

Regulatory Impact Statement

Options for creating an Environmental Protection Authority

Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by the Ministry for the Environment. It provides an analysis of options to establish an Environmental Protection Authority (EPA).

In August 2009 Cabinet Economic Growth and Infrastructure Committee (EGI) agreed that the purpose for creating an EPA is to more effectively, efficiently and transparently manage the regulation of New Zealand’s environment and natural resources, by providing greater central government direction on the regulation of the environment, consolidating regulatory and technical skills, and building on synergies between similar functions and powers [EGI (09) 18/2].

Establishing an EPA is intended to achieve improved delivery of existing regulation by addressing inefficiencies and technical capacity within or between departments.

The extent of the analysis was to identify national-level environment and natural resource regulatory functions. The analysis involved examining where skills could be consolidated and synergies and efficiencies between functions could be realised. Secondary to this was consideration for the operational form of the EPA.

The core functions of the EPA (and indeed the need for one) was identified in the government’s election manifesto and became an election commitment. As a result, there was only limited opportunity to examine the broader environmental management landscape to identify the fundamental issues underpinning the implementation gap in the regulation of natural and physical resources in New Zealand.

Consequential amendments will be needed to existing environmental legislation to transfer powers, functions and duties to the EPA. However, it will not change the requirements on applicants under the relevant legislation. As a result, this proposal is unlikely to have any adverse impact on business, consumers or the public.

Mark Sowden, Director Natural and Built Environment Policy

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Status quo and problem definition

Status quo

In New Zealand, environmental management occurs at three levels of government – central, regional and local. Under the Resource Management Act 1991 (RMA) and other key environmental legislation; the implementation of much of the policy developed at the national level is devolved to regional or local government.

At the national level, the Ministry for the Environment (MfE) is the government's lead adviser on policy for environmental management and regulation. Other departments have similar roles in specific areas of environmental regulation or natural resource management, such as the Environmental Risk Management Authority (ERMA), which administers the Hazardous Substances and New Organisms (HSNO) functions and the Ministry of Economic Development (MED), which administers permitting regimes that implement international agreements in domestic legislation. MED also administers regulatory functions under the Climate Change Response Act 2002, in respect to the Emissions Unit Register. This was intended as a temporary arrangement through the implementation of the Emission Trading Scheme.

The Resource Management (Simplifying and Streamlining) Amendment Act 2009 provides for a statutory office called the EPA, housed within MfE. The focus of this EPA is on national consenting functions. The statutory office is a transitional measure, pending a Cabinet decision on a long-term option for the EPA [CAB Min (09) 3/7].

The problem

Cabinet has agreed [CAB Min (09) 32/4] that the underlying issue is that current institutional arrangements are resulting in environmental regulation not being effectively, efficiently or transparently delivered, for instance:

- There has been an implementation gap at the national level in the regulation of natural and physical resources under the RMA.
- Central government's administration of applications and decision-making processes for various types of consents and other similar approvals is spread across a range of agencies, which creates inefficiencies.
- Central government regulatory and operational decisions on technical matters can be perceived to be subject to undue political influence if made too close to Ministers.
- The technical expertise required to develop and implement good environmental regulation is spread too thinly in some areas.

There has been an implementation gap at the national level in the regulation of natural and physical resources, primarily under the RMA. It was always envisaged that under the RMA national direction would be provided through regulatory tools such as national policy statements and national environmental standards. However, to date only four National Environmental Standards are in effect, while five are in development.

This lack of national direction has had a number of detrimental impacts for resource users and the environment. It has been a factor in inconsistent standards being developed and applied by regional and territorial councils. For example, different rules have been applied in different districts to the installation of LPG facilities. This has led to uncertainty and extra costs for resource users.

Further, national-level processing of consent-type applications under environmental regulations is dispersed across a number of agencies, such as MfE, MED and ERMA. This results in inefficiencies and duplication of process and corporate skills and services. These deficiencies can hamper both economic development and environmental protection, and raise the cost of environmental operations, because resource users have to deal with multiple agencies, all having different processes and requirements.

