

DENTONS

# RMA Reform

## The long and winding road

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Grow | Protect | Operate | Finance

# The road behind us

- Resource Management Act 1991
- Natural and Built Environments Act 2023
- Spatial Planning Act 2023

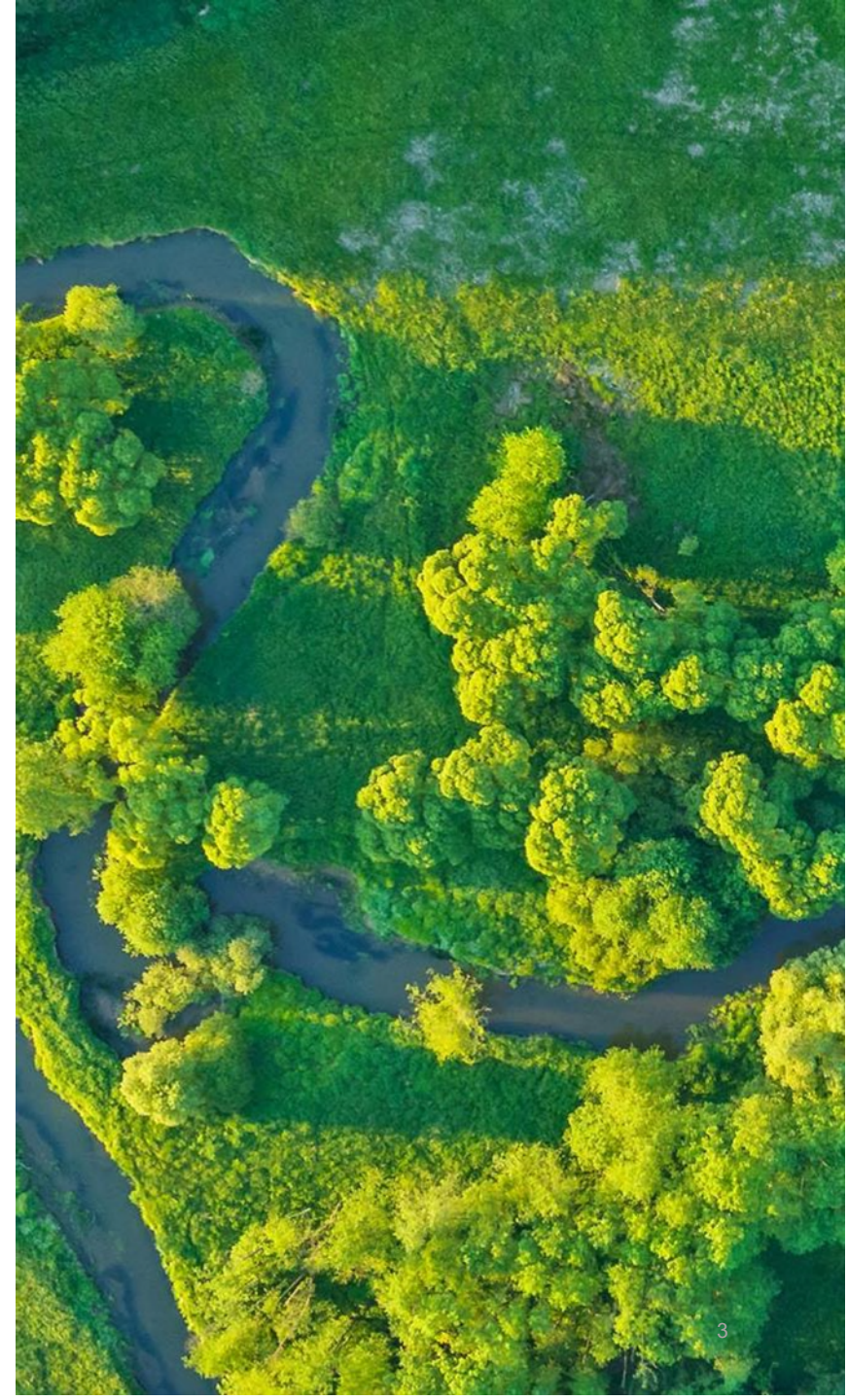


# The journey ahead

**Phase 1:** Repeal the NBEA and SPA

**Phase 2:**

- Fast Track Approvals Bill
- Replace the NPS-FM
- Review NPS-IB
- Changes to the NPS-HPL



## **Phase 2 continued:**

- Amendments to the RMA (May):
  - Remove Te Mana o te Wai hierarchy under NPS-FM
  - Amend stock exclusion and winter grazing regulations
  - Enable coal mining and aquaculture
  - Suspend the NPS-IB requirement to identify SNAs for 3 years
- Amendments to the RMA (end of 2024):
  - Housing / renewable energy

