, objectives, and requirements as evidenced by strong records of compliance. The system largely aligns with current government's Natural Resource Sector priorities and currently has the necessary financial and human resources required to meet statutory obligations.⁶</p> <p>Opportunities to improve the effectiveness of aspects of the regime are regularly discussed and prioritized among policy makers and regulators</p>	<p>Opportunities to enhance efficiencies within the operating environment are commonly considered by policy makers and regulators. Additionally, EPA regularly solicits and considers feedback from the regulated community on ways to improve delivery of the regime.</p> <p>As certain aspects of the EEZ regime are still 'bedding in', a comprehensive analysis of the value-add has not yet been undertaken. An analysis of unintended consequences may be particularly beneficial through a 'marine domain' lens (ie, territorial seas and exclusive economic zone and continental shelf) with the goal of identifying opportunities for more efficient, integrated marine management.</p>	<p>The EEZ Act is viewed as a prescriptive framework that, at times, can limit the ability of regulators to apply discretion and flexibility in interpreting the requirements. Nonetheless, the system has been able to adequately adapt to changes in the operating context largely relying on legislative mechanisms.</p> <p>The Act requires periodic reviews for certain aspects of the regime; however, a regular programme of monitoring and evaluation may be beneficial in the future.</p>	<p>MfE and the EPA largely agree on their interpretation of the system objectives. Key risks to delivering good process have been identified, and are addressed on an <i>ad hoc</i> basis. A more systematic approach to these risks may be necessary in the future.</p>

Planned activity for 2017–18

A priority for MfE is to support New Zealand to be a leader in the sustainable use and management of its marine environment. This work includes:

- reviewing the current regulatory regime and taking a holistic, integrated approach to the system's future development based on systems thinking and long-term outcomes
- improving evidence, data and information to improve Environmental Reporting
- supporting the Government to progress proposed marine protection legislation and recreational fishing parks in the Hauraki Gulf and Marlborough Sounds. Supporting passage of the Kermadec Ocean Sanctuary legislation

⁶ However, uncertainties exist with EPA Crown funding after 2017/18.

- administering the EEZ Act, developing regulations for decommissioning of offshore petroleum facilities under the Act, and updating the permitted activity regulations
- developing national direction on aquaculture under the RMA
- along with other Natural Resource Sector agencies, support the DoC New Zealand Coastal Policy Statement (NZCPS) Effectiveness Review.

System – Hazardous Substances and New Organisms

System description

The HSNO Act aims to prevent or manage the adverse effects of hazardous substances and new organisms, including genetically modified organisms within New Zealand. This is a complex system to administer, with MfE responsible for the Act and regulations, while the EPA is responsible for enforcement and engagement. The Ministry for Primary Industries, WorkSafe New Zealand, Institutional Biological Safety Committees, and local government also play roles in implementation.

The HSNO system was designed to make environmental and human protection paramount, with the benefits of using hazardous substances one of the factors that can be considered in order to achieve the purpose of the Act. The purpose of HSNO is to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of HS and NO. The HSNO regulatory system establishes a consistent process for assessing the risks posed by HS and NO. It also sets national controls to manage their environmental effects and risks.

Portfolio	Environment
Key statutes	Hazardous Substances and New Organisms Act 1996
Other government agencies with substantial role	<ul style="list-style-type: none"> • Environmental Protection Authority • WorkSafe (hazardous substances in workplaces) • Local government (hazardous substances outside the workplace (mainly territorial authorities)) • MPI (new organisms) • Institutional Biological Safety Committees (new organisms)

Condition and fitness for purpose

	Effectiveness	Efficiency	Durability and Resilience	Fair and Accountable
	To what extent does the system deliver the intended outcomes and impacts?	To what extent does the system minimise the unintended consequences and undue costs and burdens?	How well does the system cope with variation, change and pressures?	How well does the system respect rights and deliver good process?
HS	Overall, the system does deliver the intended outcomes and impacts. However, greater clarity around enforcement boundaries would be beneficial. The Health and Safety at Work Reforms were undertaken to address this issue, by combining health and safety legislation and workplace hazardous substance enforcement in one Act.	There is not enough evidence to conclude that the HS regime is adequately managing the human and environmental long-term risks of HS use. This lack of evidence creates uncertainty around the risks of using HSs. MfE and the EPA are currently undertaking work to gather evidence on the environmental effects of HS use.	The system has so far coped with some variation in the operating environment. To ensure that the HS regulatory system keeps up with changes to the operating environment, it will be necessary to institute planned, regular reviews of the system.	The available evidence suggests that many small- and medium-sized enterprises struggle to understand and comply with HS controls. This makes it more difficult to meet the objectives of the system. The Health and Safety at Work Reforms were instituted to address this issue over time.
NO	The system delivers the intended objectives, and the key risks and regulatory overlaps have been identified and considered. The relevant agencies have the required financial and human resources to deliver the system. The system has limited enforcement powers, which may become a future issue.	So far, no resident populations of pest species have been established under the NO regulatory system. To achieve this, the system focuses on the risks of using NOs. It is possible that as a consequence, NZ is imposing undue compliance costs and not getting the maximum benefits of using NOs.	MfE, the EPA and MPI have identified the potential for regulatory and legislative changes. While the overall objectives of the system are being achieved, the system may not be keeping pace with a changing context.	MfE, the EPA and MPI agree on the system objectives and all deliver their statutory and non-statutory deliverables. Communication with the regulated community is mostly appropriate. Customer feedback identifies the EPA website as needing improvement. The EPA has taken steps to address this.

