

File No: 25 12 05
Document No: 25253397
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8 February 2023

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Dear Sir/Madam

Waikato Regional Council Submission on the Spatial Planning Bill

Thank you for the opportunity to submit on the Spatial Planning Bill. Please find attached the Waikato Regional Council's (the Council's) submission regarding the Bill. The submission was formally endorsed by the Council's Chairperson and Chief Executive under delegation on **8 February 2023**.

Should you have any queries regarding the content of this document please contact Lisette Balsom, Manager Strategic Policy Implementation directly on (07) 8590572 or by email Lisette.balsom@waikatoregion.govt.nz.

Regards,

A handwritten signature in blue ink that reads "Pamela Storey".

Pamela Storey
Chair

A handwritten signature in blue ink that reads "Chris McLay".

Chris McLay
Chief Executive

Submission from Waikato Regional Council on the Spatial Planning Bill

Introduction

1. We appreciate the opportunity to make a submission on the Spatial Planning Bill (SP Bill).
2. We strongly support spatial planning being embedded in Aotearoa New Zealand's resource management legislation. We support the SP Bill as relatively straightforward legislation that provides direction to undertake a spatial plan at a regional scale. It is relatively simple in intent and process.
3. While we support the five objectives of the reform, we have significant concerns with the proposed system overall:
 - a. It is very difficult to make informed comments on the proposals while so much critical foundation information is missing, such as the detailed contents of the National Planning Framework.
 - b. The constrained timeframe we have had to consider this Bill, in combination with the long and complex Natural and Built Environment Bill has been limiting.
 - c. Additional processes have been included in the new system and we do not consider the system has been simplified.
 - d. It is difficult to determine whether the reform objectives of efficiency and cost reduction will be met.
 - e. In their current form, we do not consider the Bills will achieve the reform outcome of reducing system complexity, at least not for many years. It would take significant financial and time costs before this critical question is answered.
4. Our submission generally aligns with those of LGNZ, Te Uru Kahika, and Taituarā. We highlight in particular issues for regional councils, and our region.
5. We look forward to future consultation processes on resource management reform and would welcome the opportunity to comment further on any issues explored during their development.
6. Please note this submission should be read in conjunction with the Waikato Regional Council submission on the Natural and Built Environment Bill which provides further comments on the resource management reform.

High level comments

7. The size and quantum of change that will be experienced by communities, local government entities, and practitioners should not be underestimated by central government. Funding, assistance and guidance will be required from central government to support the already stretched capacity of councils, practitioners and iwi/hapū/Māori.
8. We understand that the transition period for the reform is likely to be more than a decade. We therefore stress the need for certainty and support for councils, practitioners and iwi/hapū/Māori who will operate within the two systems. This will ensure that we can continue to fulfil our responsibilities and serve our customers and communities.
9. Our submission is based on the following key concerns:
 - a. Insufficient democratic accountability embedded into planning processes.
 - b. The quantum of funding to support successful implementation of the Bill will be critical. Central government will need to ensure it has set sufficient funding aside, particularly for capacity and capability building of councils and Māori.
 - c. The reformed system seems no less complex than the RMA and is unlikely to reduce the amount of statutory planning required.

- d. Given that a significant amount of direction and detail to support the system reform is not yet available we struggle to see how this proposal will achieve reform objectives.
- e. That complexity of, and realistic timeframes associated with, iwi representation and engagement are not well understood nor accounted for.
- f. That the reform is out of step with the outcomes sought through the Future for Local Government Review, with examples of clear conflict between the two becoming evident.
- g. That the three waters reform is not integrated with resource management reform and there is insufficient interface with Water Service Entities, particularly with the RPCs.
- h. That the proposed tranche approach to transition will not allow for sufficient time between tranches to share and take on board learnings from the new planning processes.
- i. There are potential conflicts with other Acts under which regional councils have functions (for example: the Soil Conservation and Rivers Control Act, the Local Government Act, and the Land Drainage Act). The relationship between the new legislation and these Acts requires further close review and analysis.
- j. That the Bills do not provide sufficient certainty about the roles and responsibilities of councils in the new system. It seems likely that regional councils will be defaulted into a key role as host council and we seek certainty on this so it can be planned for.

The Waikato Region

10. Determining a composition for an RPC and developing an RSS and combined plan for the Waikato region will be significantly challenging with 12 local government authorities, over 40 iwi and more than 180 hapū with interests in the region. The complexity of and timing for the process to simply agree a composition of an RPC in our region, let alone its membership and the capacity of members to support its work, cannot be underestimated.