In addition, regulatory and operational decisions at a central government level can be seen as being subject to political influence if made within a department for which a Minister is directly responsible. This is a concern that was raised in some submissions on the Resource Management (Simplifying and Streamlining) Amendment Bill, including from the New Zealand Law Society, on the proposals for the transitional EPA. This issue is one of perception, as there is little evidence that Ministers have inappropriately intervened in technical decisions which are made by departments or independent decision-makers.

Cabinet decision on a long-term option for the EPA

A paper on Phase Two of the Resource Management Act reforms (which included the EPA work stream) was considered by Cabinet Strategy Committee on 6 April 2009. Cabinet invited the Minister for the Environment to report back with a range of options for the establishment of an EPA, and to prepare evaluations of the costs and benefits for each option [STR Min (09) 5/3].

Objectives

The objectives for expanding the EPA's mandate is to: 1) provide for greater central government direction on the regulation of the environment (through providing input into the development, and monitoring the implementation of regulations); 2) consolidate regulatory and technical skills; 3) build on synergies between similar functions and powers; 4) reduce the perception of Ministerial influence over decisions on major proposals or projects with significant environmental implications.

To meet these objectives, Cabinet agreed [CAB Min (09) 32/4] that a preferred option should be selected based on an evaluation against the following criteria:

- greater central government direction and consistency in the management and regulation of the environment can be delivered
- scarce technical skills can be concentrated and efficiency gains can be achieved by grouping similar activities and functions together in one organisation
- certainty of process for natural resource users and applicants can be improved through clarifying responsibilities
- organisational form is appropriate for the functions and powers to be exercised
- public perception of undue political influence over regulatory decisions by Ministers can be dispelled
- additional marginal costs (costs over and above the status quo in respect to the proposed functions of the EPA) to government can be minimised
- organisational arrangements are flexible to meet future demands, and changes can be made to the scope of the EPA with minimal disruption.

In addition, the proposal will need to reflect the Crown-Māori relationship in the EPA's structure and underlying legislation.

Regulatory impact analysis

A summary of all the options presented in this RIS are contained in the summary table following the Regulatory impact analysis section. A full list of the proposed functions to be transferred to the EPA is set out in Appendix 1.

The initiative to establish an EPA is an election commitment for the current government. A transitional EPA became operational on 1 October 2009. The Minister has indicated to Cabinet that the expanded EPA will be operational by 1 July 2011. This is a time constraint that needs to be considered in assessing the viability of options.

This proposal is subject to budget constraints. The Treasury has advised that any expansion of the EPA, regardless of organisational form, will need to be met from the Ministry's baseline funding.

The implementation of the EPA is not inherently more expensive than the status quo. The marginal increase to ongoing costs is largely a result of two factors. Firstly, the analysis prepared for options 1, 2 and 3 incorporates the cost to resource the proposed regulatory functions under the draft Exclusive Economic Zone policy. This includes three new FTEs and associated office costs. Although this is a cost to government to undertake a new function, and not directly attributable to the expansion of the EPA, it is proposed that the EPA perform these functions.

In addition to this cost, the analysis also includes 12 new FTEs and associated costs to provide the technical input into new regulations (this provides for a base of six FTEs for the EPA with the additional six only required should there be an increase in the number of NESs developed annually).

Option 1: A stand-alone EPA (Crown agent) that combines national-level regulatory and consenting functions

This option would create a Crown agent external to MfE that would combine the functions of the Environmental Risk Management Authority (ERMA) under the Hazardous Substances and New Organisms Act 1996 (HSNO Act) with environmental regulatory functions currently undertaken by MfE and the Ministry of Economic Development (MED).

Organisational form

The EPA under this option would be established as a Crown agent with the provisions of the Crown Entities Act 2004 applying to it. Under this option, the EPA would be an entity legally separate from the Crown. This legal separation establishes a degree of separation between the functions and powers of the EPA and Ministerial influence. However, a Crown agent can be directed to give effect to government policy related to its objectives, subject to any independent powers specified in legislation.

As a Crown agent, the EPA would be under the control of a governance board with authority to exercise the EPA's powers and perform its functions, including those currently administered by ERMA. The governance arrangements would be centred on the Minister-Board relationship. Board members would be appointed by the Minister for the Environment.

