

# STRATEGIC PLANNING AND POLICY COMMITTEE REPORT



**To:** The Chairperson and Members of the Strategic Planning and Policy Committee

**From:** Principal Policy Advisor

**Subject:** **WAIPĀ DISTRICT COUNCIL SUBMISSION ON THE MINISTRY FOR ENVIRONMENT'S 'OUR FUTURE RESOURCE MANAGEMENT SYSTEM' DISCUSSION DOCUMENT**

**Meeting Date:** 5 April 2022

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## 1 EXECUTIVE SUMMARY

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The purpose of this report is to inform the Committee of the Council submission lodged with Ministry for Environment (MfE) on 28 February 2022 on the Ministry's 'Our Future Resource Management System' November 2021 Discussion Document. The submission was lodged under the Chief Executive's delegated authority.

The following appendix accompanies the report:

- Waipā District Council Submission: Comments on the 'Our Future Resource Management System' November 2021 Discussion Document (document number 10758228)

## 2 RECOMMENDATION

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*That the report titled 'Waipā District Council Submission on the Ministry for Environment's 'Our Future Resource Management System' Discussion Document (document number 10769682) of David Totman Principal Policy Advisor; and a copy of the submission (document number 10758228) attached to the report, is received.*

## 3 BACKGROUND

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The preparation and lodging of this submission was considered necessary based on the importance the future Resource Management legislation will have on the core business of the Council in managing subdivision, land use planning and development in Waipā.

The opportunity to make a submission on the Ministry's discussion document is probably the last such opportunity before draft legislation is introduced to Parliament.

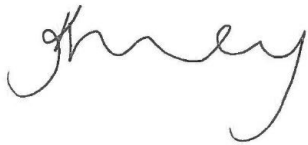
In this regard, one of the submission's key messages was to request that the Ministry consider providing local government with the opportunity to comment on an early release of the draft new legislation before it is introduced to Parliament.

The content of the draft submission was discussed with Elected Members at a workshop session led by Jo Cook-Munro on 22 February 2022. Comment by elected members was taken into account in the finalisation of the Council's submission.

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David Totman  
**PRINCIPAL POLICY ADVISOR**



Reviewed and approved by Kirsty Downey  
**GROUP MANAGER STRATEGY**

# Appendix 1

Waipā District Council Submission: Comments on the 'Our Future Resource Management System' November 2021 Discussion Document

28 February 2022

Ministry for the Environment  
PO Box 10362  
Wellington 6143

**Digitally Delivered**

Email: [RM.reform@mfe.govt.nz](mailto:RM.reform@mfe.govt.nz)

Dear Madam/Sir

**COMMENTS ON MINISTRY FOR ENVIRONMENT'S 'OUR FUTURE RESOURCE MANAGEMENT SYSTEM'  
NOVEMBER 2021 DISCUSSION DOCUMENT**

Waipā District Council appreciates the opportunity to provide comments on the Ministry's 'Our Future Resource Management System' November 2021 discussion document. Please find attached a copy of the Council's comments electronically submitted on 28 February 2022. The draft comments were discussed at a Council workshop on 22 February 2022 and authority was delegated to the Chief Executive to lodge Council's comments.

The Waipā District Council looks forward to further consultation over the development of the new resource management legislation.

You are welcome to contact Waipā District Council in relation to any of the points made in our submission. In this regard and in the first instance, David Totman can be contacted either via email at [david.totman@waipadc.govt.nz](mailto:david.totman@waipadc.govt.nz) or telephone at 07 872 0048.

Yours sincerely



Garry Dyet  
**Chief Executive**

**Attachment:** Waipā District Council Comments on the 'Our Future Resource Management System' November 2021 Discussion Document.

# Submission

COMMENTS ON THE 'OUR FUTURE RESOURCE  
MANAGEMENT SYSTEM' NOVEMBER 2021  
DISCUSSION DOCUMENT

February 2022

# Comments from Waipā District Council on the 'Our Future Resource Management System' November 2021 Discussion Document

## PART 1 – OVERALL COMMENTS

Waipā District Council (the Council) appreciates the opportunity to provide comments on the Ministry's November 2021 Discussion Document 'Our Future Resource Management System.' Our detailed comments are provided in Part 2 and follow the order of the questions presented in the discussion document.

### **Lack of Information**

The Council is very concerned that many aspects of reforming the resource management system are still uncertain at this time, while there is an expectation that the draft Natural and Built Environment Bill and Strategic Planning Bill will be introduced to Parliament by the end of 2022. It is difficult to make informed comments on the proposals when there is a void of accompanying information that should support the proposed direction the reformed resource management system is taking.

Due to the remaining high level of uncertainty regarding the shape of the future strategic planning and resource management system, it is requested that the Ministry for Environment consider providing another opportunity for input from local authorities before the Natural and Built Environment and Spatial Planning Bills are introduced to Parliament, such as through the release of comprehensive exposure drafts of the proposed legislation.

### **Outcomes sought from the reform of the resource management system**

The Council supports the need for greater consistency between local authorities over what is and is not acceptable nation-wide. However, there will still need to be the ability to provide for local input including local authority representation on consent and policy hearings. Local authorities are accountable to their constituents and the new resource management regime must allow for this to continue. If independent commissioners are to be used as the decision makers on important consent and policy decisions, the ability for local democracy to occur is removed and communities no longer get a valid voice in processes impacting on them.