11. We see value in the Waikato region transitioning at the same time as UNISA partner regions (Auckland, Bay of Plenty and Northland) as collaboration between regions will be very important, particularly for matters such as:
 - a. Hauraki Gulf (Auckland and Waikato)
 - b. Ports
 - c. Urban growth
 - d. Marine farming
 - e. Geothermal management (Waikato and Bay of Plenty)
 - f. Cross-boundary matters.

12. However, as a result of regional complexity we do not seek to be included in the first tranche of regions. We highlight the spatial scale, diversity, and local variability of the Waikato Region, including a major city surrounded by numerous towns and large areas of rural land, all with varying infrastructure needs. The council manages significant water bodies such as the Waikato River and Lake Taupo, as well as significant wetlands, coastal areas, and geothermal areas. For Lake Taupo and the Waikato River, water (commonly the need for plan development and hearings processes) comes in from the Manawatu Wanganui region by virtue of the Tongariro Power Scheme, and is taken by Watercare to meet Auckland requirements - how will these interests be adequately represented on the RPC - and in plan and strategy development?

13. We also note that there are territorial authorities (such as Taupō District Council and Rotorua Lakes District Council in the Waikato region) with jurisdictions that cross regional boundaries. These councils will likely lack the capacity to be involved in multiple RPCs, as required by the proposed system.

The Future Proof subregion

14. Successful regional partnerships have been developed in the Waikato region. These include Future Proof¹ and the Hamilton-Waikato Metropolitan Spatial Plan. There is a concern that these partnerships will not be given appropriate weight in the RSS and NBA plan, given the whole-of-region focus that the RPC will be required to take. Additionally, Future Proof has proven to be an efficient arrangement in the Waikato region and we are concerned that the shift towards RSS and NBE plans could create uncertainty with associated funding.
15. At substantial staff time and direct cost, Waikato partners have recently been through essentially the new system process: the Hamilton-Auckland Metro Spatial Plan, which subsequently informed other statutory and non-statutory planning documents (the Future Proof Strategy and then the Waikato Regional Policy Statement update). This substantial investment, including by central government, should not be lost.
16. We recommend that there must be a path for significant partnerships such as Future Proof to be given effect in the RSS and NBE plans, in a way that ensures current arrangements and funding arrangements are preserved.
17. We have found success in these partnerships from input from multiple central government agencies as and where relevant. These representatives have the required level and mandate to commit their departments to partnership direction and work programmes.
18. A subregional committee for Future Proof could help address the issue of lesser direct democratic input- by preparing a subregional plan and/or recommending objectives and outcomes for the subregion to the RPC. Another more limited option could be for Future Proof to prepare a joint SREO/SCO for the subregion. Concerns here are:
 - a. This just adds a planning layer back in, and there is a lack of clarity on whether community consultation could occur at subregional level.
 - b. Future Proof governors would have to advocate to the RPC to be recognised as a subcommittee.
 - c. A strength of Future Proof is the relevant breadth and level of central government involvement. We have concerns that a single central government representative on the RPC would not be able to cover and commit what representatives have been able to up until now in Future Proof.

Comments on key themes

Regional Spatial Strategies (RSS)

19. We strongly support the introduction of mandatory spatial strategies for regions. However, it may not be necessary to create the entirely separate RSS process. RSSs do not appear materially different from Regional Policy Statements under the RMA, aside from the added spatial requirement. Existing processes could be used for regional councils to prepare an RSS in consultation with territorial authorities and iwi partners in each region.
20. We have some concerns with the current form and process for RSSs.
21. We are concerned about how a 30-year framework will be set for the region and how this will be achieved given local and central government election timeframes. It is important that the RSS, and therefore investment, is safeguarded against changes in central government policy.
22. The timeframe to prepare an RSS is too tight, considering the additional processes relating to agreeing the composition of the regional planning committee.

¹ The Future Proof Implementation Committee comprises the Mayor/Chair and one councillor each from Waikato Regional Council, Hamilton City Council, Waipa District Council, Waikato District Council, Matamata-Piako District Council, central government representation, plus iwi representatives and an independent chair.