ERMA is currently an autonomous Crown entity, slightly more independent than a Crown agent (the Minister can only require an autonomous Crown entity to have regard to, not give effect to, government policy). As one of the government's objectives for resource management reform is to provide for better central government direction, it is vital that the chosen model allows for central government direction of the EPA. A Crown agent allows for this relationship.

Assessment against the objectives

Option 1 has the potential to increase central government leadership for the management and regulation of the environment under the RMA. Splitting the technical aspects of standards development from MfE's other functions enables MfE to concentrate on its policy role.

This option would ensure a dedicated pool of technical expertise within the EPA and provide an impetus for the development of standards and other national regulatory instruments. This option will also concentrate processing and administrative functions that support technical regulatory decisions and decision-making by independent boards. This is likely to increase the effectiveness and efficiency of processes. The efficiencies will be less marked in the area of technical expertise as there is not much overlap of technical knowledge across the different legislative areas. This concentrated grouping of similar activities and skills is likely to increase certainty of process for resource users and consent applicants.

This option would achieve a more arms-length relationship between the Minister and the EPA than the existing relationship between the Minister and MfE and the transitional EPA. The Minister could direct the EPA to give effect to policy related to its objectives, but could not intervene in individual decisions. Many of the regulatory decisions to be supported by the EPA already have independent decision-making mechanisms under current legislation, such as boards of inquiry under the RMA. The increased degree of separation between the Minister and the EPA is likely to significantly reduce perceptions of Ministerial influence over technical regulatory decisions and the EPA’s operations. In particular, it would distance Ministers from politically difficult or sensitive decisions.

This option could result in a change in the Crown-Māori relationship in relation to some of the functions, as a greater distance is created between the Crown and functions currently performed in central government. However, as demonstrated by the HSNO Act, which includes provisions for establishing a statutory Māori advisory board, appropriate mechanisms to ensure robust communication and consultation can be provided for.

Fiscal implications

The following table presents a summary of estimated costs for this option.

Cost description	Cost
Marginal increase to annual cost	Up to \$2.4M
One-off establishment costs	\$900,000 - \$2M *
One-off capital costs	\$900,000 - \$1.5M (BP House or new building)

* The range in costs is dependent on whether the existing accommodation will be used or whether the EPA will have to relocate to new accommodation.

Option 2: Statutory provision within the Ministry for the Environment

This option would create a statutory office within MfE that would combine some functions of the ERMA under the HSNO Act with environmental regulatory functions currently undertaken by MfE and the MED.

Organisational form

This model would establish a statutory office called the EPA within MfE, headed by a statutory officer. This option would be an expansion of the Ministry as a statutory department and builds on the existing transitional EPA model. However, having its powers, functions and duties set out in statute would ensure that the EPA has a discrete role, with a clear delineation between its functions and the Ministry’s.

For the EPA office and statutory officer to operate within MfE it must be appointed by the Secretary for the Environment to ensure that the Secretary is accountable for MfE as a whole. The advisory and administrative functions and duties proposed for the EPA would be the responsibility of the office to perform, with the officer accountable to the Secretary for the performance of the EPA office.

To ensure a strong perception of independence in relation to decisions under the HSNO Act, and to maintain the existing decision-making regime as much as possible, the Minister for the Environment would appoint statutory committees to exercise the decision-making powers. The EPA would support and service these committees, a function that would have synergies with its support role for independent boards of inquiry under the RMA.

Assessment against the objectives

This option has the potential to increase central government direction by providing a specific point of responsibility for the set of functions within a Crown department that will be aligned with the policy development process.

This option would consolidate technical and administrative skills for regulatory functions under the RMA and HSNO Acts, and for the ETS registry, currently dispersed across a number of national level agencies. This would provide for skill-sharing (across the technical and administrative functions, as well as policy skills within the Ministry).

Despite the ring-fencing of the EPA's functions and responsibilities, there remains a risk of perception – i.e. it could be perceived that there that there is no clear delineation between MfE's policy and the EPA's regulatory roles. There is also the potential for confusion on the part of the public in terms of what functions each entity is responsible for. However, these risks could be managed through good communication with the public and strong branding for the EPA to distinguish it from MfE.