### **Local Government reforms**

The Council recognises that local government will play a crucial role in implementing the strategic planning and resource management legislation. It also recognises that the wider review of local government proposed by the government will be affected after the reform of the resource management system is enacted in 2023. In view of this timing, consideration should be given to having a transitional arrangement in place for the new resource management system ahead of the reform of local government.

The Council believes that there needs to be greater certainty about the future form and function of

local government before the mechanics of governance implementation for a new resource management system can be effectively resolved. It is an impossible situation for local government to be asked to participate in resource management reforms and other reforms such as Three Waters, when it is unknown what the local government sector will look like in the near future.

The role of local authorities is not just to promote wellbeing, but to act as critical (and democratically guided) facilitators for communities as they debate and decide what is important for them, within the boundaries of a national direction framework.

It is essential that the local government reform is completed before local authorities are required to implement a new resource management system. The local government reforms have the potential to impact on the funding available to local authorities to carry out their responsibilities and functions for resource management under wider local government legislation. For communities to thrive, the balance between the natural environment and its ecosystems and the built environment which people live in, and which support social cohesion, reflect identity and create belonging, must be protected. To put resource management reform ahead of a wider local government review, will not achieve this.

It should be noted that local authorities are already stretched in addressing and responding to the changes and additional requirements being imposed by central government (such as the Three Waters Reform, the Resource Management (Enabling Housing and Other Matters) Amendment Act 2021 and the requirement to give effect to the National Policy Statement on Urban Development. Any transitional arrangements should not add further costs and resource burdens for local government.

With all the reviews currently occurring across the local government realm, it is becoming apparent that there is a lack of co-ordination across central government. Instead of one comprehensive review, there are several smaller reviews occurring on an ad hoc basis and they do not appear to be well aligned. As outlined above, the reform of local government needs to be given primacy as its outcome has the potential to impact on the other reforms that are also occurring.

## **Funding**

The Council emphasises the need for central government to provide funding, training and guidelines to support local authorities, iwi and mana whenua through the transitional and implementation stages of the resource management reform. It is essential that partners and key stakeholders can appropriately resource themselves and to build the capability and capacity that they require to participate effectively.

## **Joint Committees**

Council is also concerned over the role of the proposed joint committees and where accountability for the delivery of the regional Natural and Built Environment Act plans will lie. These plans will be made by decisions of the joint committee which will have limited representation from the local authorities in the region. However, the local authorities will remain responsible to their constituents who have a legitimate expectation that the authorities will make the best decisions for their district

in an open and transparent manner.

### **Resolution of Conflicts**

There is currently no information available which details how conflicts will be resolved under the new resource management regime. Each proposal needs to be assessed at a local level and should not be determined only through national guidance and direction (such as National Environmental Standards and National Policy Statements). Assessment of proposals at the local level is essential as proposals will have benefits and impacts at this level and will very rarely impact across an entire region.

### **The Rural Environment**

The Council believes it would be beneficial to the new resource management system and to the Natural and Built Environments and Strategic Planning Acts, to have the rural environment recognised as a third dominant environment type. The rural environment sits between the natural and built environments on the spectrum of broad environment types. It would help acknowledge that much of New Zealand has been transformed into a rural landscape for agriculture, be it pastoral, forestry or intensive dairy, cropping and horticulture. It would also provide recognition of the contribution that agriculture makes to the country's economy. Like many parts of New Zealand, much of Waipā comprises a rural farming environment. It is submitted that this recognition of the Rural Environment should be made in both the Natural and Built Environment Act and Spatial Planning Act.

### **Further opportunities**

Given the lack of detail and information about what the new legislation will look like, Council requests that the Ministry for the Environment provides additional opportunities for local government to feedback into the resource management reform process. It is suggested that opportunity be afforded for a further round of engagement with local authorities prior to the introduction of the National and Built Environment and Spatial Planning bills to Parliament. Ultimately it will be the role of local authorities to implement the new legislative regime and it is critical that the new legislative regime be fit for purpose.

The Ministry for Environment and central government are encouraged to learn from and build upon the work with existing non-statutory strategic planning initiatives such as led by the Future Proof Partnership in the Waikato region, and at a more local level the Hamilton Waikato Metro Spatial Plan and Waipā Community Spatial Plan (currently under development).



## PART 2 - SPECIFIC COMMENTS

Please refer to the table below for Waipā District Council’s comments on the questions and information provided in the ‘Our Future Resource Management System’ November 2021 Discussion Document.

