

Property Council New Zealand

Our future resource management system

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For more information and further queries, please contact

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1. Introduction

- 1.1 Property Council New Zealand (“Property Council”) is the leading not-for-profit advocate for New Zealand’s most significant industry, property. Our organisational purpose is, “Together shaping cities where communities thrive”.
- 1.2 The property sector shapes New Zealand’s social, economic and environmental fabric. Property Council advocates for the creation and retention of a well-designed, functional and sustainable built environment, in order to contribute to the overall prosperity and well-being of New Zealand. We aim to support the development of a resource planning system that is both efficient and effective.
- 1.3 Property is New Zealand’s largest industry and fastest growing source of employment. There are nearly \$1.6 trillion in property assets nationwide, with property providing a direct contribution to GDP of \$41.2 billion (15 percent) and employment for around 200,000 New Zealanders every year.
- 1.4 Property Council is the collective voice of the property industry. We connect over 10,000 property professionals and represent the interests of over 650 members organisations across the private, public and charitable sectors. Comments and recommendations are provided on issues relevant to Property Council’s members.

2. Recommendations

2.1 Property Council recommends the following:

- The national planning framework has cross-partisan support to provide consistency and certainty for New Zealand’s future resource management system;
- Private sector representation on regional spatial strategies and natural and built environment plans to ensure plans can be successfully implemented;
- Establish legislative outcomes for high growth regions in the Natural and Built Environment Act based on population estimates and the required infrastructure and services to meet impending demand;
- Investigate how New Zealand’s consenting system can involve the private sector and be done at scale (i.e. regionalisation or centralisation);
- Investigate how compliance, monitoring and enforcement regional hubs could operate in future detail, as they would be an integral part of resolving many of the current resource management system issues around consistency of outcomes;
- A monitoring and system oversight framework is development at a national level to ensure consistent and regular local-level monitoring and reporting;
- The secretariat committee role should be funded by all committee representatives and should be independently appointed;
- Establish clear timelines to ensure the delivery of plans in a timely manner;
- An independent review is undertaken on the “model committee” to ensure that changes are made (if required) for future implementation; and
- Introduce various funding models such as value capture, Public-Private Partnerships and targeted rates that could be deployed through plans.

3. National planning framework

- 3.1 We support the scope of the national planning framework (“NPF”). The NPF has an important role to ensure decisions around priority and importance of resources are made at the national level. The proposed scope will provide certainty at a local level, making it easier for local authorities to develop plans. Furthermore, deciding competing interests at a national level will reduce the time local authorities currently spend on determining priorities between competing interests (and associated national policy statements) within plan-making or resource consent decisions.
- 3.2 We acknowledge that a balancing exercise is required between the natural and built environment. However, there is lack of clarity on how the environment and development priorities will be aligned and prioritised. This is concerning given we have progressed with the Natural and Built Environment Bill prior to considering its place with the future Spatial Planning Act and could result in inconsistencies and misalignment. In particular, we have concerns that there is lack of detail on how the two pieces of future legislation will correlate and be implemented in practice.
- 3.3 It is proposed that the Minister for the Environment would make the final decision on national direction. Although supportive, we recommend that the overall process include best efforts to have cross-partisan support to avoid adverse outcomes. For example, the RMA over the years has become a political football resulting in hundreds of changes and a reactionary approach to plan making from local government. This has directly resulted in fragmentation of planning, uncertainty for local authorities and the private sector and piecemeal implementation and delivery of projects.
- 3.4 The NPF as it is proposed would see the current Minister for the Environment make changes to the national direction. The future system, once again, would not provide certainty past political terms. Cross-party leadership is required to ensure local authorities have the clarity to develop 30-year plans and the private sector have certainty to implement these plans. If cross-party agreement on NPFs is obtained, we support a review of at least every nine years, given the plans that sit under the NPF are for 30-years and require certainty.
- 3.5 We strongly support the recommendation that the NPF provide certainty to resolve conflicts that currently play out through the consenting process. The main issue with our current consenting and approval process is implementation. We have many examples of council officers opposing proposals because they have incorrectly interpreted the provisions of the RMA and/or the relevant plan, or are inappropriately applying their personal views and preferences, when assessing a resource consent application. This results in the applicant having to either abandon their proposal (and therefore lost development opportunities) or engage significant (and unwarranted) expert resources to counter the officer’s approach, including via litigation. Either outcome imposes substantial costs on both our members and the wider community. Resolving conflicts at a cross-partisan national level may help to remedy these concerns.
- 3.6 The Randerson Panel recommended a board of inquiry process for the preparation and review of national direction. We support the inquiry process allowing for expertise, as in particular, private sector expertise is important to inform decision-making.