Further, there is a risk that in retaining responsibility for both policy and implementation within the overall MfE structure, these roles become blurred, and may result in a lack of impetus for the development of needed standards.

Under this option, the statutory officer and EPA office would be appointed by the Secretary for the Environment with the powers, role and functions set out in statute. The functions would be ring-fenced within the statute and the statutory officer would be accountable to the Secretary for the Environment, rather than the Minister, for the performance of the office in discharging its functions.

To maintain independence in relation to decisions under the HSNO Act, the statute would provide for the Minister to appoint statutory committees to exercise decision-making powers. The effect of this would be that these decisions would be made by appointed committees that are independent of the Ministry and EPA, with the EPA providing secretariat support, technical advice or to procure advice on the behalf of the committees, similar to the (ad hoc) RMA board of inquiry model.

These provisions would have the effect of distancing the Minister from the functions and decision-making processes of the EPA.

This option would provide well for an ongoing Crown-Māori relationship, since the EPA would be able to build on MfE's existing relationships and Crown obligations. In addition, to ensure that the current level of engagement is maintained in regard to HSNO Act functions, an advisory board could be set up to provide advice and assistance on incorporating Māori and Treaty principles into EPA processes (similar to the current arrangement of a statutory Māori advisory board under the HSNO Act).

Fiscal implications

The following is a summary of estimated costs for this option.

Cost description	Cost estimate
Marginal increase to annual cost	Up to \$1.9M
One-off operating costs	\$1.2M - \$2.2M*
One-off capital costs	\$900,000 - \$1.5M (BP House or new building)

* The range in costs is dependent on whether the existing accommodation will be used or whether the EPA will have to relocate to new accommodation.

Option 3: A statutory office within the Ministry for the Environment which excludes ERMA

This option would expand the transitional EPA established within MfE under the Resource Management (Simplifying and Streamlining) Act. Under this option, the EPA would carry out all the functions proposed to be transferred except for those under the HSNO Act. ERMA would continue to operate unchanged.

Organisational form

Under Option 3 the EPA would operate as a statutory office within MfE. Its functions could continue to be exercised by a statutory unit of MfE employees, potentially headed by a statutory officer, all employed by, and accountable, to the Secretary for the Environment.

Under this option, it would be possible for this range of functions to be transferred to a stand-alone Crown entity if that was required in the future. However, given the limited functions and small size of the organisation, this is not likely to be a cost-effective or efficient option unless its scope of functions are expanded.

Assessment against the criteria

Given that a statutory office has already been established as a transitional measure under Phase 1 of the RMA reforms, this option may be the least disruptive and potentially has the easiest transition path.

Like Option 2, under this option there is a risk that in retaining responsibilities for both policy and regulatory implementation within MfE (albeit within a separate entity), these roles become blurred, and could impact on the development of standards and other national instruments. There is also a risk of there being a perception that there is no clear delineation between MfE's policy and the EPA's regulatory roles.

The EPA could only make relatively minor and technical decisions itself; for decision-making on significant matters such as called-in proposals under the RMA, it will provide advice and other support to the relevant boards.

As with all the options presented in this RIS, the Minister would retain control of overall policy and of the approval of regulations. There would also be no significant change to Ministerial decision-making powers. The Minister would retain all powers to appoint boards of inquiry under the RMA to make determinations on applications of national significance, and similar independent decision-making bodies.

Under this option the EPA would retain a close relationship with the Minister. The ring-fencing of functions within the statutory office would to some degree address perceptions of Ministerial influence over general functions.

This option would provide well for an ongoing Crown-Māori relationship, since the EPA would be able to build on MfE's existing relationships and broad obligations.

Fiscal implications

The table below is a summary of estimated costs for this option.

Cost description	Cost estimate
Marginal increase to annual cost	Up to \$2.1M
One-off establishment costs	Up to \$1.2M
One-off capital costs	\$900,000

Option 4: A stand-alone EPA that includes all of the functions under Options 1 and 2 plus a range of regional-level regulatory functions

Organisational form

This option would create a single Crown entity undertaking all the functions of Option 1 and some or all of the environmental regulatory functions currently performed by regional councils under the RMA. Under this option the EPA would have a similar organisational form to that proposed for Option 1: i.e., a Crown entity whereby a governance board with authority to exercise the EPA's powers and perform its functions has control over the EPA. Due to the

broad scope of its functions, the EPA would also need considerable policy capability and possibly a central office with branches in several regional centres.