Planned activity for 2017–18

Hazardous Substances:

- The Ministry will continue to assist in the implementation of the Health and Safety at Work Reforms (HSW) to ensure hazardous substances are regulated to a level sufficient to protect human and environmental health.
- We will continue to look at possible amendments to the HSNO Act. Any proposed amendments will be in response to gaps and/or weaknesses that have been identified in the HSNO system. Areas that may be addressed include:
 - implementation of a monitoring framework to ensure usage and environmental impacts data is collected
 - examining the funding for the clean-up of significant hazardous substance incidents
 - increasing the efficiency of the reassessment of HS approvals

- the management of hazardous substance waste under HSNO
- methods to incentivise the use of less harmful chemicals
- internationalisation and harmonisation of the assessment and approval of hazardous substances
- HSNO (Methodology) Order 1998 to be reviewed.

New Organisms:

- In the new organisms area there is also an intention to:
 - implement a monitoring framework
 - undertake a review of the HSNO (Methodology) Order 1998.
- Genetic modification (GM) has been noted as an area likely to have significant development in the coming years. We will continue to monitor the international developments of GM (including gene editing and the use of gene drive). International developments in both science and policy will be monitored to provide the Minister with advice on appropriate changes to New Zealand’s GM policy.
- 2017/18 has been identified as a time of building structures in the preparation of future developments. This could include:
 - establishing a specialist reference group on biotechnology developments
 - identifying and pursuing opportunities for international harmonisation on GM policy
 - continued participation in the Convention on Biological Diversity open-ended online forum on synthetic biology on behalf of New Zealand.
- Several organisms have been identified as appropriate for ‘denewing’. We will continue to actively support the EPA in ensuring the process is completed every two years.
- Advise Ministers on the potential options for amendment of the HSNO (Organisms Not Genetically Modified) Regulations. This would be subject to Ministerial approval.
- We may consider the scope of new organisms controls, including (for example) biopesticides, biological control agents and zoo animals.

System – Waste

System Description

The waste regulatory system is designed to reduce the harmful effects of waste and improve efficiency of resource use. The key statutory instrument, the WMA, encourages waste minimisation and reduction of waste disposal by providing for:

- the imposition of a levy on all waste sent to landfills that accept household waste
- a requirement on territorial authorities to encourage waste management and minimisation and prepare waste minimisation and management plans
- distribution of half of the funds received from the levy to territorial authorities for spending on matters to promote or achieve waste minimisation
- distribution of the remaining half of the levy funds to waste minimisation initiatives and projects that address litter through the Waste Minimisation Fund
- a process for government accreditation of product stewardship schemes including the option to create mandatory product stewardship schemes for priority products

- the ability to make regulations to control the disposal of products, materials or waste, require take-back services, deposit fees, or labelling of products, and
- establishment of the Waste Advisory Board to give advice to the Minister on waste minimisation issues.

This Act also aims to benefit the New Zealand economy by encouraging better use of materials throughout the product life cycle, promoting domestic reprocessing of recovered materials, and providing more employment. One set of regulations sits under the Act covering the calculation and payment of the Waste Disposal Levy.

Portfolio	Environment
Key statutes	Waste Minimisation Act 2008 Local Government Act 2002 Resource Management Act 1991 Litter Act 1979 ⁷
Other government agencies with substantial role	<ul style="list-style-type: none"> • Territorial Authorities • Treasury • Environmental Protection Authority

Condition and fitness for purpose

Effectiveness	Efficiency	Durability and Resilience	Fair and Accountable
To what extent does the system deliver the intended outcomes and impacts?	To what extent does the system minimise the unintended consequences and undue costs and burdens?	How well does the system cope with variation, change and pressures?	How well does the system respect rights and deliver good process?
The objectives of the system are clear, and reviews of the waste disposal levy have identified risks to the effectiveness of this regulation. However, the resources to collect and analyse information are limited, and there are some issues around the compatibility of the system with the RMA. These risks will need attention in the future.	A lack of information makes it difficult to understand the contribution made by the regulatory system. The system has resulted in unintended consequences (such as diversion from levied fills). Significant changes will need to be made to maximise the achievement of the purpose of the WMA.	There have not been any significant changes to the system context so far, so no changes to the system have been necessary for this reason. The main barrier to systemic change would be a lack of information. MfE notes this lack of information in its regular reviews of the levy component of the system. Other areas of the regulatory system have not been subject to reviews.	Statutory and non-statutory deliverables are delivered in the required timeframes. MfE communication with regulatory agencies is effective, and the regulated community understands its obligations. Work has been carried out to engage with the regulated community and territorial authorities on how to achieve the objectives of the system. Engagement with iwi could be improved.