Topic	Question and Council response
National Planning Framework	<p>It is very difficult to comment on a blank canvas. It would have been helpful to have had a draft of the proposed National Planning Framework to provide feedback on. In the absence of any National Planning Framework content, it is suggested that National Planning Framework follows some core principles. These principles are as follows:</p> <ol style="list-style-type: none"> <li><b>CLEAR AND UNAMBIGUOUS.</b> The National Planning Framework must be unambiguous. Language must be clear, consistent with legislation, and as far as possible, not open to different interpretation.</li> <li><b>NATIONALLY SPECIFIC.</b> The National Planning Framework needs to provide and establish specific direction at a national level and minimise the amount of discretion that currently exists between councils. If the intent is to provide a <u>national</u> planning framework, then clear and specific national direction is a fundamental to minimise localised interpretations for planning decisions which are common across the country (e.g. building bulk and location, cultural values, natural character, biodiversity, infrastructure etc)</li> <li><b>LOCALLY FLEXIBLE.</b> Having set the nationally specific fundamentals, the National Planning Framework will also need a degree of flexibility to account for regional or local variations. Not all regions and districts will contain the same values. For example, the landscape values of Queenstown Lakes would not applicable the Manawatu while the coastal values of the Hauraki Gulf would not be applicable in Central Otago. Some flexibility in regional and local variations in planning values needs to be provided.</li> <li><b>NATIONAL PRIORITISATION HIERARCHY.</b> While the Natural and Built Environment Act will develop national planning priorities, the National Planning Framework should complement and codify these. For example, planning for critical lifelines infrastructure (telecommunication and energy) could be clearly prioritised to avoid councils having to contend with local opposition. Similarly for iwi values, biodiversity and the protection of natural resources.</li> <li><b>CONSISTENT WITH AND BUILD ON ESTABLISHED PRACTICE.</b> Under the Resource Management Act 1991, there are 30 years of hard fought and well-established principles, practices and case law. While much of this has occurred in response to the Act, there are some core fundamental planning practices that have come out of the case law. It is fundamental to not lose this 30 years of practice wisdom, to capture the core planning practices, and to codify this into the National Planning Framework.</li> <li><b>CLEAR PROCESS FOR IWI VALUES.</b> The National Planning Framework should clearly and unambiguously set out the process for assessing and determining iwi values. While iwi relationships and tikanga will vary from region to region, there are fundamental, underlying iwi values. These values and the process for assessing iwi values should be clearly codified into the National Planning Framework to assist councils in planning administration.</li> </ol> <p><u>What role does the National Planning Framework (NPF) need to play to resolve conflicts that currently play out through consenting?</u></p> <p>The National Planning Framework needs to play a significant role in resolving conflicts to fulfil its purpose. This may be set out in the requirements for the National Planning Framework in the</p>

Topic	Question and Council response
	<p>Natural and Built Environment Act. The Framework will need to be robust enough to direct effective and efficient development of plans and must be set before the transition to combined Natural and Built Environment Act plans can occur.</p> <p>The National Planning Framework needs to be confined to matters where it is necessary, practical and appropriate to set a national approach, or allow for a regional approach to be taken within the national framework.</p> <p><u>How would we promote efficiency in the Board of Inquiry process while still ensuring its transparency and robustness?</u></p> <p>Consider determining a maximum timeframe within which the National Planning Framework must be completed and detailing a process that will fit within this. This could be based on similar processes for Nationally Significant Projects and Fast Track consenting.</p> <p>Also consider having a website where Board of Inquiry progress is shared and issues that arise are noted. The website could also allow for feedback on the process of developing the National Planning Framework to be shown which would be useful for local authorities to know. The use of a website would also allow local authorities to see how the development of the framework is going.</p> <p><u>How often should the NPF be reviewed, bearing in mind the relationships between the NPF, regional spatial strategies and Natural and Built Environment Act plans?</u></p> <p>The National Planning Framework should be reviewed after the first 3 years as a minimum to see what is working, what is not working, and the National Planning Framework adapted accordingly.</p> <p>Following this initial review, subsequent reviews should probably be 3 yearly similar to the Long-Term Plan review process (under the Local Government Act 2002). Reviews do need to be timed to ensure the National Planning Framework is a good fit with the needs of practitioners, particularly local government.</p> <p>Reviews should also be completed one year ahead of required Regional Spatial Strategy and Natural and Built Environment Act plan reviews so that changes can be incorporated into these documents.</p>
Regional spatial strategies	<p><u>To what degree should regional spatial strategies (RSSs) and implementation agreements drive resource management change and commit partners to deliver investment?</u></p> <p>As the Regional Spatial Strategies are not going to be binding and will only guide Natural and Built Environment Act plans, implementation plans should not be binding either. Otherwise, a situation may arise where a council or government agency is bound to provide infrastructure which is no longer required as the final Natural and Built Environment Act plan has different requirements to what was proposed in the Regional Spatial Strategies.</p> <p>The Council has experience of working with its Future Proof local government partners (Hamilton City Council, Waikato District Council and Waikato Regional Council) to share expenses and joint planning commitments to deliver shared infrastructure. This joint work uses the non-statutory Future Proof partnership and Local Authority Shared Services agreement as a platform.</p>