## **Phase 3: Major RMA overhaul**

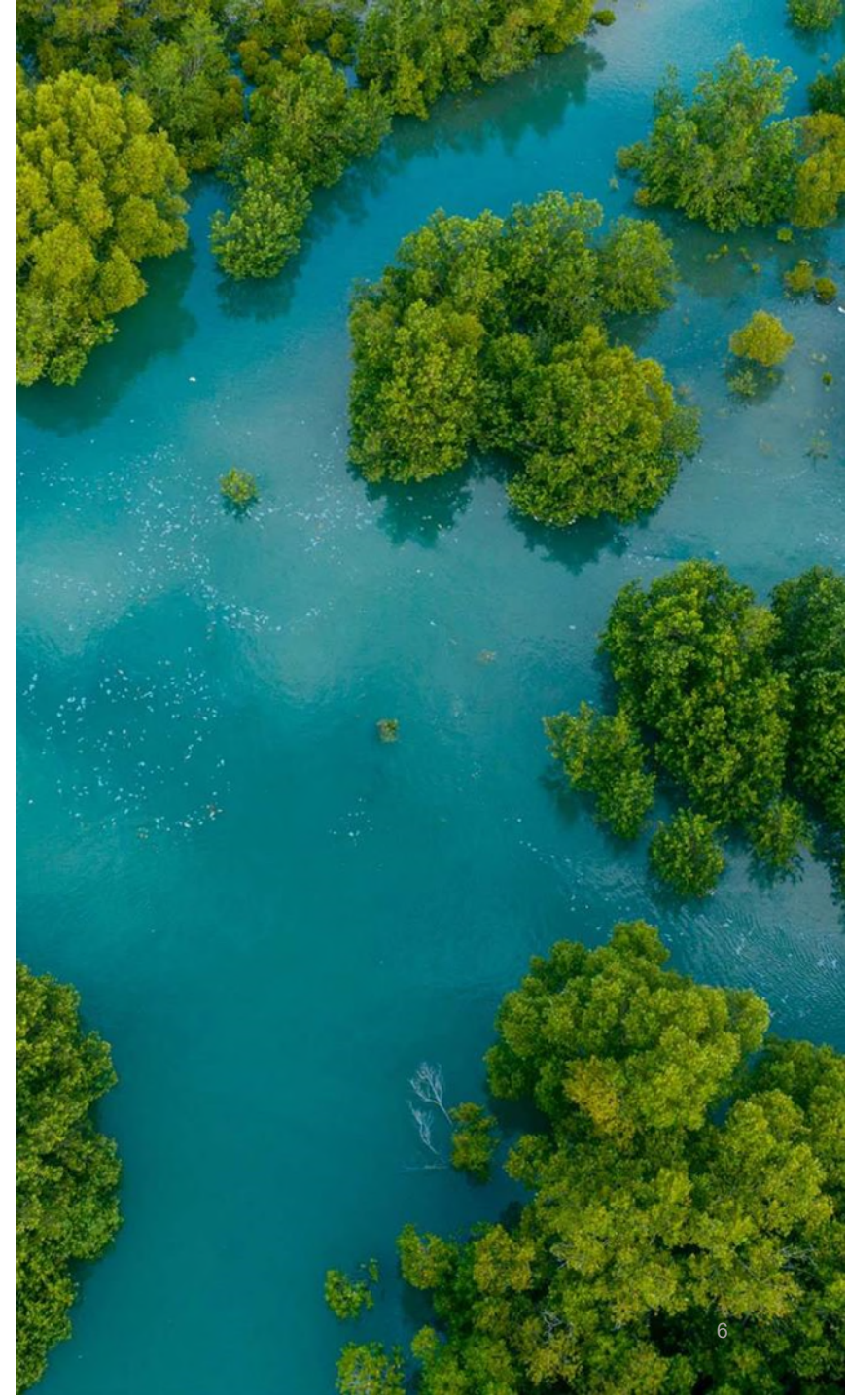
# Fast track objectives

- Cut consenting costs
- Truncate consenting timeframes
- Provide a more enabling process for major projects
- Enduring solution



# Fast track purpose

*“...to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits”*



# The fast track process

- Modelled on COVID-19 Recovery (Fast-track Consenting) Act 2020:
- Short term fast track consenting process
- Purpose of boosting employment and economy
- Despite similarities there are some key differences