This option would involve a comprehensive reorganisation of regional councils as well as central government agencies, and large scale reform of the governance regime established under the RMA. It would involve considerable disruption and costs and it would also require a considerably longer period of time to implement than the other options. Also, given that it has significant implications for the functions of local government, it would not be advisable to attempt to implement this option until the new model for local government introduced under the recent local government reform is bedded in and fully evaluated.

Other implications

This option could create an impression of a much greater level of national-level Ministerial influence, because responsibility would move away from local decision-makers to a Ministerially-appointed board based in Wellington. It could also have implications in respect to the Minister of Conservation's responsibilities for management of the coastal marine area under the RMA. Consideration would need to be given to whether the Minister of Conservation retains some or all of these responsibilities or whether these are transferred to the EPA.

Option 4 represents a significant shift of the cost burden from ratepayers to taxpayers. There would also be very significant transitional costs for rearranging and rationalising current government agencies and regional councils to allow for the establishment of the EPA. Given the magnitude of the costs for establishing an EPA under this model, this option could not be funded by MfE's existing baseline, which is a requirement for this proposal.

Option 4 would require extensive public consultation and major legislative reform. This reform would take significantly more than 12 months to complete. Therefore Option 4 is not achievable by 2011, but has been included as an option to consider in the longer term.

Summary of analysis of Options 1, 2 and 3

The table below provides a summary of the extent to which each of the options meet the agreed criteria.

Note that all ratings (other than no tick) indicate an improvement on the status quo.

Criteria	Option 1: Crown entity	Option 2: Statutory Office	Option 3: Statutory office w/o ERMA
Greater direction and consistency in environmental regulation	✓✓✓	✓✓✓	✓✓
Concentration of scarce technical skills and efficiency gains by grouping activities and functions together	✓✓	✓✓	✓
Certainty and clarity of process for resource users and applicants	✓✓✓	✓✓	✓✓
Appropriate organisational form to fit functions	✓✓✓	✓✓✓	✓✓
Reduced perception of political influence over environmental regulatory decisions	✓✓✓	✓✓	✓✓✓
Marginal costs to government minimised	✓✓	✓✓	✓✓
Flexible organisational arrangements to allow changing scope of the EPA	✓✓	✓✓✓	✓✓✓
Ability to reflect the Crown-Māori relationship	✓✓✓	✓✓✓	✓✓

Rating scale key	
<i>ticks</i>	<i>level to which option meets criteria</i>
no tick	does not meet
✓	low
✓✓	fair
✓✓✓	high

Consultation

Consultation was undertaken for the Resource Management (Simplifying and Streamlining) Amendment Act 2009, under which the first phase of the EPA was implemented. In the development of the proposal, central government departments were consulted and ideas sought from local government. In the select committee process, the wider public were able to submit on the Bill. Some comments included the perception that regulatory and operational decisions at a central government level are subject to political influence if made within a department for which a Minister is directly responsible. This issue is one of perception, as there is little evidence that Ministers have inappropriately intervened in technical decisions which are made by departments or independent decision-makers.

On the current proposal, consultation has been limited to central government departments. The following departments were consulted throughout the policy development process, and provided comment on draft Cabinet papers: the Treasury, Department of Prime Minister and Cabinet, State Services Commission, Department of Building and Housing, Department of Conservation, Department of Corrections, Department of Internal Affairs, Department of Labour, Land Information New Zealand Ministry of Agriculture and Forestry, Ministry of Culture and Heritage, Ministry of Defence, Ministry of Economic Development, Ministry of Fisheries, Ministry of Foreign Affairs and Trade, Ministry of Health, Ministry of Justice, Ministry of Research, Science and Technology, Ministry of Transport and Te Puni Kokiri. ERMA New Zealand has also been consulted.

Focused consultation was undertaken with Iwi representatives to provide input into how Māori can best be involved in the EPA and maintain the Crown-Māori relationship.