23. Given through Schedule 4 there appears to be a high degree of flexibility in preparing RSSs, we request further guidance on scope and format so that these strategies are consistent across the country. We also request guidance on where an RSS ends and an NBE plan begins. Further:
- We request guidance on what policy framework needs to be included in an RSS for it to adequately inform and enable NBE plans.
 - We query how subregional growth plans will fit into an RSS and how we can ensure they are adequately considered.
24. Critical partners in delivering the RSS and its implementation plans and agreements such as Water Service Entities (WSE) and Waka Kotahi need to be part of the process of their development.
25. We believe there should be express requirements in the legislation for a hearing on the RSS (while there is for the NBEA Plan) and to report back to local authorities any decision that was materially different to a plan that was notified.
26. We understand that while RPCs have responsibilities to develop an RSS implementation plan, they do not have any powers to source financing to fund these. Funding will need to come through long term plans which councils develop through the Local Government Act. There is a significant disconnect between who is writing the implementation plan and who will have to fund it.
27. In regard to a 30-year plan for infrastructure there may be commercial competition law requirements that confuse this space. Some infrastructure providers may not want to make their long-term aspirations known, due to the effects these aspirations will have on surrounding land and property markets.

Regional planning committees (RPC)

28. We consider that the RPC should have a different skillset for creating RSS versus NBE Plans. RSSs would require people with strategic and spatial planning expertise, whereas NBE Plan would require people with implementation and detailed planning knowledge. As such, legislation should not require that members must be the same person from each organisation for the different committees.

National Spatial Strategies

29. We understand some submitters are requesting a national spatial strategy to provide direction on location of nationally significant resources and matters such as infrastructure. While national direction is useful spatially, we are open to whether this is provided through a specific national document or government policy statement, or perhaps through the National Planning Framework.

Transition

30. We are concerned that the uncertainty caused by the transition period to the new system will affect work on key priorities, unless councils are resourced to run simultaneous programmes of work under RMA and towards the new system.
31. While the RPCs must consider whether the information in existing RMA planning documents remains robust, the ability for the RPC to incorporate contents from these documents could lead to some efficiency gains, and may give councils (in particular) some comfort that our existing RMA plans and policy statements will not be set entirely aside. However, councils have spent considerable time and effort to develop and engage on these plans and it is concerning that RPCs are not more strongly directed to adopt the content of operative RMA plans for the first version of RSSs and NBE Plans in particular.

32. There is limited statutory provision for cross-over between the RMA and the SP Bill, in terms of information that should inform the first RSSs. We support that RPCs may incorporate from operative RMA planning documents, information on the state/characteristics of the environment; and decisions on whether areas or features of the environment have particular characteristics, should be classified in a particular way, or meet related criteria that are set out in legislation. We seek that this provision is expanded, so that the RPCs can consider a wider range of spatial strategies and plans when preparing RSSs, such as those prepared under the Local Government Act and future development strategies prepared under the NPS Urban Development.

Implementation agreements

33. Implementation plans and agreements should be developed alongside the development of the RSS with key partners (such as local government, government and their agencies, WSEs and other infrastructure providers) to ensure strategic priorities and system outcomes are achieved, activities are logically prioritised and programmed and funding sources are identified and ultimately secured.
34. A critical failure of urban growth partnerships/growth strategies has been a lack of commitment to funding key elements in a timely manner. The SP Bill (and RSS) do not address the broader infrastructure and financing constraints to implement parties' intentions, which is a key dependency. We would like further discussion on whether implementation agreements should bind delivery partners. There are risks for all parties including local government if this is the case. It will be important that there is cross-party long-term commitments from central government in these implementation agreements.
35. Implementation agreements also need to be formulated based on the premise of delivery at the level of greatest effect for community wellbeing, with sufficient mandate and resource to do so. Implementation and delivery of spatial objectives need local understanding and for resourcing to be provided at local level. This delivery requires co-design and partnership between all levels of government, iwi and hapu, and community. Central government will need to be much more organised to be involved at these levels, rather than leaving implementation to local government as an unfunded implementation arm of central government.

Transport

36. From an integrated land use and transport planning perspective, we support the statutory requirement for mandatory spatial planning to be undertaken at a regional level, acknowledging the previous absence of transport considerations in spatial planning for resource management.
37. We also support the strengthening of the relationship between the SP Bill and the Land Transport Management Act (LTMA).
38. We have the following concerns from a transport perspective:
- a. We foresee an overlap and duplication of functions – the RLTP under the LTMA sets a region's strategic objectives/outcomes and priorities for land transport over a 10+ year planning horizon (30 years for the Waikato RLTP). The RSS under the SP Bill will duplicate this function in respect to the strategic planning and integration of transport infrastructure. It is not clear through the SP Bill what the longer-term implications of this overlap of function might be. For example, will the RLTP effectively become only a funding and delivery plan for the RSS? We believe the scope of the RLTP may need to be further defined under the LTMA amendment to avoid any confusion.
 - b. Planning hierarchy – under the planning hierarchy, the RLTP sits under the RSS. Whilst the RLTP must be consistent with the RSS, the RSS is only required to give "regard to" other strategies, plans and instruments under clause 24(3) of the SP Bill. As RLTPs play a key role in determining spatial outcomes for land transport and regional funding priorities,

we recommend that the reciprocal relationship is equally recognised in the SP Bill. This will allow the RSS to recognise or take into account the existing commitments and priorities set out in the RLTPs to ensure consistent planning outcomes.