⁷ This Act was moved to the administration of the Ministry for the Environment in April 2016. It is an enabling piece of legislation that empowers public and territorial authorities with the ability to make by-laws and appoint enforcement officers in respect of litter. It also appoints Keep New Zealand Beautiful Incorporated as the body primarily responsible for the promotion of litter control in New Zealand. Due to the short time this Act has been a Ministry for the Environment responsibility, we did not include this Act in our assessment of the Waste and Resources regulatory system this year.

Planned activity for 2017–18

- **Planned regulatory action** – tyre storage has been identified as a priority for national direction. Consultation on the proposal to ban microbeads in personal care products designed to be washed down the drain was carried out earlier this year, with a view to developing regulations under the WMA. There was strong public support for the proposal.
- **Monitoring** – The WMA requires the Minister for the Environment to conduct a review of the effectiveness of the waste disposal levy every three years. The levy review was completed by 1 July 2017. The review makes the following three recommendations: development of an investment strategy for levy fund allocation; an increased focus on improving waste data; and development of landfill classifications with the aim of enabling expansion of application of the levy.
- **Guidance and Implementation Support** – the waste regulatory system has an ongoing engagement programme with stakeholders. Upcoming focusses for this work stream include working with Territorial Authorities on updates to their Waste Management and Minimisation Plans and with businesses to operate product stewardship schemes.
- **Funding** – continued Waste Minimisation Fund rounds with increased strategic and outcomes-focused projects including targeted rounds for high harm waste streams and projects that return the greatest waste minimisation outcomes.
- **Data collection** – the Ministry is looking at ways to improve data collection within the waste system to better inform decision-making in this area.

Appendix A – Regulatory systems against common agency criteria

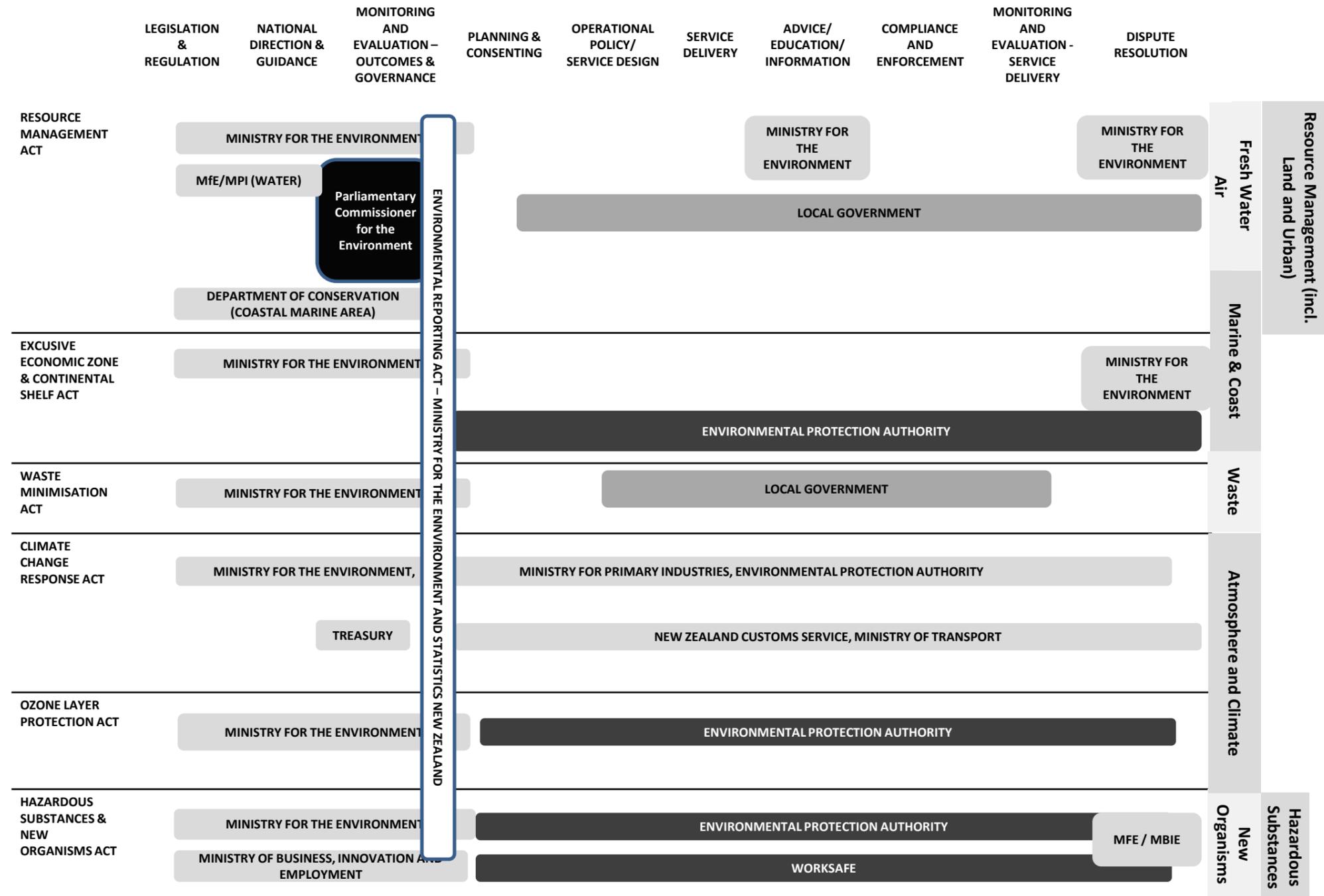
This table brings together the summary condition and fitness for purpose assessments for all the Ministry for the Environment’s regulatory systems.