Topic	Question and Council response
	<p><u>How can appropriate local issues be included in RSSs?</u></p> <p>Addressing local issues at a regional scale will be difficult, especially for regions like the Waikato, which have a large geographic area and a large number of local authorities and resource management issues. At best there will need to be a different section covering different sub-regions that better address the needs at district and local levels.</p> <p>It is worth noting that cities (such as Hamilton) will need an elevated status in Regional Spatial Strategies. They do in many aspects, stand apart from the rest of the surrounding region. While it may be argued that while a city like Hamilton is interested in the immediately surrounding sub-region, beyond that it is more interested in nearby cities such as Auckland and Tauranga (in the case of Hamilton), than in the wider regional hinterland. It is important to ensure that rural townships are not caught in the requirements for cities solely based on the fact of their proximity to a city.</p> <p><u>With regional and unitary council boundaries proposed for RSSs, how should cross-boundary issues be addressed?</u></p> <p>It is suggested that current practices should serve as the model for addressing cross-boundary issues. It is important for affected local authorities to be equally involved in managing the issue.</p>
<p>Natural and Built Environment Act Plans</p>	<p>The first question on page 27 of the discussion document reads as if there is still a decision to be made over whether the regionalisation of plans will occur. This is inconsistent with ministerial statements along the lines of one regional Natural and Built Environment Act plan for each region being a fait accompli.</p> <p>Regardless of whether there is one regional plan, the Natural and Built Environment Act plans will need to separate out regional variations and functions in some way. It is STRONGLY suggested that the 5 existing unitary plans are reviewed, and a Natural and Built Environment Act plan template is developed which is modelled on the existing unitary plans.</p> <p>It is also important to note that the development of any template will need to be consistent with the National Planning Standards that released in November 2019. These standards contain standards (amongst others) for regional and district plans, introduction and general provisions, zone framework, format, mapping and definitions.</p> <p>Based on experience of drafting and working with multiple unitary plans, the following contents template for unitary regional plans is suggested as a practical and easy to follow MANDATORY template. This template would be easily replicable in an e-plan format.</p> <p>An example of potential plan contents is given below.</p> <p><b>SAMPLE NATURAL AND BUILT ENVIRONMENT ACT PLAN CONTENTS</b></p> <ol style="list-style-type: none"> <li>1. <i>Region-wide Objectives and Policies (the regional policy statement)</i></li> <li>2. <i>National Standards (reference or include national standards)</i></li> <li>3. <i>Region-wide Rules (underlying standards rules for the whole region) e.g.</i> <ol style="list-style-type: none"> <li>a. <i>Built environment</i></li> <li>b. <i>Natural Environment</i></li> <li>c. <i>Rural Environment</i></li> </ol> </li> <li>4. <i>District or Area Specific Objectives and Policies (aligned to each district to recognise local variations in values and resources)</i></li> </ol>

Topic	Question and Council response
	<p>5. <i>District or Area Specific Rules (aligned to each district to recognise local variations in values and resources) e.g.</i></p> <ol style="list-style-type: none"> <li>a. <i>Coastal</i></li> <li>b. <i>Landscapes</i></li> <li>c. <i>Lakes / rivers</i></li> <li>d. <i>Geothermal</i></li> <li>e. <i>Natural hazards etc</i></li> </ol> <p><u>Plan making process</u></p> <p>The proposed plan making process via the joint committees may be efficient but is likely to be ineffective as it does not sufficiently provide for local issues. As proposed, there is a risk of power plays and the National And Built Environment Act panel being dominated by the “highest and biggest need” at any one point in time. It will also be impractical to provide “representative” governance with a joint committee that has representation from each council and iwi.</p> <p>The joint committees have the potential to dilute accountability for the delivery of the National and Built Environment Act plans with it being uncertain as to who ultimately holds the responsibility for delivery. As the joint committee will be made up of representatives from the local authorities in the region, it would be unrealistic to expect that all of these would be accountable. More thought needs to be given as to whom will ultimately be responsible for the delivery of the plans and how this will be made known to the communities represented on the joint committee.</p> <p>An analysis of the costs and benefits of establishing and operating the new joint committees needs to be carried out. One of the principles behind the resource management reform was to reduce the costs associated with resource management processes and it is unclear if the formation of the joint committees will achieve this.</p> <p>There also needs to be a conflict resolution process developed for the operation of the joint committees for situations where agreement cannot be reached amongst the members.</p> <p>To improve effectiveness and provide local representation input, a skills-based joint committee could make final decisions, while being informed by a representative “district advisory panel” for each of the member councils.</p> <ul style="list-style-type: none"> <li>• establish district advisory panels to provide locally reflected recommendations from each council directly to the joint committee;</li> <li>• district advisory panels could include at least two councillor accredited hearing commissioners (and possibly two independent commissioners), and include iwi representation;</li> <li>• the role of the district advisory panels would be clearly set out in their terms of reference, and would be to provide recommendations to the joint committee on specific local planning matters for the Natural and Built Environment Act plans and spatial plans; and</li> <li>• the recommendations of district advisory panels on local matters should be binding on the joint committee unless the recommendations are contrary to national or regional direction, or contrary to the recommendations of other district advisory committees.</li> </ul> <p><u>Secretariat</u></p> <p>Similarly, the proposed plan making secretariat may be efficient, but will be ineffective as it is likely to be dominated by councils who have the capital and funding to resource the secretariat. From experience in working on collaborative multi-agency projects, there will be an implicit political</p>

