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Committee Staff
Environment Committee
Parliament Buildings
Wellington

Lodged via: [Spatial Planning Bill Submission - New Zealand Parliament \(www.parliament.nz\)](http://www.parliament.nz)

Dear Environment Committee Staff

Submission from the Manawatū District Council on the Natural and Built Environments Bill and the Spatial Planning Bill

The Manawatū District Council (MDC) thanks the Environment Committee (the “Committee”) for the opportunity to make a submission on the Natural and Built Environment Bill and the Spatial Planning Bill. Given the interconnectedness of the two Bills, much of MDC’s feedback is applicable to both draft Bills. However, where feedback is specific to one or other of the draft Bills, this is specified in the submission.

MDC generally supports the need for Resource Management Reform and the objectives of the reform. MDC also supports many aspects of the draft Bills, including the changes to designations and the strengthening of compliance, monitoring and enforcement.

However, there are some aspects of the new Resource Management (RM) system that MDC is concerned about, or seeks clarification on. There are two key aspects of our submissions:

1. Loss of the local voice via creation of Regional Planning Committees and uncertainty around the National Planning Framework; and
2. A desire to ensure that implementation of this significant area of reform is affordable, workable and clearly communicated, particularly given the complexity involved & likely timeframes.

This submission outlines these concerns and queries, along with any decisions sought from the Committee/Minister.

The population of the Manawatū District was estimated at 33,900 residents, as at 30 June 2022 (Stats NZ Estimated Resident Population). Approximately 55% of the population lives in Feilding while the remainder live in the District’s village and rural areas.

Concerns with the new Resource Management System (relevant to both draft Bills)

Reduced local voice

The primary concern that MDC has with the new RM legislation is the loss of local voice in decision making. Shifting plan making away from Councils to Regional Planning Committees will mean that Councils and communities will have less say in plan making and the decisions

that concern them. This is inconsistent with the subsidiarity principle, whereby decision-making is made as close as possible to those that are affected by that decision – i.e. local solutions to local challenges. MDC will be required to implement planning documents over which they have had limited influence.

MDC supports the inclusion of Statements of Regional Environmental Outcomes (SREOs) and Statements of Community Outcomes (SCOs) in the legislation as one method of capturing the local voice. However, given the importance of these documents to ensure that local voice is considered in the development of RSS and NBE plans, we support LGNZ's assertion that RPCs be required to "give effect" to SREOs and SCOs.

MDC agrees with LGNZ's recommendation that the Ministry for the Environment officials continue to work with LGNZ and the LGSG in relation to the scope and content of SREOs and SCOs.

MDC considers that the composition of the Regional Planning Committee and its links to Councils and local communities will be critical to optimise local voice, local democracy and accountability back to communities.

Decisions sought:

- That the NBE Bill be amended to require RPC's to "give effect" to SREOs and SCOs, or an alternative mechanism is established.

Input into the National Planning Framework

The National Planning Framework (NPF) is not being consulted on in conjunction with these draft Bills, but will have a fundamental role in setting the framework and priorities for environmental management. The current legislation does not enable councils and communities to have adequate say in the development of the NPF. MDC supports LGNZ's recommendation that the NPF be established through a co-design process with local government, iwi partners and government officials. This will ensure that the NPF is informed by local knowledge and strikes the balance between national consistency and local variation.

The Manawatū Wastewater Treatment Plant in Feilding provides a useful example of how nutrient limits in plans can result in perverse outcomes. The current policies and rules in the Manawatū-Whanganui Regional Council's (trading as "Horizons") One Plan, particularly Policy 14-5 and Rule 14-3, do not give adequate recognition to the benefits that the irrigation of treated wastewater to land makes to surface water quality. Restrictions on land discharges limit councils ability to cease river discharges. Even if there is some seepage from a wastewater discharge to waterways, land-based irrigation of treated wastewater is significantly better culturally and environmentally than a direct discharge to a waterway. MDC believes that direct involvement of local authorities in the setting of limits and targets within the NPF, will considerably reduce the risk of unanticipated or perverse outcomes.