4. Regional spatial strategies

- 4.1 The discussion document states: “Regional spatial strategies will require multiple groups to work together to identify how the region will grow over the next 30 years”. However, the consultation document later lists the groups that will develop each regional spatial strategy (“RSS”) as; “representatives from hapū/iwi/Māori, local and central government”. We are concerned that private sector representation is missing.
- 4.2 Property Council, Employers’ and Manufacturers Association and Infrastructure New Zealand have been involved in engagement with the Ministry for the Environment over the last 12 months and have continually raised the importance of private sector representation at a governance level to help resolve many of the issues that are within our current resource management system.
- 4.3 Private sector representation on RSS committees is critical to ensure that the implementation and delivery of RSS can occur. For example, the private sector has expertise in ease of land and soil development, feasibility of projects, and likelihood of uptake of development.
- 4.4 Although the discussion document alludes to public and private infrastructure providers offering technical support, this appears to sit separately from the joint committee. It is unconceivable that a future system would look to dictate where future development could go without having private sector input until after the fact. We recommend the Government amend the RSS joint committee bodies to include representatives from the private sector who can participate in planning discussions on future urban development and infrastructure.
- 4.5 The discussion document outlines that the RSSs will provide firm direction on integrating decisions on land use, urban development, infrastructure, environmental protection and climate change. We recommend clearer detail be developed as to what each component of these aspects entail. For example, a hospital and school could be classified as infrastructure and a wide range of housing choices from social housing through to private ownership could be established. Once you have a clearer picture of what each decision entails you can identify which bodies require representation through the joint committee.
- 4.6 One of the key aspects on RSSs will be funding. The consultation document is light in detail as to how the RSS plans will be funded, but also lacks information as to how the future delivery and implementation of RSSs will be funded. The consultation document states the need for RSS to coordinate investment from the public and private sector. The major question mark over the funding and financing of future development and infrastructure further emphasises the need for the private sector to have membership on RSS committees.
- 4.7 In terms of funding, implementation agreements are proposed by the Randerson Panel allowing for project and site-level detail be provided to the private sector. We question the timing of when implementation agreements occur and reiterate the importance of private sector representatives at the RSS committee stage. Private sector involvement at the implementation stage would increase risk. For example, it would be a shame for the private sector to have to turn down projects due to technical or feasibility reasons at the implementation agreement discussion stage. This would result in having to amend the RSS plan. We recommend implementation of RSS plans are at the forefront of the decision-making process by having private sector representative/s at the committee stage.

5. Natural and Built Environment Act

- 5.1 The discussion document states that a mandatory requirement for the Minister for the Environment to set environmental limits within the Natural and Built Environment Act. These outcomes will also guide RSSs under the SPA. We continue to share our concerns that an outcomes focused approach needs to extend beyond the environment to ensure that adverse effects for development do not occur. We recommend establishing outcomes for high growth regions based on population estimates and the required infrastructure and services (housing, educational and health facilities) to meet impending demand.
- 5.2 We continue to have serious concerns that the Natural and Built Environment Act omits mentioning development within the purpose section. This is particularly alarming given that the Act should support sustainable development. In practice, this will likely be a detriment to wider economic development and will likely result in more burdensome court processes and litigation.

6. Natural and Built Environment (“NBA”) Plans

- 6.1 We support one NBA plan being developed for each region. However, we have concerns that the proposal would see the plan prepared by a joint committee comprising representatives from hapū/iwi/Māori, local government and potentially a representative appointed by the Minister of Conservation, as the local private sector are not represented.
- 6.2 In short, the proposed joint committee could develop the best plan in the world, but it does not mean that it will be implemented. We urge the Government not to underestimate the importance of bringing the private sector to the table to ensure that NBA plans can be implemented as intended, during its drafting stages.
- 6.3 We see merit in developing sub-regional NBA plans. However, clear timeframes need to be established in order for regional NBA plans to meet their deadlines. We have concern that sub-regional NBA plans could create complexity when developing a regional plan, resulting in increased risk of conflicts developing at the later stage. The weight of sub-regional NBA plans will have to be carefully considered and should not proceed the importance of NBA plans nor the RSS.

7. RSS and NBA joint committees

- 7.1 Private sector representation at the joint committees will help with efficiency of processes and decision-making by balancing policy and planning decisions with knowledge on whether proposals can be practically implemented, and proposed outcomes delivered within the proposed market, region or location.
- 7.2 We strongly recommend private sector representation on RSS and NBA joint committees. Private sector representation on joint committees does not need to be common membership, as it could provide opportunity for more localised membership at the NBA committee level. Furthermore, private sector membership should be determined on a region-by-region basis. This will further help with the overall decision-making process.
- 7.3 A New Zealand example of the importance of private sector involvement at early stages of projects can be seen in the current Let’s Get Wellington Moving, Golden Mile project. Recent engagement has highlighted a lack of awareness of development rules and implementation within the project team. In particular, early project designs indicate intensification/density to occur after streetscape transformations from roads to footpaths and public seating occurs. (See image below).



Image: <https://lgwm.nz/all-projects/golden-mile-improvements/>

7.4 However, in practice, intensification/density may not be permitted due to District Plan height rules around restricting sunlight and upholding the areas amenity values (that would be newly created from the project). This example highlights the dangers of a joint local and central government project team expecting development to occur within an area, without fully understanding the consequences of the streetscape development they propose and the amenity rules that could end up restricting development in the future.