Topic	Question and Council response
	<p>expectation that those who are putting in the most resources will have more influence. If a secretariat is hosted by any one council, it will always be subject to the political decisions / influences and funding of the host council, and there will likely be ongoing tensions between partners.</p> <p>For a truly effective secretariat, this could be set up independent of councils, as follows:</p> <ul style="list-style-type: none"> <li>• A new CCO (or similar) for each region, independent of any council.</li> <li>• Policy representation could cover all member councils equitably based on expertise and skills. Experience in writing resource management policy will be critical as well as having members who have consenting experience.</li> <li>• Staff could be nominated/appointed by the CEO of each council (smaller councils could opt to have another trusted staff member represent them).</li> <li>• The CCO should have a flat management structure limited to three tiers (e.g. a general manager / CE, no more than five function managers, and writing / research staff).</li> <li>• The CCO secretariat should be permanent, with the work “in between” developing Natural and Built Environment Act plans and plan changes including policy research and plan monitoring.</li> <li>• Additional staff could be co-opted or seconded during peak workloads (e.g. preparing the first Natural and Built Environment Act and subsequent plan changes).</li> </ul> <p><u><i>E-plan platform</i></u></p> <p>A standardised e-plan platform should be procured nationally to provide a base for all the Natural and Built Environment Act plans and Spatial Plans, on the same national e-plan platform. This will provide for a consistent user experience whilst also creating efficiencies. This contract should be managed by central government as a SAAS (Software As A Service) with each of the partner councils as the customer.</p> <p><u><i>Do you agree with the Randerson Panel’s recommendation to have one combined Natural and Built Environments Act (NBA) plan per region?</i></u></p> <p>While there is a need for consistency across district and regional planning instruments, we question whether one Natural and Built Environment Act plan per region will be able to address all the issues and matters for all the districts. Different districts will have different issues and resources that they address in their plans. This ability will be lost in a regional plan which could seek to impose a “one-size-fits-all” approach across all the region’s districts.</p> <p>A regional Natural and Built Environment Act should focus on addressing the issues which are common across the region.</p> <p><u><i>Would there be merit in enabling sub-regional NBA plans that would be incorporated into an NBA plan?</i></u></p> <p>For a regional Natural and Built Environment Act plan to be effective and deal with all issues, it is appropriate that the plan contain separate sections for each local government district or at least sub-region. It is important to ensure that district specific issues and matters can be addressed and dealt with in the regional plan.</p> <p>Given what the regional Natural and Built Environment Act plan will need to cover, there is the question as to whether a regional Natural and Built Environment Act plan would be any less complex than current plans.</p> <p>The premise behind the resource management reforms was to make the resource management</p>

Topic	Question and Council response
	<p>system less complex and remove unnecessary barriers that were seen to be in the way of development. The introduction of sub-regional plans creates an additional layer of process to go through and could defeat the fundamental principles behind why the reform has been undertaken in the first place.</p> <p>If there were to be sub-regional Natural and Built Environment Act plans, then regional level decisions would need to be made ahead of or in parallel with the preparation of sub-regional plans to ensure a level of consistency and integration. Otherwise the regional Natural and Built Environment Act plan will end up being a compendium of several distinct district plans put together in one document rather than a cohesive regional plan.</p> <p><u>What should the role of local authorities and their communities be to support local placemaking and understanding of local issues in NBA plans?</u></p> <p>Local authorities and their communities need to be involved with the development of local placemaking and local issues for the Natural and Built Environment Act plans.</p> <p>A Natural and Built Environment Act plan should not be seen by default as being a regional plan to be managed solely by the regional council. Under the current resource management and local government regimes, regional and district / city councils have very different responsibilities and functions which would need to be reviewed if these responsibilities and functions were to be changed.</p> <p><u>Will the proposed plan-making process be more efficient and effectively deliver planning outcomes?</u></p> <p>The process for developing Natural and Built Environment Act plans appears to be largely discretionary in what can be used. The bullet points provided are written as aspirational goals (for bullet points 1 to 4) and will be open to interpretation. There will need to be central government guidance on the exact process to be used as to leave it open ended (as it currently is) will lead to inconsistencies across the Natural and Built Environment Act plans which is one of the main issues the resource management reforms are seeking to eliminate.</p>
Consenting	<p><u>Will the proposed future system be more certain and efficient for plan users and those requiring consents?</u></p> <p>It is hard to make an informed comment on this question as we do not yet know what the National Planning Framework and Natural and Built Environment Act plan for Waikato will look like or what information either document will contain.</p> <p><u>E-plan</u></p> <p>Councils have until November 2024 to transition to an e-plan under the National Planning Standards. The transition can occur sooner if a proposed district plan is notified. As the move occurs to regional National and Built Environment Act plans, implementing regional e-plans will be essential.</p> <p>A standardised e-plan platform should be procured nationally to provide a base for all the Natural and Built Environment Act plans on an e-plan platform. The contract should be managed by central government as a SAAS (Software As A Service) for each of the partner councils as the customer. The Natural and Built Environment Act plans should be provided regionally through a data portal for administration.</p>