		Effectiveness	Efficiency	Durability & Resilience	Fair & Accountable
Regulatory System	Act	To what extent does the system deliver the intended outcomes and impacts?	To what extent does the system minimise unintended consequences and undue costs and burdens?	How well does the system cope with variation, change and pressures?	How well does the system respect rights and deliver good process?
Atmosphere and climate	Climate Change Response Act 2002	The system delivers on the intended objectives, which are clearly described but difficult to measure progress against. Key risks and regulatory overlaps have been identified and considered. The relevant agencies have the required financial and human resources to deliver the system. There are minor concerns with the lack of transparency and the degree of discretion, and consequent uncertainty, around compliance issues. These are being reviewed at present.	The system is regularly benchmarked against similar international systems. However, the overall value-add of the system is not clearly understood. The available evidence is generally sector-specific, or only indicates correlation rather than causation. An attempt to ascertain the overall value-add of the system in the future would be beneficial.	Changes to the operating context, system vulnerabilities and opportunities for changes are regularly assessed. Slight barriers to changing the system have been identified, including regulatory uncertainty and a lack of alignment between policies. However, these have not prevented the system from keeping pace with overall changes to the operating context.	MfE, the EPA and MPI agree on the system objectives and their respective roles and responsibilities. All deliver their statutory and non-statutory deliverables and timeframes, and the regulated community largely understands its obligations. Communication with the regulated community is mostly appropriate.
Air	Resource Management Act 1991	Overall, the air system delivers the intended outcomes and impacts. Significant improvements have been made in the air quality around New Zealand. The key piece of regulation in the air domain space is the NESAQ, which has been in place since 2004. Amendments to the NESAQ are currently being progressed to keep up with international trends and better science. Stakeholder feedback on the system has highlighted that councils are uncertain about the consequences of non-compliance with the NESAQ.	The NESAQ has not set national rules, resulting in each region determining their own air quality plans with inconsistent air quality management approaches being taken throughout New Zealand.	The system is reviewed every 5 years; its main mechanism to deal with variation and change. These regular reviews help to detect vulnerabilities and can contribute to avoiding significant system failure. MfE has engaged with MoH, MoT, MBIE, EECA and others on the NESAQ. There are opportunities to improve the way agencies work together to manage home heating, outdoor air quality and warm homes. Engagement has been limited to informing and providing feedback on each agency’s individual pieces of legislation.	The NESAQ system respects the rights of individual regions and allows regions to develop more stringent rules as they see necessary. The regulated community understands its obligations under the NESAQ. MfE and local government generally agree on the system objectives and their respective roles and responsibilities. The high rate of anticipated non-compliance with the NESAQ from 2017, suggests that it may not be delivering good processes. MfE is currently reviewing the NESAQ which should address these points.
Fresh Water	Resource Management Act 1991	The system has demonstrated significant impact on regional plans. However, given the legal and environmental timeframes involved, environmental outcomes will not be clear for many years. Financial and human resourcing in the regulated community has also been identified as a barrier to delivering the intended outcomes. These issues will need continued attention in the future.	Councils, iwi and stakeholders report significant costs and resource burdens associated with NPS-FM implementation. Most are adapting their response to the NPS-FM to manage within the constraints.	MfE and MPI assess the operating environment, and proactively make necessary changes; however, the speed of change in national direction has outpaced the ability of councils and the community to address new requirements. The regulated community believes that current RMA processes are inflexible and time-consuming. This impacts on the durability and resilience of the system overall. Councils and sectors report that the inflexibility prevents more innovative or cost-effective alternative means to achieve outcomes.	The system includes a framework process, and some values that must be considered. It leaves regions to determine their own values and objectives and the actions necessary to achieve those objectives. The regulated community has reported resource constraints which may impede full compliance with statutory obligations. Some iwi and stakeholders have expressed concerns about the level of engagement. MfE and MPI work closely with the regulated community to manage such risks; however, there are no clear ways to resolve resource limitations.
Resource Management System (including Land & Urban)		While the objectives of the system are clear there is limited understanding of how the system contributes to their achievement. There is, however, evidence that the system is not achieving its objectives in some areas, such as the effective allocation of resources, water quality, and urban growth and development. MfE has taken actions to mitigate some key risks to the effectiveness of the system. Human and financial resourcing in the system has been identified as a barrier to the effectiveness of the system. Compliance with and enforcement of the system is a particular area of concern.	The value-add of the system is partially understood. Some processes, e.g. resource consents, are operating at high levels of overall efficiency and Government has made recent legislative amendments to speed up plan making. However, there remains ongoing uncertainty and variability over the interpretation of some components of the system and the touch points and tensions with other systems are only partially understood. This has resulted in inconsistencies, complexity and potential inefficiencies. These issues will need attention in the future.	There is evidence that the system is not keeping pace with changes to the operating context in a number of key domains (e.g. urban growth). Monitoring and evaluation of the system has been limited at all levels, and process and structural barriers limit the ability to make necessary system changes. Central government has recently begun to provide greater national direction and standardisation to address key issues.	Local authorities have considerable discretion to implement the RMA according to the needs of their area. The majority of statutory deliverables and timeframes in the system are being met. Some system processes, e.g. plan making, are transparent and highly participatory but are also inflexible and time consuming. Understanding accountability and liability for decisions made within the system is an area of concern.

