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## **SUBMISSION ON RESOURCE MANAGEMENT REFORM**

### **NEW PLYMOUTH DISTRICT COUNCIL**

#### **Introduction**

1. This submission is prepared on behalf of New Plymouth District Council (NPDC) in relation to the Resource Management reform bills (the Natural and Built Environment Bill (NBE) and Spatial Planning Bill (SP)), referred to collectively as “the Bills”:
2. NPDC has considered the draft submissions from Local Government New Zealand (LGNZ) and Taituara and relies on the detail in these submissions and the general views of local government organisation on the Bills. NPDC has only submitted on points of particular importance/relevance to it. However, for clarity, NPDC does not take a formal position with respect to the particular submission points and recommendations in the LGNZ submission, except as specified within this submission.
3. NPDC has engaged with the other district councils within the Taranaki region (South Taranaki District Council and Stratford District Council) and understand that all three councils have a similar position in respect of the Bills. NPDC has also shared its submission with the Taranaki Regional Council and iwi representatives and supports working towards a reform that best meets the needs of the Taranaki community.
4. NPDC wishes to be heard on this submission.

#### **General**

5. NPDC generally supports the need for reform of New Zealand’s resource management system. NPDC considers that the current system can be inefficient and time consuming and does not ensure the best outcomes for communities and the environment.
6. At a high level NPDC questions the relationship of the RM reform to the Local Government reform programme. Many of its comments relate to the new system and the practical interactions and interests of the NPDC and how it operates under the system. NPDC supports timely but also logical reform that ensures the best system outcomes for its community. NPDC supports that alternative workable models for the new RM system are explored, beyond the RPC to ensure better outcomes for the community.
7. NPDC supports the stated objectives of the Bills, as set out in the explanatory note of the NBE, in particular the objective to improve system efficiency and effectiveness and reduce complexities.

8. NPDC considers that the current ability to review and change plans under the current system is cumbersome, with costly and lengthy processes that require significant resourcing from district councils. NPDC therefore supports in principle, the intention to reduce the number of planning documents through the consolidation of plans into NBE plans and Regional Spatial Strategies (“RSS”). However, NPDC is concerned that a key method for achieving this objective appears to be by reducing the input of Local Authorities. This concern is discussed in further detail later in this submission. Further, NPDC is concerned that while the number of plans may be reduced, the Bills may not achieve the intent to provide enhanced efficiencies and reduced complexities.

### **Purpose and preliminary matters**

9. NPDC endorses the key matters raised in the draft LGNZ submission regarding purpose and preliminary matters, particularly seeking further clarification on:
  - the requirement to “uphold” Te Oranga o te Taiao;
  - the integration of Te Oranga o te Taiao and Te Mana o te Wai;
  - the meaning of “compromising” wellbeing of future generations;
  - the reconciliation of clauses 3(a) and (b) in the NBE; and
  - the meaning of “promotes outcomes” for the benefit of the environment.
  - The requirement to give effect to te Tiriti o Waitangi.

### **Transitional provisions and central government support for funding participation.**

10. NPDC considers that the Bills lack sufficient clarity regarding the transition to and implementation of the new system, as well as the status of the existing RM system and planning documents during this transition.
11. In particular, NPDC submits that the NBE should be amended to provide further clarity regarding the following matters:
  - a. The role and status of the RMA and existing RMA planning documents, following the enactment of the Bills and the NPF and RSS.
  - b. NPDC understands that the consenting requirements set out in plans prepared under the RMA will continue to apply until an RPC notifies its decisions on NBE plans. However it is unclear whether the NPF and any operative RSS must be considered in resource consent applications lodged under the RMA or whether applications made under the RMA must be assessed against the RMA legislation only. There will be a significant period of time between the implementation of the NPF and an RSS and the RPC decisions on NBE plans.
  - c. The timing of the enactment of clause 2, Schedule 1 of the NBE and the impact of “subject to the NBEA”

- d. The impact of aspects of the NBEA that have commenced in relation to existing and ongoing RMA consenting.

### ***Order of regions commencing new system***

12. NPDC also submit that further clarification and up-front communication is required regarding which regions are intended to be part of the initial pilot group and subsequent tranches, and the process and considerations for establishing the order in which regions will be required to start introducing the new system. It is critical that Councils are informed as soon as possible as to when the new system will be commenced in their region so that this can be factored into planning and resourcing, particularly given the ongoing obligations under the RMA.