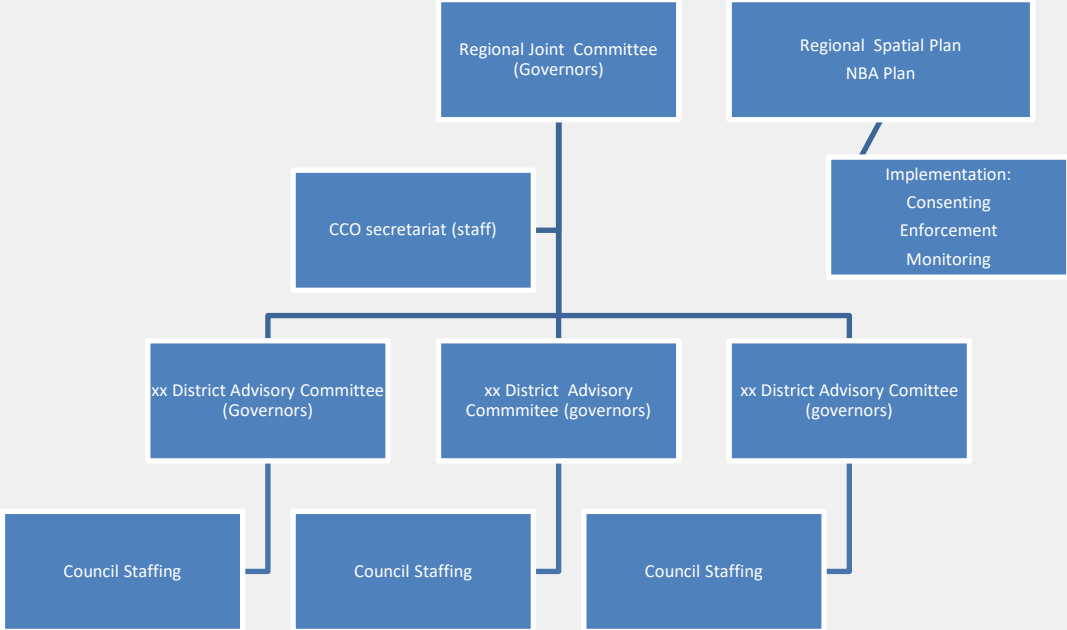
Topic	Question and Council response
	<p><u>Consenting practice</u></p> <p>The proposed regional Natural and Built Environment Act plans will require a regional restructure of consenting practices within each council in a region. The consent teams could be regionalised but will still need to be able to do local assessments for local matters within districts.</p> <p>One model could be a regionalised consenting CCO, similar to what is proposed through the 3 Waters reform and the plan making secretariat. Queenstown Lakes District Council may provide some relevant examples through their privatisation of the consenting processes. One takeaway from Queenstown Lakes District Council is that full privatisation of consenting (for profit) does not work and can create perverse incentives. Consenting should remain a public service based on the current user pays (not-for profit) model.</p>
Compliance, monitoring and enforcement	<p><u>Do you agree with the proposed changes to compliance, monitoring and enforcement provisions and tools?</u></p> <p><u>How practical will the proposals be to implement?</u></p> <p>The introduction of a broader range of tools is welcomed. At present ratepayers meet most of the consenting, monitoring and enforcement costs in the investigation of matters where no offence is identified, or the offence results in an abatement notice or other action where there is no cost recovery.</p> <p>The new system should enable (not require) the recovery of costs for any activities provided on request, e.g. the monitoring of permitted activities should be funded by the resource user. The income from the recovery costs may assist council fund monitoring programmes. This will require amendments to allow these fees to be implemented.</p> <p>We support having the enforcement option of revoking resource consents available and would also request increased flexibility to vary consents (including imposing additional or more stringent conditions) rather than the very limited options that currently exist under section 128 of the Resource Management Act 1991.</p> <p>We strongly support allowing consent authorities to consider an applicant's compliance history in the consent process. There would be benefit to have a national database for compliance history for non-compliant resource users. An applicant's general compliance with any consent, licence, bylaw or statute should also be open for consideration as part of a general "suitability" assessment similar to what exists under the Sale and Supply of Alcohol Act 2012.</p> <p>Increasing the statute of limitations to 24 months is too long. It leads to a delay between the breach and enforcement, affect the reliability of evidence that can be gathered and may create unnecessary challenges where, for example, the relevant staff have left the council or the property in question has on sold. We strongly support the statute of limitations being kept at 12 months.</p> <p>We support the idea of an increase in financial penalties but suggest the use of a graduated scale. One large fine for an offence that covers a range of activities from minor effect on the environment to significant effect, is not appropriate as the fine may not be applied in minor cases, which leaves an enforcement vacuum.</p> <p>We request that a specific review of the enforcement options in relation to excessive noise, be made - in particular clarification that repeated cases of excessive noise can enable the issue of an</p>

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	<p>abatement notice which is not currently the case (or at least is unclear).</p> <p>We question the prohibition of insurance for prosecution and infringement fines as it will likely result in greater financial burden on the ratepayer if it means that fines simply don't get paid and are remitted or if the fines are paid slowly over time.</p> <p>The new consenting, monitoring and enforcement system should be retrospective, with options applicable to existing consents.</p> <p>There is limited support for a central consenting, monitoring and enforcement 'hub', however it is recognised that staff involved in consenting, monitoring and enforcement will need easy access to consenting staff and vice versa.</p> <p>There are several potential local government reforms underway including a full local government review, the Resource Management Act 1991, 3 Waters and the building industry review, which all appear to have an element of centralisation in them. Centralisation can hinder the consenting, monitoring and enforcement functions where staff are not easily accessible to the public, or are not actively working in local areas where they will identify issues themselves. The preference would be for these roles to remain at a local level, but with greater collaboration across districts and within regions.</p>
Monitoring and system oversight	<p><u><i>Will these proposals lead to more effective monitoring and oversight of the system?</i></u></p> <p>Apart from the annual Ministry for the Environment enforcement survey, it is unclear what recording of consenting, monitoring and enforcement currently takes place outside of local authorities. This creates a lack of certainty over what informs the decisions made concerning Consenting Monitoring and Enforcement at a national level.</p> <p>These proposals would potentially make monitoring and oversight more effective, however care will be needed not to impose a significant reporting obligation which then detracts from the Consenting Monitoring and Enforcement activity itself.</p> <p><u><i>Will the system be able to adequately respond and adapt to changing circumstances?</i></u></p> <p>If the changes were to result in a better funded, better resourced and more effective and efficient CME system, then this will allow flexibility and adaptation. However in the current environment there is a significant lag between identifying a resource need, confirming funding, advertising the role, interviewing and filling the role. Some of these process challenges will still sit outside this resource management system reform work and will continue to exist.</p>
Role of local government in the future system	<p>It is difficult to comment on the role of local government in the future system given that a review of local government is currently underway with no indication at this stage as to what change there may be to local government roles and responsibilities.</p> <p>Local government needs to play an essential role at all levels, as the holders of local knowledge and the implementers on the ground.</p> <p><u><i>What does an effective relationship between local authorities and joint committees look like?</i></u></p> <p>The roles of local authorities, joint committees and the secretariat are still unclear. Since a committee cannot write a plan on its own, it will be important to include people from a wide range of relevant disciplines to take direction from a committee's high-level decisions and</p>