# The application process

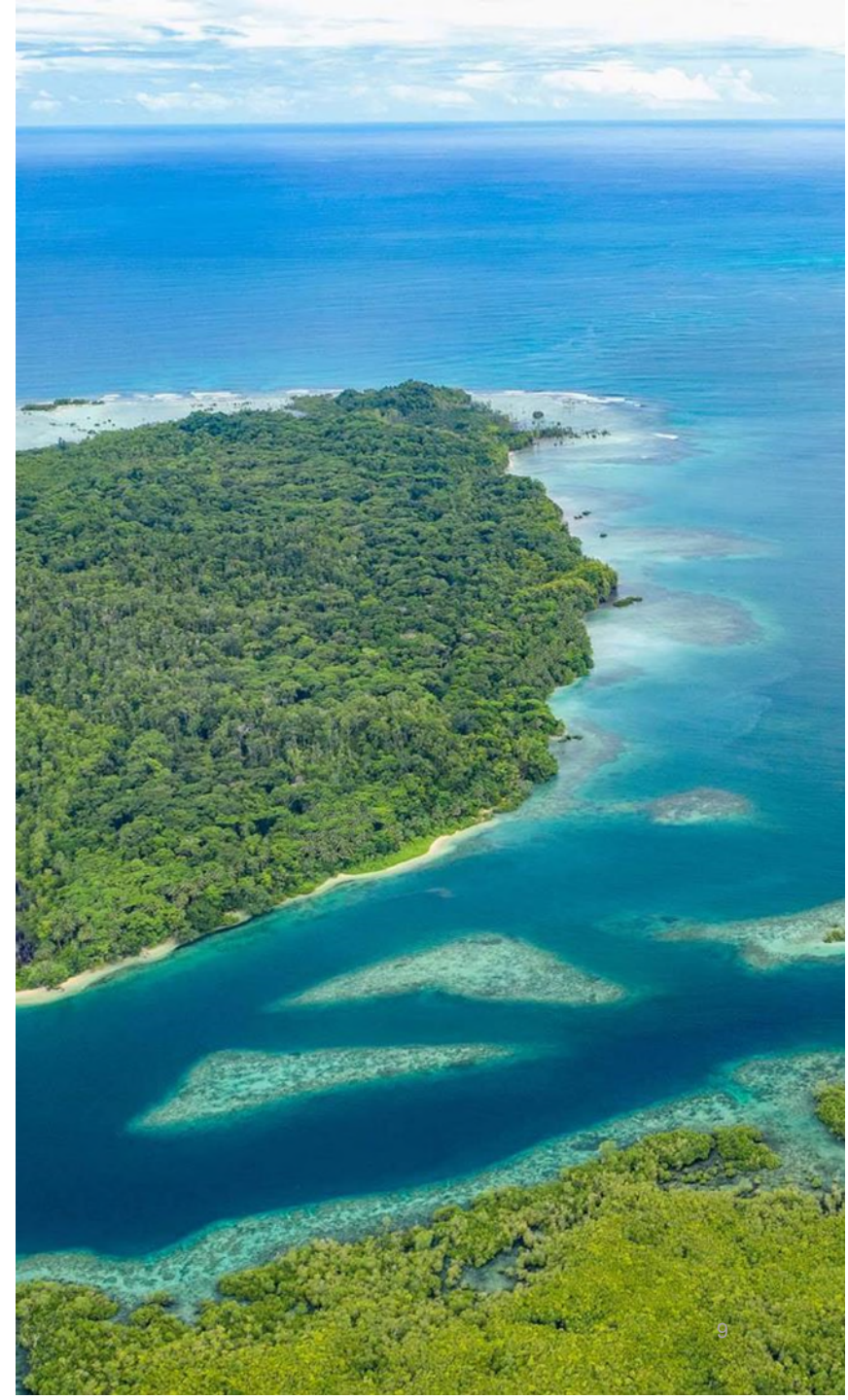
- Pre-application engagement
- Apply for referral / automatic referral if Cat A project
- Minister's decision on referral
- Application lodged with EPA
- Panel convened and invites comments
- Panel assesses application (no requirement for hearing)
- Panel consults on draft recommendations
- Joint Ministers issue decision





# The one stop shop

- Resource consents, NORs, designation alterations, CoCs
- Marine consents under the EEZ Act 2012
- Land access arrangements under the Crown Minerals Act 1991
- Archaeological authorities
- Concessions under the Conservation Act 1987 and Reserves Act 1977
- Wildlife permits
- Aquaculture decisions under the Fisheries Act 1996
- Approvals under the Freshwater Fisheries Regulations 1983



# Which projects can be fast tracked?

- **Schedule 2 Part 'A'**: automatically eligible to use the fast-track process
- **Schedule 2 Part 'B'**: need to be referred by Joint Ministers but their significant regional or national benefits are assumed
- **Referred projects**: need to be referred by the Joint Ministers after assessment against a list of criteria