		Effectiveness	Efficiency	Durability & Resilience	Fair & Accountable
Regulatory System	Act	To what extent does the system deliver the intended outcomes and impacts?	To what extent does the system minimise unintended consequences and undue costs and burdens?	How well does the system cope with variation, change and pressures?	How well does the system respect rights and deliver good process?
Marine – Coast and EEZ	Resource Management Act 1991	While the objectives of the system are clear, there has as yet been no comprehensive attempt to review if they are being achieved. Recent work suggests that the system is only achieving some of the desired outcomes. Available information suggests implementation is not effective in some areas. Some attention to these issues may be necessary in the future.	There is limited understanding of the value-add of the system and the consequences it has. Only limited assessment of costs and burdens has been undertaken in the past. Additional investigation is needed to form a holistic system conclusion.	The system has so far been able to make limited changes in reaction to a changing context. However, it has not successfully responded to some of the more challenging issues, such as integrated land-sea management. Work to identify and overcome the barriers preventing such changes may be necessary.	Central government agencies in the system generally meet their statutory and non-statutory deliverables. The system accounts for local circumstances by giving the regulated community a certain level of discretion and/or is developed further to account for altered circumstances, eg by introducing alternative decision making processes. There is variation in the resources available to central and local government agencies.
	Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012	<p>The EEZ regulatory regime has delivered most of its intended outcomes. The system has clearly stated goals, objectives, and requirements as evidenced by strong records of compliance.</p> <p>The system largely aligns with current government's Natural Resource Sector priorities and currently has the necessary financial and human resources required to meet statutory obligations.⁸</p> <p>Opportunities to improve the effectiveness of aspects of the regime are regularly discussed and prioritized among policy makers and regulators</p>	<p>Opportunities to enhance efficiencies within the operating environment are commonly considered by policy makers and regulators. Additionally, EPA regularly solicits and considers feedback from the regulated community on ways to improve delivery of the regime.</p> <p>As certain aspects of the EEZ regime are still 'bedding in', a comprehensive analysis of the value-add has not yet been undertaken. An analysis of unintended consequences may be particularly beneficial through a 'marine domain' lens (ie, territorial seas and Exclusive Economic Zone & Continental Shelf) with the goal of identifying opportunities for more efficient, integrated marine management.</p>	<p>The EEZ Act is viewed as a prescriptive framework that, at times, can limit the ability of regulators to apply discretion and flexibility in interpreting the requirements. Nonetheless, the system has been able to adequately adapt to changes in the operating context largely relying on legislative mechanisms.</p> <p>The Act requires periodic reviews for certain aspects of the regime; however, a regular programme of monitoring and evaluation may be beneficial in the future.</p>	MfE and the EPA largely agree on their interpretation of the system objectives. Key risks to delivering good process have been identified, and are addressed on an ad hoc basis. A more systematic approach to these risks may be necessary in the future.
Hazardous Substances	Hazardous Substances and New Organisms Act 1996	Overall, the system does deliver the intended outcomes and impacts. However, greater clarity around enforcement boundaries would be beneficial. The Health and Safety at Work Reforms were undertaken to address this issue, by combining health and safety legislation and workplace hazardous substance enforcement in one Act.	There is not enough evidence to conclude that the HS regime is adequately managing the human and environmental long-term risks of HS use. This lack of evidence creates uncertainty around the risks of using HSs. MfE is currently undertaking work to gather evidence on the environmental effects of HS use.	The system has so far coped with some variation in the operating environment. To ensure that the HS regulatory system keeps up with changes to the operating environment, it will be necessary to institute planned, regular reviews of the system.	The available evidence suggests that many small- and medium-sized enterprises struggle to understand and comply with HS controls. This makes it more difficult to meet the objectives of the system. The Health and Safety at Work Reforms were instituted to address this issue over time.
New Organisms		The system delivers the intended objectives, and the key risks and regulatory overlaps have been identified and considered. The relevant agencies have the required financial and human resources to deliver the system. The system has limited enforcement powers, which may become a future issue.	So far, no resident populations of pest species have been established under the NO regulatory system. To achieve this, the system focuses on the risks of using NOs. It is possible that as a consequence, NZ is imposing undue compliance costs and not getting the maximum benefits of using NOs.	MfE, the EPA and MPI have identified the potential for regulatory and legislative changes. While the overall objectives of the system are being achieved, the system may not be keeping pace with a changing context.	MfE, the EPA and MPI agree on the system objectives and all deliver their statutory and non-statutory deliverables. Communication with the regulated community is mostly appropriate. Customer feedback identifies the EPA website as needing improvement. The EPA has taken steps to address this.
Waste	Waste Minimisation Act 2008	The objectives of the system are clear, and reviews of the waste disposal levy have identified risks to the effectiveness of this regulation. However, the resources to collect and analyse information are limited, and there are some issues around the compatibility of the system with the RMA. These risks will need attention in the future.	A lack of information makes it difficult to understand the contribution made by the regulatory system. The system has resulted in unintended consequences (such as diversion from levied fills). Significant changes will need to be made to maximise the achievement of the purpose of the WMA.	There have not been any significant changes to the system context so far, so no changes to the system have been necessary for this reason. The main barrier to systemic change would be a lack of information. MfE notes this lack of information in its regular reviews of the levy component of the system. Other areas of the regulatory system have not been subject to reviews.	Statutory and non-statutory deliverables are delivered in the required timeframes. MfE communication with regulatory agencies is effective, and the regulated community understands its obligations. Work has been carried out to engage with the regulated community and territorial authorities on how to achieve the objectives of the system. Engagement with iwi could be improved.