MDC is concerned that the imposition of bottom-lines via limits will make it more challenging to consent activities, such as farming, rural industry and new industrial and manufacturing activities that are critical to the economic and social wellbeing of the Manawatū District. MDC supports the recommendations of LGNZ in relation to the need to provide for meaningful involvement of local government and communities in the new system, including in relation to the development of the NPF.

Decision sought:

- That the Committee support the following recommendations of LGNZ:
 - That the NPF be established through a co-design process with local government, iwi partners and government officials.
 - That the more flexibility be provided in the NPF so that it is enabling of (and responsive to) local issues, allowing communities to respond to the NPF in a tailored manner, according to local level priorities.

Functions and responsibilities under the new RM System

Local authorities need clear and meaningful roles and functions under the new system. One example where MDC is unclear around the intent of the new RM system relates to the NPF. The Bill states that the NPF is prepared by the Minister. It is not clear how the NPF and system outcomes under Part 5 of the NBEA work together. Given that Part 5 does not include a hierarchy of which issues are more significant than others, we presume that the resolving of conflicts, including among system outcomes, will happen through the NPF. MDC queries how this will work in practice, given that Part 5 contains a number of competing interests and issues.

Should a change in Government or government priority necessitate a reprioritisation of system outcomes under the NPF, the flow on effects of this would include a requirement to amend NBEA plans, creating additional workload more frequently under the RMA. MDC is concerned that relitigation or reordering of priorities could undermine the robustness and certainty of the planning system. The lack of a hierarchy within legislation raises interesting questions from a practice and certainty perspective.

MDC is also concerned regarding management of complaints regarding rules contained in Natural and Built Environment Plans. MDC recommends that the Committee consider the appointment of a liaison officer within the Regional Planning Committee to manage any customer complaints with the new resource management system. As Councils are not making the planning decisions under the new system, it would be inappropriate for Councils to respond to customer complaints regarding decisions made by the RPC.

Decisions sought:

- That the Committee clarify how part 4 of the NBE bill and the NPF will work together in practice.
- That the NBEA be amended to require the RPC to appoint a liaison officer to manage any customer complaints regarding rules in NBEA plans and processes under the new RM system, or alternative mechanisms are established to address this concern.

System Efficiency

Like LGNZ, MDC is sceptical that the three new pieces of RM legislation will be successful in providing a simpler, more efficient system. MDC would like evidence of how the new system will generate cost or time savings relative to the current Resource Management Act 1991.

As an example, MDC queries whether the introduction of Regional Planning Committees as an additional agency in the plan-making process will be more efficient than the status quo (i.e. the Resource Management Act 1991 plan-making process). MDC considers that the complication of the plan-making process proposed is symptomatic of illogically sequenced

central government reform. MDC supports improved regional planning & collaboration as an outcome but is concerned the current proposal will add cost and be inefficient. A more efficient approach would have been to complete the local government review, including consideration of structural reform, prior to initiating resource management reform. Many aspects of the resource management reform as proposed in the draft Bills are based on the Auckland Plan example, which followed local government review in Auckland.

Decision sought:

- That the Committee clarify how the new RM system will achieve cost or time savings relative to the current RM system.

Misalignment with other Reform programmes

In their submission, LGNZ has raised a number of concerns regarding misalignment between these draft Bills and other reform programmes already underway, including the Three Waters Reform and the Future for Local Government review. MDC agrees with the concerns and recommendations contained in Part 5 of LGNZ's submission. MDC also shares LGNZ's concerns regarding how the Climate Adaptation Act will integrate with the other RM Bills, given it is being progressed on a slower track.

Decision sought:

- That the Committee support the recommendations contained in Part 5 of LGNZ's submission.

Financial and Resourcing Implications

MDC is concerned that the legislation makes councils responsible for funding the regional planning committee (including those members appointed by Māori) and the secretariat. MDC asks that central government provide funding for Māori to participate in the new system. This cost should not be passed on to local authorities and local government.