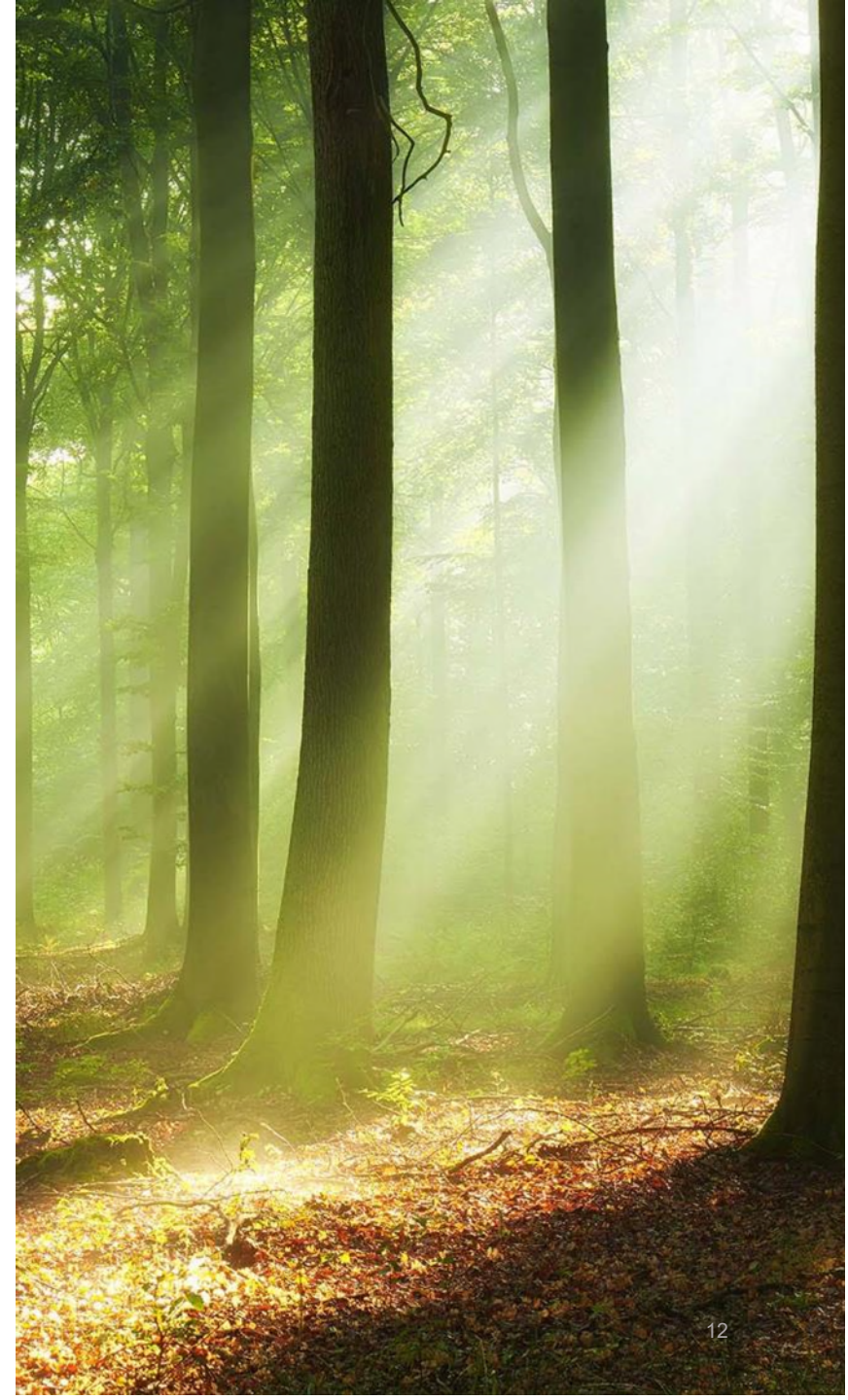
# Elevated purpose of the Act

- Purpose to be given greater weight than other considerations under RMA
- Ability to weigh the benefits of the project with significant adverse effects
- Provides work around for 'avoid' policies



# Appeals / judicial review

- Appeals on points of law only to the High Court
- Further right to seek leave to appeal to the Supreme Court
- Applicant, submitters, Attorney-General, and any person who has an interest in the decision that is greater than that of the general public
- Right to judicial review preserved



# Problems with the one stop shop

- Application processes and decision-making criteria unclear
- What role does the purpose of FTA have?
- Minister of Conservation is a joint Minister for purpose of Wildlife Act
- Minister of Conservation makes decisions on concessions
- Who will enforce overlapping consent conditions?

**Questions?**

# Thank you



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