



COUNCIL VIEWS ON RESOURCE MANAGEMENT REFORM

// This paper explains LGNZ's current position on RM reform, which has been informed by member feedback

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Ko Tātou LGNZ.

Local Government New Zealand (LGNZ) provides the vision and voice for local democracy in Aotearoa, in pursuit of the most active and inclusive local democracy in the world. We support and advocate for our member councils across New Zealand, ensuring the needs and priorities of their communities are heard at the highest levels of central government. We also promote the good governance of councils and communities, as well as providing business support, advice, and training to our members.

Abbreviations used in this paper

CAA - Climate Adaptation Act

FFLG – Future for Local Government

NBA - Natural and Built Environment Act

NBA plan - Natural and Built Environment plan

NPF - National Planning Framework

RM – resource management

RMA – Resource Management Act 1991

RPC – Regional Planning Committee

RSS – Regional Spatial Strategy

SCO - Statement of Community Outcomes

SPA - Spatial Planning Act

SREO - Statement of Regional Environmental Outcomes

WSE – Water Services Entity

We're preparing to submit on RM legislation

This paper pulls together what we've heard from councils about resource management reform. We're describing the material in this paper as our current position on reform. It's based on what we know about RM reform so far, ahead of the new Natural and Built Environments and Spatial Planning Bills being introduced to the House later this year. It's also based on what we've heard from members to date, including at sector and zone meetings and during our Unpacking RM zoom series.

We'll be using this position to create our submissions on RM legislation that's expected to be introduced by the end of this year, so would very much welcome any council feedback on this issues paper.

What's wrong with the current system?

The current system has been criticised for being overly complex, slow-moving, and frustrating – for councils and communities alike. There's a widespread, shared view that change is needed. A simpler, more efficient system is needed – that both enables development and protects the natural environment.

What the Government is proposing

The Government has been clear about its objectives for reform:

- To protect and, where necessary, restore the environment and its capacity to provide for the wellbeing of present and future generations.
- To better enable development within natural environmental limits including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure including social infrastructure.
- To give proper recognition to the principles of Te Tiriti o Waitangi and provide greater recognition of te ao Māori including mātauranga Māori.
- To better prepare for adapting to climate change and risks from natural hazards and better mitigate the emissions.
- To improve system efficiency and effectiveness and reduce complexity, while ensuring local input and involvement.

To achieve these objectives, the Government is proposing radical change to the resource management and planning system. These changes will:

Shift how the natural and built environment is protected. From an effects-management approach under the RMA, to an outcomes-driven approach under the NBA, SPA and CAA.

Regionalise resource management plan-making. This is so plans are made by one regional planning committee made up of representatives from territorial authorities, unitary authorities, regional councils and iwi/hapū organisations. Committees will be responsible for developing:

- **One Natural and Built Environment plan (NBA plan) per region.** Replacing existing regional policy statements, regional plans, and district plans developed by local authorities.

- **One Regional Spatial Strategy (RSS) per region.** A 30-year year strategy that identifies areas that are suitable for development; need to be protected; require infrastructure; and/or are vulnerable to climate change effects and natural hazards.

Each region will have a host council that will be responsible for hosting the regional planning committee and its secretariat.

Role of councils in the new planning system – plan making and governance arrangements

Regional planning committees

Each region will have one committee that's responsible for developing a RSS and NBA plan, with a minimum of six members. Every local authority can be represented, with a minimum of two mana whenua members.

Our take

- We're pleased that regions will have flexibility to determine the makeup of their regional planning committees. One size won't fit all, and arrangements need to work for regions.
- Large planning committees may be unwieldy but there is existing experience with large planning committees (e.g., Auckland Council).
- It's good there is scope for all councils to be represented on a regional planning committee if they want that.
- There is some concern at councils having only one seat each (e.g., regional councils have specialist knowledge/expertise; one seat for large metropolitan areas is causing some concern that smaller communities could 'balance out' the needs of larger cities).
- There needs to be more detail about the role and scope of sub-committees. For example, are these intended to provide expert input into the plan making process or to develop sub-regional chapters of plans? We think sub-committees could be a useful way of enhancing local voice but recognise the need to balance the creation of more layers against the Government's objectives around a more efficient and less complex system.
- On Māori representation arrangements, there's potential for disconnect with the 50/50 co-governance arrangements for Regional Representative Groups being established through Three Waters Reform.
- RPCs' role should be as stewards of the plan making process. There should still be a strong role for each individual council, and the plan making process should be a collaborative, bottom-up one.
- We support the need for a central government representative on RPCs that prepare RSSs. We suggest that, in time, a representative from the Water Service Entity (WSE) would be useful too (on both the RPCs and in the secretariats that support the RPCs) to ensure alignment. WSE representatives on the RPCs should contribute to, but not drive, the work of the RPCs.
- Guidance around how to form an effective RPC would be useful.