As Regional Planning Committees (RPCs) are to operate as separate legal entities from councils, the accountability requirements between RPCs, secretariats and councils need to be strengthened. As currently drafted, the legislation inappropriately requires councils to hand-over public money to RPCs and secretariats, with little to no control over how this money is budgeted and spent. This is not supported by MDC. There needs to be clear accountability to councils for RPC use of funding.

MDC agrees with LGNZ that clarification is needed as to how local authority funding of the RPC and secretariat for plan development fits into current LGA funding processes. MDC agrees with the viewpoint of LGNZ, that *“without adequate funding from central government, the plan-making processes (including the RPC and secretariat) will be under resourced. Iwi and hapū will also be under resourced, subject to any litigation concerning resourcing to give effect to the principals of Te Tiriti, limiting their critical involvement in the system.”* MDC agrees with LGNZ recommendations that the funding of RPCs and secretariats be shared 50/50 between central and local government (at least during the transition until the first generation NBE plans take effect); and that central government fund Māori participation in the system.

The lack of specificity in relation to how each local authority's funding contribution will be determined provides significant scope for disagreement between councils. MDC supports LGNZ's suggestion that regions be allowed to adopt an alternative to a joint funding model, whereby regional or unitary councils be the host council with full responsibility for funding the

RPC (if the regional/unitary council is supportive of this). MDC agrees that such an approach would better reflect the RSS and NBE plans' regional focus.

The submission by LGNZ identifies a number of concepts, terms and phrases within the purpose and principles of the two Bills that have the potential to generate uncertainty of interpretation. For example, the Hansard reports have identified that the concept of "te Oranga o te Taiao" is contentious – while some see it as "sustainable development" under another name, others recognise that it speaks for the more holistic view of using environmental stewardship to protect, as well as upholding the principles of Te Tiriti. Other terms, including "ecological integrity" will likely require definition through the courts.

If the legislation is not amended to clarify these uncertainties and inconsistencies this could increase costs for councils and communities in testing their meanings in court.

Decisions sought:

- That central government provides funding for Māori to participate in the new resource management system, rather than funding being the responsibility of local authorities
- That central government substantially increase funding and resourcing of local government to cover the full cost of implementing the new system – including funding the RPC and secretariat and the cost of transition

Ministerial powers to intervene and assist

As noted in the submission by LGNZ, the new system shifts more control to the centre – primarily the Minister. MDC agrees with LGNZ that this shift will significantly diminish the influence of local government and communities.

MDC also queries around implementation and potential for Ministerial changes to the NPF having significant impacts on plan making and consenting.

Decision sought:

- That the Minister agrees with the recommendations contained in the LGNZ submission with respect to ministerial powers to intervene and assist.

Independent Hearings Panels

MDC supports the recommendations of LGNZ in relation to the role of local government in the Independent Hearings Panel (IHP) process.

Decision sought:

- MDC requests that the panel adopt the recommendations of LGNZ to:
 - a) require IHPs to ensure their recommendations "give effect" to the SCOs and SREOs;
 - b) require the RPC to seek advice from affected councils on any decision to accept or reject an IHP recommendation, including reasons for rejecting any comments or advice; and
 - c) that IHPs be funded and resourced by central government, not councils.

Implementation & transitional arrangements

A lack of clarity around arrangements for transition to, and implementation of the new RM system makes it difficult for councils to plan. MDC requests that the legislation specify how and when the transition from RMA to NBEA will occur. As outlined in the LGNZ submission, this clarity is necessary so that councils can cease to progress current planning processes at the right time, to ensuring that funding and resources are not wasted.

The new planning system as proposed in both Bills (and Climate Adaptation Act) include numerous linkages and complexities that will take time to establish. This will mean New Zealand will be operating two planning systems for the foreseeable future. LGNZ submission expands on this point with a number of examples. MDC submits that this approach will be unwieldy and not necessary meet reform objectives of simplification and less consenting. If New Zealand will be operating duplicate planning systems for 10+ years, careful consideration should be made to how the systems work together (e.g. NPF applies to RMA planning/consenting). MDC also suggests the narrative and communication around reform clearly unpacks these issues for the public and stakeholders without blaming Council's and planners.