⁸ However, uncertainties exist with EPA Crown funding after 2017/18.

Appendix B – Ministry for the Environment regulatory systems map



	Legislation & regulation	National Direction & Guidance	Monitoring & Evaluation (Outcomes & Governance)	Planning & Consenting	Operational policy / service design	Standard setting	Service delivery	Advice / education / information	Compliance and Enforcement	Monitoring and Evaluation (Service Delivery)	Dispute resolution
RMA	MfE MfE/MPI (water) DOC (coast)		MfE PCE DOC (coast)				Councils	MfE / Councils	Councils	MfE / Councils	Councils
EEZ&CS			MfE				EPA			MfE, EPA	EPA
WMA			MfE				Councils			MfE/ Councils	Councils
Climate Change Response Act	MfE, MPI, EPA	MfE, MPI, EPA	MfE, MPI, EPA. Treasury	MfE, MPI, EPA			MfE, MPI, EPA, NZCS, MOT				
Ozone Layer Protection Act			MfE				EPA			MfE	EPA
HSNO Act	MfE, MBIE										
		MfE, MBIE	MfE, MBIE	MfE		EPA		MBIE, EPA (HS), MPI (NO)		MBIE, MfE, EPA, MPI	MBIE, EPA, MPI

Appendix C – Ministry for the Environment assessment methodology – Questions grouped by common agency criteria