7.5 We acknowledge that no-one is an expert at everything and recommend private sector involvement at the joint-committee stages is crucial to create a timely and cost-effective process to develop plans.

8. Consenting

8.1 The Government is proposing to reduce the number of consenting activities from six (in the RMA) to four (in the NBA). These categories are permitted, controlled, discretionary and prohibited.

8.2 Despite the intention to better streamline consents, the current issues around council interpretations, the volume of consents and a high degree of risk that is involved, results in the resource and building consent system bursting at the seams. There have been recent discussions with the Ministry for the Environment in which we have recommended regionalisation or centralisation to help ease current building consents. It therefore begs a question as to whether under the future resource management system how resource consent applications will be made, particularly given that plans are developed at a regional level. We recommend building consents being joined up with the private sector to provide economies of scale in which can better ease our overall consenting system.

9. Compliance, monitoring and enforcement (“CME”)

9.1 We note that the Randerson Panel recommendation to establish CME regional hubs to address the shortcomings of the current system has been deferred. We support the idea of independent regional hubs, acknowledging the likely challenges around resources and funding is likely why this has been delayed. We recommend investigating how CME regional hubs

could operate in further detail, as they would be an integral part of changing the current resource management system to achieve consistent outcomes.

- 9.2 For example, currently there is nothing within the RMA that incentivises or mandates council officers to act in a professional, legally correct and time manner. More importantly, there are no implications for those that do not. Litigation is generally the only avenue available to applicants.
- 9.3 Unfortunately, in our experience most resource consent applicants do not have the time or money to pursue legal proceedings. Council officers are aware of this and on occasion, deliberately use that knowledge to exploit their power over applicants. The additional (and unnecessary) costs that industry and the public incur each year because of this lack of accountability and the resulting implementation issues is of concern.
- 9.4 There is also an educational aspect to compliance and monitoring, to ensure that individuals who process consents have a greater understanding of the entire system and plans. This continues to be an issue of importance that directly links with lack of capacity and capability issues we have raised in previous submissions.

10. Monitoring and system oversight

- 10.1 We acknowledge that monitoring and system oversight is fundamental to the operation of the resource management system. Monitoring will provide helpful information on environmental limits and tracking progress towards targets and outcomes.
- 10.2 We are aware of a resource shortage, particularly local government planners, and are concerned that the capacity and capabilities issues that exist within our current system could be exacerbated with a suite of new tools to direct monitoring. It is important that resource does not shift towards monitoring and take away importance of delivery and implementation of plans. We recommend a framework is developed at a national level to ensure consistent and regular local-level monitoring and reporting. This will help streamline the process and provide clarity.
- 10.3 There is also a need for councils to be monitored, to see whether their decisions achieve macro goals around housing supply and delivery, especially in high growth areas. Namely, that local government meet the needs of the built environment, growing populations and liveability aspects for the region. Greater compliance, monitoring and enforcement is required to resolve this issue.

11. Roles and responsibilities

- 11.1 An effective relationship between local authorities and joint committees is one that is open and transparent.
- 11.2 The secretariat committee role should be funded by all representatives on RSS and NBA committees and should be independently appointed.
- 11.3 To ensure that roles and responsibilities of local authorities are delivered, timelines should be implemented. This will help ensure that conflicts are resolved in a timely manner.
- 11.4 We recommend that during and following the “model” committee an independent review is undertaken to determine what lessons can be learnt for other RSS. We urge the Government not to be afraid to change tactics and make early adaptations to ensure the process can be most effective for other local authorities adopting the process in the future.

11.5 We are concerned with the lack of detail on the way in which the future system would be funded. The lack of detail on funding mirrors the current systems lack of funding and financing solutions. We recommend the Government introduce various funding models such as value capture, Public-Private Partnerships and targeted rates that could be deployed through RSS and NBA plans. Clear direction is required within this space and should be introduced during the "model project".

12. Conclusion

- 12.1 Private sector representation on RSS and NBA joint committees is critical to the success of New Zealand's future resource management system and will ensure better outcomes for all. Without private sector representation at the joint committee level, we will likely see adverse effects in terms of delays of plans due to initial drafts being unworkable on a practical level and renegotiations having to occur, and/or failure to implement and deliver plans due to inaccuracy and complexity of signalling future development sites.
- 12.2 Private sector representation at a committee level can ensure that the proposed outcomes within regional plans can be practically implemented, are feasible, but also deliver and achieve the proposed development and infrastructure targets for what is being expected over a 30-year period.
- 12.3 Property Council would like to thank the Ministry for the Environment for the opportunity to provide feedback on New Zealand's future resource management system. For any further queries contact Katherine Wilson, Head of Advocacy, via email: katherine@propertynz.co.nz or cell 027 8708 150.

Yours sincerely,



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