Decisions sought:

- That the Committee clarify in the legislation when transition from the RMA to the NBEA will occur, and how.
- That government or the Ministry are clear in their communications regarding how transition to the new RM system is to occur, recognising the scale and complexity of the task, to ensure that blame does not unfairly rest with councils and planners.

Concerns that are specific to the Spatial Planning Bill

Impacts on local authority revenue by RPC decisions around land use

If decisions around land use are to be set in the regional spatial strategy, what will that mean for those Councils who have their urban growth potential constrained? How will Council long term plans and current growth planning fit within a regional spatial strategy? This is a relevant point for Councils who have aligned growth and infrastructure programmes and committed to funding and delivery. It is unclear how this will feed into an RSS. MDC questions how the RPC will compensate those councils who have their future growth constrained through NBEA plans.

Decision sought

- That the Committee clarify how the financial impacts of decisions made by the RPC will be managed under the Spatial Planning Bill.
- That the Committee ensure there is a mechanism for how Council Long-term Plans and committed growth programmes fit with RSS.

Integration with other planning

Land use development is reliant on integration with new roading and three waters infrastructure provision. The RPC is the plan maker but not the funder, deliverer or consenting authority for new infrastructure to support development. It is unclear how RPCs will make decisions regarding land use and growth through regional spatial plans in the absence of these

other decision-makers being present. For example, how will RPCs ensure that growth planning is integrated with Waka Kotahi planning around state highways, Water Service Entities planning around three waters infrastructure and council planning around community infrastructure (as well as funding and phasing of development)? MDC considers that the membership of the RPC should include, or at least be informed by, other key infrastructure providers that have an active influence over land use development.

Decision sought

- That the Committee consider expanding the membership of the RPC to include, or at least be informed by, other key infrastructure providers that have an active influence over land use development.

National Spatial Strategy

MDC supports LGNZ’s recommendation that a National Spatial Strategy sit alongside the NPF to provide national guidance in the preparation of RSSs.

Decision sought:

- That the Committee support LGNZ’s recommendation that a National Spatial Strategy (or regional statements of central government priorities) be developed to sit alongside the NPF. Such a requirement may necessitate an amendment to the Spatial Planning Bill.

Concerns that are specific to the Natural and Built Environment Bill

MDC considers that the NBE Bill is weighted more towards the ‘environment’ than the ‘built environment.’ The effect of which may be a resource management system that is more restrictive in relation to the built environment and associated activities. This outcome may be contrary to other central government objectives and priorities, including in relation to the current housing crisis.

Appointments to Regional Planning Committees

The legislation makes it clear that RPC’s are to act “independently” of local authorities, likely to reduce political involvement, MDC considers that members of the RPC should be able to “advocate” on behalf of their communities (as well as the needs and interests of the region) to ensure that adequate consideration is given to local needs and circumstances.

The legislation provides a high level of flexibility in the composition of the RPC. MDC seeks assurance that, as small provincial council with both rural and urban communities, the needs of our communities will be given adequate consideration by the RPC. MDC is concerned that if a proportional RPC membership model is adopted, the needs and interests of smaller rural communities may be overlooked. Traditionally it is the Council that addresses the needs and concerns of its community. MDC questions how the RPC will stay in touch with community needs if they are to operate ‘independent’ of local authorities.

The MBE Bill provides no direction on who can be appointed a member of the RPC – i.e. whether members should be elected members, council officers, independent experts or others. MDC agrees in part with LGNZ’s recommendation that the NBEA be amended to require only elected members to be appointed to an RPC for reasons on democratic accountability. However, MDC is concerned that without any council officers or technical experts appointed to the RPC, this may impact on the quality of regional spatial plans and

NBEA plans produced by the RPC. For this reason, MDC supports the recommendation in the submission by LGNZ that the NBE Bill be amended to require all representatives on the RPC to have the requisite skills, knowledge and experience necessary for plan-making, including, at a minimum, completion of the Making Good Decisions programme (or equivalent).