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	<p>employ professional drafters to translate those decisions into policy.</p> <p>By way of an existing example, the Future Proof partnership is supported by a full-time co-ordinator, an independent advisor and an independent chair, and contracts regular technical support. Being able to contract technical support from consultants reduces the pressure on territorial authority staff who provide input into Future Proof particularly at times of high resource need such as during a full review of its strategy.</p> <p><u>What other roles might be required to make the future resource management system effective and efficient?</u></p> <p>At this stage there is no clear picture of how the future resource management system will look and operate. Given the lack of information on what the legislation will contain and what the National Planning Framework will include, we are not able to anticipate the number or scope of new roles.</p> <p>Consideration should be given to transitional arrangements that do not involve creating new structures or bodies of staff before the local government reform is resolved.</p> <p><u>What might be required to ensure the roles and responsibilities of local authorities can be effectively and efficiently delivered?</u></p> <p>Local authorities will need support from central government to implement the new resource management system, such as:</p> <ul style="list-style-type: none"> <li>• More clarity around roles and responsibilities for regional and local authorities. All functions of councils need to be considered.</li> <li>• Support and funding for new roles and training, including supporting processes such as iwi appointments to Joint Committees, this should not be a burden on either iwi or ratepayers, rather it should be funded by central government.</li> <li>• Clear transition guidelines and timetable - written guidance needs to be released prior to the plan development phase.</li> <li>• A national education programme for plan users and relevant staff, preferably led by Local Government New Zealand with support from Ministry for Environment.</li> <li>• Clear and robust legislation.</li> </ul>
Regional spatial strategies and Natural and Built Environment joint committees	<p><u>Plan making process</u></p> <p>The proposed plan making process may be efficient, but it could be ineffective as it does not sufficiently provide for local issues. As proposed, there is a risk of power plays and the joint committee being dominated by the “highest and biggest need” at any one point in time, as well as varying degrees of political influence.</p> <p>To improve effectiveness and provide for local representation, district advisory panels could also be established in addition to a joint committee to make decisions on each Natural and Built Environment Act plan:</p> <ul style="list-style-type: none"> <li>• establish district “advisory panels” to provide locally reflected recommendations directly to the joint committee;</li> <li>• district advisory panels should be made up of elected members commissioners (possibly including two independent commissioners), and include iwi representation;</li> </ul>

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	<ul style="list-style-type: none"> <li>• the role of the district advisory panels would be clearly set out in their terms of reference, and would be to provide recommendations to the joint committee on specific local matters relating to the Natural and Built Environment Act and regional spatial plans;</li> <li>• the recommendations of the district advisory committees would essentially be the current decision-making powers that standing committees have in respect of plan making, so the same council reporting processes could continue – the only change is that the existing resolutions of the current standing plan committees become recommendations to the regional joint committee; and</li> <li>• the recommendations of district advisory panels on local matters should be binding on the joint committee unless the recommendations are contrary to national or regional direction.</li> </ul> <p><u>Secretariat</u></p> <p>Similarly, the proposed plan making secretariat may be efficient, but could be ineffective as it is likely to be dominated by councils who have the capital and funding to resource the secretariat. From experience in working on collaborative multi-agency projects, there will be an implicit political expectation that those with more resources will have an expectation of more influence.</p> <p>For a truly effective secretariat, this could be set up independent of councils, as follows:</p> <ul style="list-style-type: none"> <li>• A new CCO (or similar) for each region, independent of any council.</li> <li>• Policy representation could cover all member councils equitably based on expertise and skills. Experience in writing resource management policy will be critical as well as having members who have consenting experience.</li> <li>• Staff could be nominated/appointed by the CEO of each council (smaller councils could opt to have another trusted staff member represent them).</li> <li>• The CCO should have a flat management structure limited to three tiers (e.g. a general manager / CE, no more than five function managers, and writing / research staff).</li> <li>• The CCO secretariat should be permanent, with the work “in between” developing Natural and Built Environment Act plans and plan changes including policy research and plan monitoring.</li> <li>• Additional staff could be co-opted or seconded during peak workloads (e.g. preparing the first Natural and Built Environment Act and subsequent plan changes).</li> </ul> <p><u>Establishment</u></p> <p>Joint Committees must have local buy-in and support. Establishment should be based on a non-negotiable pre-requisite skill-base rather than political representation (e.g. accredited commissioners, xx years’ experience, governance / decision making experience).</p> <p>The full joint committee should comprise a cross-section of expertise covering coastal, tikanga, natural resources, infrastructure, built environment, planning, legal and engineering. The chair and members appointment could be by the Minister following an open registration of interest process and by the recommendation of an independent evaluation panel with the requisite knowledge (should include experienced planning practitioners). Councils could also nominate suitably skilled or qualified elected members to sit independent of their council function.</p> <p>A possible reporting and decision structure is shown in the diagram below.</p>