Overall assessment	Measures	Lines of inquiry	(Treasury) Addressing this criterion would likely include looking at elements such as:	Question 13
Effectiveness: To what extent does the system deliver the intended outcomes and impacts?			<ul style="list-style-type: none"> The nature, incidence and significance of the impacts, intended and otherwise (who it impacts, how, and to what extent). The extent of compliance/non-compliance with the system (overall and for different groups). The internal coherence and completeness of the system. Gaps, overlaps or inconsistencies that impact effectiveness. How the system intersects with related regulatory systems and how this impacts effectiveness. 	Capable regulators?
Have we provided adequate systems settings and instructions?	<ol style="list-style-type: none"> Are the purpose, objectives (or principles) and rules of the system clearly articulated in statute or in non-statutory sources? Do the objectives of the system align with the: current Government's Natural Resources Sector goals? Minister's priorities? Ministry's Outcomes Framework? EPA's Outcomes Measures (if appropriate)? Is there an intervention logic (or similar) available showing line of sight between the policy and desired outcomes? Have the key areas of risk to the effectiveness of the regulation been clearly identified?* Is there evidence of a good understanding of the 'touch points' with other legislation, regulation and between agencies in the system design? 	<p>How well does the regulation give effect to the attributes of best practice regulation? 13. Is the regulation:</p>		
Is there sufficient resource to deliver the desired system?	<ol style="list-style-type: none"> Is there a good understanding of the costs and processes (financial and non-financial) required to deliver the desired system? Does the system have appropriate financial resourcing to deliver the desired outcome? Crown funding? Third party/cost-recovered funding? Does the system have the necessary human resource to deliver the desired outcome? 			
Is there a consistent understanding of the 'touch points'/interactions with other regulation and systems when interpreting the regulation to deliver the desired outputs and outcomes? Could they be better harmonised?	<ol style="list-style-type: none"> Are the boundaries and interactions with other systems or parts of existing system creating problems with regulatory effectiveness and are there problems for those being regulated caused by mismatch between parts of the regulatory system? 			
Is the regulated community complying with the regulation requirements?	<ol style="list-style-type: none"> How well is the level of compliance understood by the agency, the regulator and the regulated community? Is non-compliance acted upon? 			
Efficiency: To what extent does the system minimise unintended consequences and undue costs and burdens?			<ul style="list-style-type: none"> The proportionality of the system; ie how well the burden of rules and their enforcement matches the risks to be mitigated/benefits expected. Burden includes restrictions on rights and freedoms, resource and capability requirements, and ease of administration/use/compliance. How easy or difficult the regulators and the regulated parties find the system to administer/use/comply with. The extent to which the system provides predictability and certainty for regulated parties. The degree to which actual outcomes justify the overall economic, administrative and legislative (rights) costs, including unintended consequences. 	Growth supporting? Proportional? Certain and predictable?
Is the regime resulting in the outcomes we intended?	<ol style="list-style-type: none"> Is there a clear understanding of the contribution made to achieving the system, agency, regulator, sector and government desired outcomes and priorities? Ministry's Outcomes Framework? EPA's Outcomes Measures (if appropriate)? Current government goals (eg. Business Growth Agenda priorities)? Minister's priorities? Natural Resources Sector priorities? Is there evidence of the regime achieving the desired policy outcomes/intent? Is the value-add of the regime understood? (monetary and non-monetary) 			
Are there more effective/efficient ways of achieving the same outcome?	<ol style="list-style-type: none"> Do we benchmark performance against similar international and national regulatory systems to evaluate if we could achieve the same outcomes more effectively or efficiently? (including consideration of feasible non-regulatory alternatives) 			
Durability and resilience: How well does the system cope with variation, change and pressures?			<ul style="list-style-type: none"> The responsiveness of the system to changing context and circumstances, eg changes in the regulated community/technology/wider society, changes in demand (increase or decrease). How well the system enables innovation/takes account of different circumstances where appropriate. The continued relevance of the system objectives, the regulatory or market failure, whether it is still the best way to address the failure/opportunity. 	Flexible and durable?
What impact does the operational environment have on likelihood of success?	<ol style="list-style-type: none"> Does the policy maker(s) and regulator(s) understand the communities being regulated?* Are changes to the operating environment regularly assessed and understood? Science and technological change? Environmental change? Economic change? Political change? (including policy focus) Social change? Cultural change? International practice and context? How well has the system kept pace with the changing context? Are there any barriers preventing systemic change? (eg, distinction between primary, secondary, tertiary legislation, or public perceptions) 			

Overall assessment	Measures	Lines of inquiry	(Treasury) Addressing this criterion would likely include looking at elements such as:	Question 13	
Is the regime regularly evaluated and reviewed?		26. Are the regulatory regime/ settings reviewed or evaluated on a regular basis to ensure the desired outcomes are being achieved? (including positive and negative outcomes, intended and unintended consequences) 27. Do we regularly review the system/regime to detect vulnerabilities?			
Are regulatory improvements identified and acted upon?		30. How proactive is the agency in identifying and flagging the need (ie, gaps) or opportunity for regulatory changes?* 31. Does the agency proactively consider all avenues for potential regulatory improvement?* 32. How does the agency prioritise its identified opportunities for regulatory improvement?*			
Fair and accountable: How well does the system respect rights and deliver good process?			<ul style="list-style-type: none"> How the system respects and delivers on the principles of natural justice, ie, accountability, fair and impartial decision-making, opportunities for those affected by decisions to be heard, and opportunities for review or appeal. The clarity and certainty of the regulatory instruments that underpin the system, and the accessibility and transparency of the requirements. How the system supports public and/or stakeholder participation in system design and improvements. 	Transparent and accountable?	
Is the method of delivery effective? Could this method include greater flexibilities for the regulated community to encourage innovative thinking and identify the least costly methods for compliance?		14. What is the level of agreement between the policy agency(s) and regulator(s) on how the regulation has been/should be interpreted? (including roles and responsibilities) 15. How effectively does the regulator communicate with other agencies with regulatory roles and other interested stakeholders?* 16. Does the regulated community understand its obligations? 17. Does the method of delivery take into account the culture, infrastructure and resourcing available to the regulated community?			
Is the regulator(s) meeting its obligations?		19. Are statutory deliverables and timeframes being met? 20. Are non-statutory deliverables and timeframes being met? 21. What actions are taken to mitigate key risks to the effectiveness of regulation?*			