Key feedback from departments was incorporated into the August 2009 Cabinet paper. This paper outlined three options: Crown entity including ERMA, a Statutory Office excluding ERMA and a Crown entity including ERMA and regional council functions (equivalent to Options 1, 3 and 4 in this paper). This feedback, and the way in which it has been addressed in the development of this proposal, is outlined in the table below:

Departmental comment	How the concern was addressed
There is a need for assessment criteria to include the extent to which the options provide for the Crown-Māori relationship (TPK).	This is an underlying consideration for all proposals, although not included as a criterion for assessment.
Greater central direction is achieved through policy and legislation rather than the establishment of an EPA (Tsy, MED, MAF, MFish)	A transitional EPA was already been established under the Phase I RMA reforms. This proposal only looks to expanding its mandate.
It is hard to see how proposed functions align beyond processing and administration. The increased cost of the EPA suggests that there are no synergies in bringing these functions together (Tsy, MED, MAF).	One of the objectives is to consolidate technical skills, which includes skills around processing and administration. The costs reflect an increased level of activity over and above existing levels of activity. There are also corporate savings realised through the synergies.
A move to an arms-length EPA will not increase the independence of substantive decisions from Ministers (and the ERMA-related functions will become closer under option one than they are currently) (Tsy, MED, MAF).	The options presented in this proposal outline the impact of each the real and perceived possibility for Ministerial influence over substantive decisions.
The MfE/EPA separation of policy and operations creates risks, as both functions inform each other and separation reduces capability by breaking up limited expertise (Tsy, MED, MAF).	The option to operate the EPA within MfE is a valid option included in this analysis.
There are transitional and ongoing financial costs associated with the preferred option (Tsy, MED, MAF).	Establishment and ongoing financial costs have been estimated in the development of this proposal.

Departmental comment	How the concern was addressed
<p>There may be significant disruption costs including:</p> <ul style="list-style-type: none"> - the physical change and its effect on people, work programmes and MfE management already under significant pressure - a 'culture clash' between functions which operate with different core purposes and technical skills (Tsy, MED, MAF). 	<p>The change management process and costs have been incorporated into the estimated cost of establishment.</p> <p>It is anticipated that the merging of existing functions into the EPA will be managed by an implementation team at MfE, in consultation with affected agencies.</p>
<p>Treasury, MED and MAF proposed an alternative approach, which was for the EPA to be established initially as an expanded statutory office within MfE exercising some national-level environmental regulatory and consenting functions, with ERMA operating unchanged (Option 2 in the August Cabinet Paper). They recommended a review after two years to determine whether moving towards a more significant reorganisation of functions is justified. State Services Commission shared this view.</p>	<p>The option of having an expanded EPA within MfE that excludes ERMA is an option included in this analysis. It is proposed that the expansion of the EPA be reviewed by MfE at about three years after it becomes operational.</p>
<p>The Department of Conservation sought clarification that the EPA options are not intended to affect the Minister of Conservation's regulatory functions for foreshore and seabed and the coastal environment. The Department noted that governance arrangements for an EPA need to be robust to ensure that it can be effective in its role, and that transitional arrangements need to ensure that existing processes (particularly the work of ERMA) are not adversely affected.</p>	<p>Option 4 would most affect the Minister of Conservation's regulatory functions. As option 4 is not achievable by 2011, MfE does not anticipate that this proposal will impact on these functions at this time.</p> <p>It is anticipated that the merging of existing functions into the EPA will be managed by an implementation team at MfE, in consultation with affected agencies.</p>

Implementation

The EPA is intended to be operational by 1 July 2011. Following Cabinet consideration of the March 2010 Cabinet paper, a decision will be made on the EPA's form and functions. It is expected that a bill will be drafted, that will include all necessary consequential amendments to existing legislation, to give effect to this institutional change. This is likely to include changes to the RMA, HSNO Act, Climate Change Response Act, and any other relevant legislation as Cabinet determines.