Plan making

Each council will have the opportunity to input into regional planning committees through statements of community outcomes (SCOs) and statements of regional environmental outcomes (SREOs). Each of these statements will set out the issues, opportunities, and characteristics of a community that RSSs and NBA plans must consider/give effect to. Each council (as well as communities) will also have the opportunity to provide feedback on draft NBA plans and RSSs, and independent hearings panels will be utilised to help improve the quality of NBA plans.

Our take

- We don't have a clear sense of what the content of NBA plans and RSSs will be, but we do support the stripping out of unnecessary duplication and complexity. However, plans must reflect local preferences – which is why SCOs in particular become important.
- We support SCOs and SREOs as a mechanism for giving councils and communities ability to feed into plan-making. Those statements need sufficient weighting – so they actually have impact and provide a strong mechanism for local voice/input.
- We also think that the proposed SCOs and SREOs should be mandatory. There's a risk that if they're not mandatory, the interests of those councils that don't produce them won't receive the same level of attention by the RPC.
- There's a still a need to reconcile what the content of SCOs and SREOs is and how this aligns with other council planning documents, such as town centre plans or community plans.
- Territorial authorities should be able to provide input on environmental outcomes through their SCOs – environmental outcomes shouldn't be the sole domain of regional councils/unitary councils.
- Given regional councils' specialist knowledge of matters relating to the natural environment, there may be a need for SREOs to be more prescriptive, rather than just high-level, aspirational documents.
- We need more understanding around the degree to which existing plan content will be able to be picked up and used in the new system or not.
- Sub-committees and sub-regional chapters may be useful to ensure that local needs/preferences/circumstances are captured – but this will need to be balanced against reduced complexity/greater efficiency objectives.
- We support councils and communities being able to provide input and feedback as planning documents are developed, and we support the independent hearings panel process. We can see challenges where councils decide to appeal decisions by the RPCs – who will ultimately defend any appeal?
- There will need to be strong links between the water services entities and RPCs. Otherwise, there is a risk that there will be duplication of planning and/or gaps will emerge.
- The WSEs should be required to act in a manner that is consistent with NBA plans and RSSs but should have flexibility to determine timeframes and mechanisms for doing that.

Host councils/secretariats

Each RPC will be hosted by one council. The host council will have no greater or lesser power than any other council on the RPC. The host council will probably provide administrative and human resources support. This secretariat will provide technical and administrative support to the RPCs. The Government isn't going to prescribe a particular model for the secretariat: each region can

determine the arrangements that will work for them. The Government isn't going to prescribe council staff secondments to the secretariats but thinks this will be the most practical option.

Our take

- Host council and secretariat arrangements will have implications for councils' budgeting/planning processes – councils need sufficient time to factor all this in.
- We agree that the host council shouldn't have any more rights than other councils. It's not yet clear whether the host council will be the defendant if an RPC's decisions are appealed.
- Secretariat arrangements will have substantial implications in terms of resourcing commitments, funding, employment relationships. These arrangements need to be as easy/practical as possible.
- If staff are seconded to secretariats, will councils have sufficient resource to contribute to plan making processes (e.g., reviews, development of SCOs and SREOs etc)? We anticipate that there'll still be a significant amount of input that councils need to have into the development of plans.
- There's also the issue of whether councils will continue to have sufficient resourcing to support consenting and compliance, monitoring and enforcement activities, which will remain with them.
- We envisage it will be critical for central government agencies (such as Waka Kotahi) and in time the WSEs to provide expertise and information to the secretariats. How these relationships will work needs to be clarified.
- We think that there should be a role for Māori in secretariats, as well as on the RPCs. However, it's not clear who will resource Māori to be able to participate. Central government will need to provide support.

Accountability issues

Responsibility for consenting and compliance, monitoring and enforcement will continue to sit with individual councils. This ultimately means that councils will be responsible for implementing NBA plans and RSSs.

Our take

- There is some concern that councils will be responsible for implementing NBA plans and RSSs over which they may have very little influence or input.
- There must be mechanisms for ensuring RPCs are accountable to councils and communities (mechanisms such as reviews of draft plans, SCOs and SREOs will be useful).
- RPCs ultimately won't be independent or autonomous of councils, given councils will be responsible for contributing funding to the RPC process and implementing RPC decisions. Related to this, there's need for more clarity on what the relationship and accountabilities between councils and RPCs are.
- How will RPCs be accountable to councils/mana whenua for the budgets they set? They need to set budgets in consultation with them.
- We suggest that representatives on RPCs should be elected members, who have a democratic mandate on behalf of their communities. However, we do see the benefits of the

members of RPCs understanding the planning system, and some appointed members with expert knowledge may be useful.