### ***Incorporation of information from RMA planning documents***

13. NPDC supports the inclusion of clause 2, Schedule 1 of the SP Bill regarding the incorporation of information from RMA planning documents into regional spatial strategies. NPDC is now at the conclusion of a full District Plan review process, with significant resource inputted over five years to ensure our district has a “future-proofed” plan. Accordingly, NPDC is supportive of any provisions which allow information from RMA planning documents to be incorporated into planning documents under the new system to avoid the duplication of work recently completed under the RM system.
14. NPDC considers that clause 2, Schedule 1 of the SP Bill should be a mandatory requirement rather than a discretionary requirement, to ensure that where information meets the requirements of clause 2, that the Regional Planning Committee (“RPC”) does incorporate this information into the RSS.
15. Accordingly, NPDC seeks that clause 2(1), Schedule 1 of the SPB be amended to “A regional spatial strategy must incorporate the following from an operative RMA planning document...”
16. NPDC also considers that the category of information that can be incorporated into RSS’ could be further expanded or clarified.

### ***Recommendations***

17. Amendments be made to the NBE to provide further clarity regarding the transition from the RMA system and the status of planning documents during this transition, including but not limited to:
  - a. The role and status of the RMA and existing RMA planning documents, following the enactment of the Bills and the NPF and relevant RSS.
  - b. Whether the NPF and any operative RSS must be considered in resource consent applications lodged under the RMA (prior to RPC decisions on NBE plans).
  - c. The timing of the enactment of Schedule 1, Subpart 1, clause 2 of the NBE and the impact of “subject to the NBEA”.

- d. The impact of aspects of the NBEA that have commenced in relation to existing and ongoing RMA consenting.
18. The Bills be amended and/or further central government guidance be prepared to provide further clarity regarding which regions will be included in the pilot tranche and the order in which other regions will commence the transition and/or the process for establishing this order. With Plans at different stages of plan-making there also needs to sufficient flexibility to ensure that a bespoke regional process can be adopted that best fits this region's needs. Amendment to clause 2(1), Schedule 1 of the SP Bill to "A regional spatial strategy must incorporate the following from an operative RMA planning document...

## **Regional Planning Committees**

### **Lack of accountability to Local Authorities**

19. NPDC supports LGNZ's concern regarding the RPC's lack of accountability to local authorities, who are required to fund and resource the RPC and to implement the plans developed by the RPC.

### **RPC membership**

20. NPDC notes that (as per clause 3(d) of Schedule 8 of the NBE) the composition arrangement for RPCs must ensure that "in the case of a region with multiple local authorities, the local authority membership of the committees has been agreed with consideration of the different populations of the individual local authorities and the desirability of applying some weighting in respect of that".
21. NPDC seeks more certainty relating to composition arrangements and appointment policies, including the weight to be given to the relative populations of the individual local authorities, and consistency with the purpose and principles of local government in the provisions. It also considers that recognition should be given to the key planning issues in the region to ensure that key legislative requirements can be met. For example NPDC is a tier 2 growth Council under the NPS-UD and has key obligations in regards to land supply. Some recognition that membership is proportionate to the nature of the planning issues in the region is required.

### **Host Authority**

22. NPDC supports the Bill's current approach that does not specify a default position on hosting the RCP. NPDC considers that the determination of the host authority should be based on a multitude of factors including resourcing, population and prior planning leadership experience and that this decision requires flexibility to account for region-specific considerations.
23. NPDC considers that the working arrangements of the secretariat and host authority appear to be uncertain, complex and potentially unworkable, particularly with regards to funding, resourcing and employment matters and endorses the concerns raised in the LGNZ submission. Accordingly, NPDC supports any further amendments to the Bills that provide more clarity regarding this system change and the appointment and operation of the host authority and

secretariat. However NPDC also considers that sufficient flexibility will need to be retained in these provisions to allow for region-specific matters to be addressed.

## **Funding**

24. NPDC generally endorses the issues raised and recommendations sought in respect of funding and resourcing in the LGNZ submission. In particular, NPDC considers that:
- a. the NBE lacks sufficient direction or clarity as to how funding contributions for the RPC are to be agreed. Currently, the NBE requires that all of the local authorities in the region “jointly fund” the RPCs and the secretariat. Where there are multiple local authorities, these authorities must work together in “good faith” to agree the amount of funding to be provided to the RPC, and the share of the funding to be provided by each authority. However, there is no further guidance beyond this. For example, the NBE provides for a process for determining a funding dispute, however does not specify factors to be considered in determining such a dispute which provides authorities with a lack of guidance and certainty;
  - b. the NBE should include matters for consideration when authorities are agreeing funding contributions and/or when a Minister’s appointee is make decisions on funding disputes; and
  - c. central government should fund the reform and transition process, in particular funding for meaningful iwi and hapū engagement.
25. NPDC considers that such clarifications would provide more certainty and direction for local authorities.