- c. Integration of processes and funding – the integration of the RSS with other strategic planning processes including transport planning and funding under the LTMA will mean that there is a range of different funding sources for implementation of RSSs. We recommend that the SP Bill provides clearer messaging around funding roles and responsibilities in the development of RSS Implementation Plans. While integration of RSSs with LGA planning is provided for under clause 4(1)(d), there needs to be a more explicit and stronger link between the RSS Implementation Plans and the RLTP under the LTMA. For example, whilst an Implementation Plan could identify major transport infrastructure and responsible agencies, the detailed funding plan should sit within the RLTP to ensure the alignment of funding outcomes.
 - d. Because the LTMA provides the mechanism for a significant amount of infrastructure funding in New Zealand, it is very important that the RSS, LTP, RLTP interrelationship (particularly in respect to funding function) is recognised in the SP Bill to collectively fund RSS outcomes. This issue needs further thought and strengthening, also in regard to funding climate change outcomes. There is a real opportunity here to integrate funding sources to achieve RSS outcomes.
 - e. Interested party consultation – interested party consultation requirements for developing a RSS and implementation plan should include early engagement with Regional Transport Committees, which are statutorily tasked under the LTMA to develop RLTPs and determine regional funding priorities for major transport projects.
 - f. Timeframes and engagement – we support the long-term planning horizons for the RSS but note that the RLTP under the LTMA has a six-year planning cycle (effectively refreshed every three years because of the need to update the regional land transport programme). The three-year review cycle for RSS implementation plans is supported and it should tie in with the RLTP review cycle to ensure priority implementation actions are aligned. There needs to be plan agility to ensure consistency across the SPA, NBEA/ LTMA/LGA interface. Planning documents under the SP Bill should follow the same timeframes as other strategic regional documents for consistency.
39. Given the importance of integration between the LTMA and the two new proposed statutes, consistency between them all is equally important. This includes:
- a. Terminology and language
 - b. Transport related standards in the NPF
 - c. Definitions in the One Network road network classification system
 - d. An indication of which RLTP functions will take precedence
 - e. Whether there should be a Regional Transport Committee representative on the Regional Planning Committee or how transport planning will inform resource management planning and vice versa.

Specific comments

40. Maintaining flexibility in the way geothermal resources are managed is essential and must occur at the local level. RSSs are a good place for these resources to be identified (on maps), informed by iwi, community, industry and local government input on the systems and appropriate level of protection. These maps could include definitions for geothermal resources with direct links to NBE plans. Community input in this process will be vital.

41. We request further information on where Statutory Acknowledgements will fit within an RSS. These are currently attached to regional policy statements but do not seem to fit with the spatial content of an RSS.

42. We provide further specific clause-by-clause feedback in the table below:

Part/clause	Feedback
9. General transitional, savings, and related provisions	43. There is no clarity on where the definition for a geothermal resource will come from, given that regional policy statements (RPS) will no longer exist as part of these reforms. Guidance on this is necessary. We recommend that definitions for geothermal resource and geothermal system should be prescribed at the local and regional levels by the NBA plans and RSSs.
24. General considerations: instruments	44. Schedule 5 – Amendments to other Acts, indicates that the Land Transport Management Act 2003 is to be amended so that any regional land transport plan “is consistent with the regional spatial strategy that is in force for the region”. However, clause 24(3) of the SP Bill only requires that strategies, plans and instruments prepared under other legislation be given “regard to”. We consider this lack of reciprocation in the SP bill to be limiting given that land use and transport cannot be separated. In the past, transport has been considered to be the demand response to spatial allocation but it is now widely recognised that land transport has a much greater role to play in determining spatial outcomes, the provision of well-functioning urban environments and reduction in greenhouse gas emissions.
25-29. General considerations: other matters	45. We request specifically providing for incorporation of material from current RMA plans to improve efficiency.
37. Purpose of engagement agreements	46. We query what happens after best endeavours if an agreement cannot be reached? For example, funding may be an issue. 47. For our region, engagement agreements will be a significant process to undertake. Resource from central government will be required.
42. Establishment of cross-regional planning committees	48. Whether a committee is necessary to address an issue will be dependent on the context. It also assumes that a neighbouring region is willing and able to participate. With a staggered approach to implementation, it may be difficult if neighbouring regions are not in the same transition tranche.

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