- How will central government be held to account in terms of delivering on the strategic outcomes that are provided for through the regional spatial planning process? It's useful to have central government involved in decision-making on RSSs but we need them to actually support the delivery of RSSs.
- The implementation plans and agreements (signalled in the Randerson Report) will help ensure RSSs are delivered on by councils but may pose challenges if councils feel that they have limited or no involvement in the development of RSSs.

Implementation

Implementing the new system poses significant resourcing and capacity challenges.

Transition to the new system will happen in stages and is expected to take a number of years. The Government will first work with three regions (Tranche 1) to establish RPCs and develop model RSSs and NBA plans. These will provide practical templates and lessons for other regions across the country.

The Government has committed \$179 million in Budget 2022 towards the transition to the future resource management system, and its implementation. This includes funding towards:

- The model project regions (those regions that pilot the plan-making process). It is expected that the model project regions will provide practical templates and lessons for other regions to follow, and for these to be supported by digital tools.
- The National Planning Framework.
- The National Māori Entity.

Our take

- Transformational reform requires significant central government investment
- in transition and implementation. This must include a longer-term, cross-party commitment to funding if reform is to be successful.
- There needs to be central government funding to support the formation of the RPCs as well as the ongoing plan development processes. These things can't be funded by local government alone – otherwise there will be an unfunded mandate.
- Councils need certainty around transition arrangements, including which regions are part of which tranches. And councils need a line in the sand in terms of when they should stop undertaking plan changes/leading resource intensive reviews of existing planning documents. Councils need this certainty so they can factor it into their long-term planning/development of work programmes.
- Those regions that are ready to move to the new system should move first.
- We have concerns around whether there's capability/capacity to deliver the level of change required – as well as continuing to administer the existing system while we wait for the transition to the new system.
- In the past we've suggested a staged approach to transition as something that may be more manageable for councils and communities (NPF and SPA first, then NBA).
- Iwi/Māori need to be properly resourced to participate in the new system – local government can't meet those costs alone; central government needs to contribute.

- A shift to regional ways of working will deliver benefits but it will take time for some regions to build relationships and establish collaborative, regional ways of working.
- We're concerned about how the new 3W and RM systems will join up. We need more clarity about how the two systems will integrate, and which actors in which system will be responsible for what.

Regional spatial planning

Each region will develop one Regional Spatial Strategy that provides integrated direction to resource management, infrastructure, and financial planning, and sets out the long-term investment plans and issues for a community. Each RSS will have a 30+-year life span, be spatially focused and undergo similar consultative and input processes to NBA plans. A representative from central government will participate in the RPC when making decisions on the RSS.

Our take

- We support the introduction of mandatory regional spatial planning – it's likely to be the most transformative part of the reform programme.
- It's important that there's strong input by councils into the development of RSSs as they'll be key to implementing them.
- We need to avoid a situation where a central government representative fails to come to the RPC table without a coherent central government view on the outcomes it seeks to achieve for a region.
- How will a lack of alignment between CG and LG priorities for a region be resolved? This needs to be clarified.
- A key issue is ultimately how to guarantee delivery of RSSs – we need to know what the mechanisms for guaranteeing delivery will be.
- WSEs will be a key player in the development of RSSs – they should also be part of the RPC when it's making decisions on RSSs.
- Central government and WSE representatives on RPCs should contribute to, but not drive, the RSS making process. It's important that councils, mana whenua and communities drive decisions around RSSs.
- In some cases, there may be a need to develop RSSs that bring in multiple regions (e.g., for those regions that are connected by critical transport networks).

Planning for natural and built environments

The Government's reform programme aims to achieve positive outcomes for both the natural and built environments. It seeks to protect and, where necessary, restore the natural environment, including its capacity to provide for the wellbeing of present and future generations. And it seeks to better enable development within biophysical limits including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure.

Our take

- We need to be able to achieve good outcomes for the natural environment while continuing to meet needs for growth and development. How will those competing priorities/outcomes be managed? How will an appropriate balance be achieved?
- We're concerned that the exposure draft of the NBA made very limited reference to the built environment/outcomes for the built environment. We hope that this will be dealt with in the version of the NBA that gets introduced to the House.
- Limits and targets are important for protecting the natural environment but need to ensure that these don't result in adverse, unintended outcomes (i.e., where it becomes impossible for growth/development to occur).