MDC recommends that the appointment of a sub-committee by the RPC that includes council officers and technical experts be made mandatory. MDC agrees with LGNZ that the mandatory appointment of sub-committees will create better opportunities for local voice in the plan-making process.

In the absence of any officer appointments to the RPC or any sub-committee, only officers from the host Council (appointed by the director to the secretariat) will have the opportunity to participate in the plan making processes of the RPC. This will have significant impacts on the planning profession and councils ability to retain skilled staff.

The number of mana whenua representatives on the RPC may present challenges in regions like the Manawatū-Whanganui Region where there are multiple iwi and hapū that deserve representation. In a region or district with more than two iwi, the election of two representatives does not allow the full scope of potential iwi input.

MDC is also concerned with the requirement in section 100(3) that a regional planning committee must *“act independently of the host local authority and other local authorities in its region.”* It is not clear if this means that appointees must act independently, in the interests of the region as a whole; or are able to advocate on behalf of the needs of their local communities. MDC argues that representatives should be entitled to advocate on behalf of their respective communities, to ensure that the plans developed by the RPC give adequate consideration of local resource management issues and solutions.

MDC supports central government paying the remuneration of the Minister’s appointed member on the RPC.

Decisions sought:

- That the NBEA be amended to allow members of the RPC to advocate on behalf of those communities they represent, as well as considering the broader needs and interests of the region.
- That the NBE Bill be amended to require all representatives on the RPC to have the requisite skills, knowledge and experience necessary for plan-making, including, at a minimum, completion of the Making Good Decisions programme (or equivalent).
- That the NBE Bill be amended to make the appointment of a sub-committee by the RPC that includes council officers and technical experts mandatory.
- That the Committee (or Minister) provide further guidance or detail on the recommended process for the election of iwi representatives by mana whenua.
- That the Minister ensure that there are support systems in place to ensure that iwi representation on the RPC is fair and equitable at the local scale.

Relationship to the National Policy Statement for Freshwater Management

Section 38(1) of the NBE Bill states makes the Minister responsible for setting limits in relation to freshwater in the NPF.

The National Policy Statement for Freshwater Management 2020 set out the objectives and policies for freshwater management under the RMA. This NPS requires every regional council to engage with communities and tangata whenua to determine long-term visions for freshwater management units (or catchments), to identify values for each FMU, set environmental outcomes for each value, identify attributes for each value, set targets, limits and to prepare action plans to achieve environmental outcomes. Horizons has begun updating the One Plan to give effect to the NPS-FW, including by consulting on long-term visions for freshwater (which we submitted on) this year. Centralising limits for freshwater into the NPF does not enable communities and tangata whenua to engage in the same way with their councils and does not give adequate recognition to the different baseline states for attributes. MDC therefore recommends that limits for freshwater be set in NBE plans and not as national bottom-lines in the NPF.

Decision sought:

- That the NBE Bill be amended to allow limits for freshwater to be set in NBE plans and not as national bottom-lines in the NPF.

Papakāinga

Section 58 of the NBE Bill states that the NPF must include content that provides direction of “*Papakāinga on Māori land.*” MDC supports this direction. Through planning work that MDC has been undertaking, we have been made aware of the challenges facing hapū and whānau looking to establish Papakāinga. One such challenge is how Māori land is identified, noting that very little land remains classified as Māori within the Manawatū District. Care should be taken to not limit Papakāinga housing options given this situation and that this topic be explored further with Māori.

Decision sought:

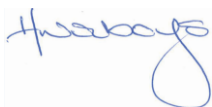
- That consideration be given to how Papakāinga is defined under the Act.

Support for other submissions

MDC generally supports the submission by LGNZ.

We do not wish to be heard.

Yours sincerely



Helen Worboys
Mayor, JP