It is anticipated that the draft bill will be considered by Cabinet Legislative Committee by the end of July 2010 and enacted in early 2011. The establishment/transitional process will run concurrently to this legislative process to prepare for the July 2011 operational date. This will allow for any necessary appointments, work to obtain and refit new accommodation (if necessary), change management (communications, human resource processes etc) along with the other necessary implementation tasks.

There are a number of risks associated with this proposal:

- level of disruption to the staff and the delivery of the functions of the affected agencies
- no financial contingency if costs overrun, as the proposal is to be funded from the MfE baseline
- not finding suitable accommodation available in time for refit and the transfer of staff
- not finding suitable person(s) for the statutory officer or other leadership or governance roles, including board members
- inadequate time to complete all the necessary work to make the new EPA operational following enactment.

These risks will be mitigated, to the greatest extent possible during the establishment/transitional period. This will be achieved through continuous communication with affected staff, active management for a seamless transfer of the functions, and the early appointment of a dedicated project establishment team to oversee the process. Change management costs have been built into the estimated establishment costs provided in this analysis.

The proposal for the creation of an EPA involves an institutional rearrangement rather than a change in obligations on applicants under the relevant existing regulatory frameworks. There will be consequential changes to legislation to enable the EPA to perform functions and powers, but no regulatory regime changes and therefore there are no additional compliance costs as a result of this proposal.

Monitoring, evaluation and review

It is proposed that the EPA be reviewed within 3 years of its establishment (operational date). The Minister will 1) define the terms of reference for the review (or delegate an independent person or agency to do so) and 2) appoint a suitable person or organisation to conduct a review. On completion of a review, the person or agency responsible for the review will prepare a report, to be published at the Minister's discretion. It is not proposed at this stage that the review period will be set out in the legislation.

Appendix 1: Legislative scope and proposed functions of options

	Legislative scope	Main EPA functions	
Options 1 and 2	Hazardous Substances and New Organisms Act	<ul style="list-style-type: none"> ▪ processing applications for approvals ▪ making decisions on applications for approvals and setting related controls ▪ monitoring and co-ordinating HSNO compliance ▪ promoting public awareness of the risks of hazardous substances and new organisms ▪ technical input into the drafting of HSNO standards and regulations ▪ monitoring the implementation of regulations 	
	Resource Management Act	<ul style="list-style-type: none"> ▪ processing applications for: <ul style="list-style-type: none"> - proposals of national significance and other call-ins - Water Conservation Orders ▪ servicing independent decision-making processes (including providing expert reports on proposals) for: <ul style="list-style-type: none"> - proposals of national significance and other call-ins - Water Conservation Orders (including providing expert reports on proposals) ▪ technical input into National Environmental Standards ▪ monitoring the implementation of National Environmental Standards through regional and district plans 	
	Climate Change Response Act	<ul style="list-style-type: none"> ▪ Administration of the Emissions Unit Register ▪ Administering applications for allocation ▪ Issuing units in accordance with Ministerial directions ▪ Transferring units in accordance with chief executive or Ministerial directions ▪ Conducting compliance and enforcement activities ▪ Making emissions rulings ▪ technical input into regulations ▪ monitoring the implementation of regulations ▪ operating the Climate Change contact centre 	
	Potentially the following functions will also be included:		
	Ozone Layer Protection Act	<ul style="list-style-type: none"> ▪ Processing and deciding on permit applications ▪ Compliance and enforcement 	
	Imports and Exports (Restrictions) Act	<ul style="list-style-type: none"> ▪ processing applications for import and export permits ▪ deciding import and export permits ▪ compliance and enforcement of certain import and export permits ▪ maintaining registry ▪ technical input into development of standards 	
	Proposed EEZ legislation (if passed)	all regulatory functions under the proposed EEZ legislation consistent with the other functions of the EPA under this option	
	Antarctica (Environmental Protection) Act	advice to the MFAT on environmental impact assessments for activities in Antarctica	
	As for Option 1	As for Option 1	

	Legislative scope	Main EPA functions
Option 3	Option 1 minus Hazardous Substances and New Organisms Act	As for Option 1, minus Environmental Risk Management Agency functions
Option 4	As for Option 1	As for Option 1 plus: most RMA coastal functions currently carried out by regional councils (4a) OR Selected land and coastal RMA functions currently carried out by regional councils (4b)