Role for Māori in the new RM system

Māori will play a much more integral and strategic role in the new RM system. The Government is proposing:

- Māori will be represented on RPCs and have input into the development of RSSs and NBA plans.
- There will be a requirement in the NBA to "give effect" to the principles of Te Tiriti o Waitangi.
- The concept of Te Oranga o te Taiao will be a core part of the new system. Te Oranga o te Taiao speaks to the wellbeing of the natural environment and essential relationship between a healthy environment and capacity to sustain all life.
- A National Māori Entity will be established to monitor Te Tiriti performance and have input into the National Planning Framework.

Our take

- We support the introduction of a requirement to "give effect" to the principles of Te Tiriti and the introduction of the concept of Te Oranga o te Taiao.
- We want to understand how the concept of Te Oranga o te Taiao integrates with Te Mana o te Wai, and how Te Mana o te Wai will be integrated into the new RM legislation.
- Māori must be appropriately resourced by central government to be able to effectively participate in the new system. Local government cannot meet the costs of Māori participation on its own.
- On Māori representation arrangements, there's potential for disconnect with the 50/50 co-governance arrangements for Regional Representative Groups being established through Three Waters Reform.
- Even though the Waitangi Tribunal has confirmed that it considers the Government's proposed representation arrangements to be Treaty compliant, it is possible that Māori may take a different view.
- There's a concern about how existing settlement arrangements and relationships will be transitioned into the new legislation.
- Local government will need support and resourcing to build its capability and capacity to effectively engage with Māori. Current capacity and capability are variable.

National Planning Framework

The Government intends to develop a National Planning Framework, which will bring together more than 20 pieces of existing national direction and provide some new national direction.

Our take

- The NPF will support RPCs to deliver outcomes and comply with limits and targets. Councils need guidance around how to manage conflicting outcomes – this is a key concern. The NBA will include many different, potentially conflicting outcomes, without a hierarchy of outcomes. Our view continues to be that guidance on how to manage competing outcomes will be critical. Conflicts between outcomes should be resolved at the national level (ideally in the primary legislation – but in the NPF as a last resort).
- LG must be closely involved in the development of the NPF. National direction needs to be workable and flexible enough to accommodate local variation. This has been one of the major issues with the current system. A co-design approach is preferred.
- While we anticipate that much of the existing national direction will transition into the NPF, it's not yet entirely clear whether any changes will need to be made to existing national direction to ensure it aligns with the policy intent of the NBA.
- Given the draft NPF will be shared after the NBA has been introduced to the House, we'll be placing a lot of trust in the Government ensuring there is alignment between the NPF and NBA. It would be helpful to see both documents at once.
- LG is interested in the new national direction on infrastructure that is being developed. As a key provider of infrastructure, LG must be involved in the development of that direction.
- We are concerned by the lack of priority being given to national direction on climate change.

Climate Adaptation Act

A Climate Adaptation Act is the third piece of legislation that makes up the RM Reform programme. This is on a slower track than the NBA and SPA, and we understand it will be introduced to the House in 2023.

Our take

- We are pleased that there will be a stronger focus on climate change adaptation and mitigation in the NBA and SPA.
- We remain concerned that the Climate Adaptation Act is on a slower track despite the significant climate challenges facing communities.
- Local Government must be involved in codesigning the development of this legislation.

Alignment with other reform programmes

The RM Reform programme closely links with a number of other reform and policy programmes that the Government has underway, in particular 3W Reform, the Future for Local Government Review, the introduction of New Zealand's first Infrastructure Strategy, and the Government's work on climate change, including the introduction of National Adaptation and Emissions Reduction Plans.

Our take

- The Government is not looking at all reform programmes in a joined up, holistic way. We're concerned at the potential for misalignment between different reform programmes, particularly given the scale and pace at which the reforms are progressing.
- The RM Reform (and other reforms) are establishing new structures and ways of working which will ultimately change the way in which local government performs its existing roles and functions.
- We're particularly concerned about how the new RM system will interface with the new 3W system. We see potential for duplication of strategic planning, potential for gaps and a lack of clarity around roles and responsibilities.
- We're concerned that the cumulative effect of the various reform programmes underway is loss of local voice. Communities must continue to be able to influence the decisions that affect them and shape the places in which they live.
- All these concerns ultimately raise questions about whether RM reform will deliver a more efficient, effective and less complex system (one of the key reform objectives).

Let us know what you think

Your feedback on this paper would be very welcome, and would help inform our approach to resource management submissions, which we will also consult you on separately. You can provide feedback at any time but feedback by the end of October 2022 would be especially useful. Please email info@lgnz.co.nz with the subject line "RM paper feedback".

The views set out in this paper may change once we've seen the Natural and Built Environments and Spatial Planning Bills and understand the Government's final policy decisions – and have gathered member feedback on these