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	 <pre> graph TD     RJC[Regional Joint Committee (Governors)] --- CCO[CCO secretariat (staff)]     RJC --- RSP[Regional Spatial Plan NBA Plan]     RSP --- IM[Implementation: Consenting, Enforcement, Monitoring]     RJC --- DAC1[xx District Advisory Committee (Governors)]     RJC --- DAC2[xx District Advisory Committee (governors)]     RJC --- DAC3[xx District Advisory Committee (governors)]     DAC1 --- CS1[Council Staffing]     DAC2 --- CS2[Council Staffing]     DAC3 --- CS3[Council Staffing] </pre>
Joint committee composition	<p>It is somewhat surprising that at this stage of the process, stakeholders are being asked to advise on how the committees should be established. This is fundamental to the success of the resource management reform and the expectation would be that Government would undertake research to inform the most efficient and effective form of joint committees.</p> <p>The formation of Joint Committees should adopt the learnings from the critical success factors of other collaborative processes. There is a high risk of "reinventing the wheel" and repeating the mistakes and failures of other processes - when there are some very good national and international approaches to collaborative and joint multi-agency decision making.</p> <p>Stakeholder and agency consultation could complement or confirm the review, but consultation should not be in place of a comprehensive independent review of "lessons learned". This is because of the very real risk of agency capture and agency lobbying, through consultation, that could lead to the wrong outcome and process failure.</p> <p>The joint committees are fundamental to the success of the reform, and this should not be left to Local Government and Iwi to "figure it out on the fly". Stakeholders expect Central Government to take a strong lead on setting the most effective and efficient working model.</p> <p>The full joint committee should comprise a cross section of expertise for example covering coastal, tikanga, natural resources, infrastructure, and built environment</p> <p><b>Research and review project</b></p> <p>MfE should (have) commission(ed) a literature review of all relevant audits and reviews of collaborative and joint-agency decision making committees (one such example is the OAG review of the Hauraki Gulf Marine Spatial Plan - Sea Change project. Refer to <a href="https://oag.parliament.nz/2018/hauraki">https://oag.parliament.nz/2018/hauraki</a>).</p>

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	<p>The scope should include all New Zealand reviews (which have specific nuances relating to the Resource Management Act and Iwi) and should include a representative sample of authoritative collaborative decision-making reviews in similar jurisdictions (e.g. the United Kingdom, Australia, the United States of America and Canada).</p> <p>The objective would be to consolidate all the critical success factors and lessons into a concise summary to inform the RMA reform.</p> <p>The deliverable would be a <u>concise summary collation</u> of the key learnings and critical success factors e.g. "Consolidated Synthesis Report: Joint Committee Collaborative Decision Making". This would provide a clear way forward, with unambiguous recommendations of the most efficient and effective model for collaborative Joint Committees, which <u>adopts and adapts the learnings</u> from other process, and (in theory) avoids the failures and mistakes of other joint committee processes.</p>
<p>Role of hapū / iwi/ Māori in the new system</p>	<p>We consider it is important for iwi / mana whenua to assess what level of decision making they can and want to be involved in. Central government should be working with iwi now in order to build capability and capacity in this space.</p> <p>Any national Māori entity needs to have a funding function to it. With all the changes occurring in the resource management arena, there will be a need for both iwi and local government to build capacity and capability in resource management and to learn how things are done under the new regime. A national entity could provide funding for iwi organisations to build their capacity and capability as well as working with central government to ensure appropriate training opportunities are provided.</p> <p>It is pointless to provide a raft of opportunities to increase iwi participation if there is not the ability for iwi organisations to upskill and be able to sit around the table as prepared as others around that table.</p>
<p>Funding in the Future System</p>	<p><u>How should funding be distributed across taxpayers, ratepayers and individuals?</u></p> <p>We make the following comments and suggestions:</p> <ul style="list-style-type: none"> <li>• Councils should fund the local advisory panels through rates (same as standing committees).</li> <li>• Councils could contribute say 50% funding to the joint committees and secretariat on a pro-rata population cost share basis.</li> <li>• Central government contributes say 50% funding to the joint committees and secretariats (rationale being there is a national benefit, and this is national initiative).</li> <li>• Central government should provide establishment and transition funding for setting up the new institutions.</li> <li>• Central government (or a separate national implementation entity) should commission a national single platform e-plan provider to deliver regional Natural and Built Environment Act, on behalf of central government. <ul style="list-style-type: none"> <li>○ Central government pays for annual license fees to maintain the platform.</li> <li>○ Regions pay for any updates and changes to Natural and Built Environment Act plans after the first version.</li> </ul> </li> <li>• Consent processing funded by user pays on a cost recovery (not-for-profit) basis.</li> <li>• Central government set up a contestable funding pool for iwi capacity building, or pro-rata across the main tribal rohe for distribution.</li> </ul>



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