Appendix D: Government expectations for good regulatory practice:

Part B: Expectations for regulatory stewardship by government agencies

The Government expects regulatory agencies to adopt a whole-of-system view, and a proactive, collaborative approach to the care of the regulatory system(s) within which they work. This regulatory stewardship role includes responsibilities for:

- monitoring, review and reporting on existing regulatory systems
- robust analysis and implementation support for changes to regulatory systems
- good regulatory practice.

Monitoring, review and reporting on regulatory systems

The Government expects regulatory agencies to work collaboratively to:

- monitor the ongoing performance and condition of a regulatory system and the regulatory environment in which it operates
- review the system at appropriate intervals to determine whether it is still fit for purpose, and likely to remain so in the medium to longer term
- test existing operating assumptions, and consider the perspective and experience of regulated parties and others directly affected by the regulatory system's rules and practices, when undertaking their monitoring and review work
- periodically look at other similar regulatory systems, in New Zealand and other jurisdictions, for possible trends, threats, linkages, opportunities for alignment, economies of scale and scope, and examples of innovation and good practice
- use available monitoring and review information to proactively identify and assess, and then report or address, problems, vulnerabilities, and opportunities for improvement in the design and operation of that regulatory system
- pay particular attention to requirements that appear unnecessary, duplicative, ineffective or excessively costly.

Robust analysis and implementation support for changes to regulatory systems

Before a substantive regulatory change is formally **proposed**, the Government expects regulatory agencies to provide advice or assurance on the robustness of the proposed change, including by:

- assessing the importance of the issue in relation to the overall performance and condition of the relevant regulatory system(s), and how it might fit with plans, priorities or opportunities for system improvement already identified
- clearly identifying the nature and underlying cause of the policy or operational problem it needs to address, drawing on operational intelligence and available monitoring or review information

- undertaking systematic impact and risk analysis, including assessing alternative legislative and non-legislative policy options, and how the proposed change might interact or align with existing domestic and international requirements within this or related regulatory systems
- making a genuine effort to identify, understand, and estimate the various categories of cost and benefit associated with the options for change
- identifying and addressing practical design, resourcing and timing issues required for effective implementation and operation, in conjunction with the regulator(s) who will be expected to deliver and administer the changes
- providing affected and interested parties with appropriate opportunities to comment throughout the process and, in the right circumstances, to participate directly in the regulatory design process (co-design)
- use of 'open-book' exercises to allow potential fee or levy paying parties to scrutinise the case for, and structure and level of, proposed statutory charges.

Before a substantive regulatory change is formally **made**, the Government expects regulatory agencies to:

- allow regulated parties reasonable time to get familiar with new requirements before the change comes into force (unless this would compromise the outcome sought)
- test key operational processes required to implement the change
- anticipate and plan for the possibility of unintended consequences or the potential need for contingency measures
- provide for any appropriate changes to system monitoring arrangements.

Good regulator practice

Where appropriate to their role, the Government expects regulatory agencies to:

- maintain a transparent compliance and enforcement strategy that is evidence-informed, risk-based, responsive, and proportionate to the risks or harms being managed
- provide accessible, timely information and support to help regulated parties understand and meet their regulatory obligations
- provide simple and straightforward ways to engage with regulated parties and hear and respond to their views
- maintain and publish up-to-date information about their regulatory decision-making processes, including timelines and the information or principles that inform their regulatory decisions
- develop working relationships with other regulatory agencies within the same or related regulatory systems to share intelligence and co-ordinate activities to help manage regulatory gaps or overlaps, minimise the regulatory burden on regulated parties, and maximise the effective use of scarce regulator resources
- provide their frontline regulatory workforce with the necessary knowledge, skills, tools and support to be able to discharge their responsibilities with integrity, review and improve their professional practice, and report back on issues they may encounter in the course of their work
- contribute to wider regulator capability-building initiatives within the state sector where there are common interests and benefits from collective action and leadership

- alert relevant Ministers and monitoring agencies to organisational capability or resourcing issues, or problems with legislation, that may be significantly compromising the agency's ability to discharge its responsibilities to a reasonable or expected standard
- at the time of the alert, provide advice on the nature of the resulting system performance risks and proposed or possible mitigating strategies.