## *Recommendations*

26. Retain or strengthen 3(d) of Schedule 8 of the NBE, regarding the consideration of the populations of local authorities and key legislative responsibilities in determining membership of the RPC.
27. Amendment of the NBE to provide further clarity regarding the appointment and operation of the host authority and secretariat.
28. Amendment of the NBE to provide further clarity regarding the agreement of funding contributions for the RPC, including:
- a. The minimum matters for consideration when authorities are agreeing funding contributions;
  - b. the factors to be considered by a Minister’s appointee in determining a funding dispute;
  - c. The provision of more central government funding for the reform and transition process, particularly in regards to iwi and hapū participation.

## NBE System Outcomes

29. NPDC generally supports the inclusion and move towards to the provision of system outcomes (as set out in clause 5 of the NBE).
30. NPDC supports the inclusion of system outcomes that provide for increased recognition of matters compared to the RMA – in particular, climate change, natural hazards and infrastructure outcomes.
31. However, NPDC considers that the system outcomes contained in the NBE do not provide sufficient direction regarding urban development outcomes, noting that clause 5(c) of the NBE provides for a combined system outcome of “well functioning urban and rural areas”. As a consequence of the removal of the reference to amenity values and the need to favour “caution” proportionate to the level of environmental protection (the new decision making principle in clause 6(2)), unpacking what constitutes a “well functioning urban area” will be challenging/up for debate. NPDC considers that more direction is required within the system outcomes to support well-functioning urban development outcomes.
32. In particular, NPDC considers that a standalone urban development system outcome is required, rather than a combined outcome for urban and rural areas. NPDC considers that an urban development system outcome should provide for the following matters:
  - Ensures that development occurs in a cohesive, compact and structured way;
  - Well-functioning urban form that provides for connected, liveable communities;
  - Recognition that existing urban environments may change over time;
  - Recognition that development enables greater productivity and economic growth and social and cultural vitality;
  - Development meets the community’s short, medium and long-term housing needs;
  - The provision of a variety of housing types, sizes and tenures in quality living environments to meet the community’s diverse social and economic housing needs;
  - Well-designed, liveable, connected, accessible and safe spaces for the community to live, work and play;
  - Recognition of the local context and character of an area.
33. The above suggestions are consistent with the strategic objectives on urban form and development as developed through its recent District Plan review and as included in the Proposed New Plymouth District Plan.
34. NPDC understands from the NBE’s explanatory text that the NPF is intended to provide further direction on each system outcome. NPDC therefore acknowledges that the above suggested urban development direction could alternatively be included in the NPF. However, as set out below, as the NPF is not currently available for review, NPDC is unable to confirm whether the further direction in the NPF will address NPDC’s concerns regarding the lack of a comprehensive urban development system outcome.
35. NPDC also endorse LGNZ’s draft submission that there is a lack of direction or guidance in the NBE about how competing or conflicting outcomes will be managed. NPDC understands that the NPF will provide further guidance on weighting of competing outcomes and national

direction, however until the NPF does so, it is difficult to determine whether the Bill's system outcomes will be able to be effectively achieved.

36. NPDC agrees with LGNZ's submission point that key conflicts should, if possible, be resolved in the NBE to ensure certainty, or at the least not left to the RPC and NBE plans (where these are national-level conflicts and not regional conflicts). Accordingly, we also agree that some flexibility should be retained to address local issues. NPDC considers that if weighting guidance and direction is to be addressed in the NPF, then this strengthens the need for enhanced local authority involvement in the development of the NPF as discussed elsewhere within this submission.

### *Recommendations*

37. Amendment of the NBE to include a standalone and more comprehensive urban development outcome, with further direction addressing the following matters:
  - a. Development occurs in a cohesive, compact and structured way;
  - b. Well-functioning urban form that provides for connected, liveable communities;
  - c. Recognition that existing urban environments may change over time;
  - d. Recognition that development enables greater productivity and economic growth and social and cultural vitality;
  - e. Development meets the community's short, medium and long-term housing needs;
  - f. The provision of a variety of housing types, sizes and tenures in quality living environments to meet the community's diverse social and economic housing needs;
  - g. Well-designed, liveable, connected, accessible and safe spaces for the community to live, work and play;
  - h. Recognition of the local context and character of an area.
38. Further direction be included in the NBE regarding the resolution of conflicts between and the weighting of system outcomes.

### **Local community voice and input**

39. NPDC considers that the role and voice of Territorial Local Authorities (TLAs) in the proposed plan making process has been significantly reduced. TLAs are best placed to understand the unique challenges and opportunities within their districts, and accordingly should have a stronger role in plan making.
40. TLAs will also be responsible for funding and implementing the plans made under the new system, and accordingly should have an enhanced role in the plan making process.
41. Fundamentally, NPDC is concerned that there will be a loss of good community outcomes if planning decisions are centralized, and the role of TLAs and planners is reduced. It would also serve to exacerbate the status quo whereby well-resourced submitters influence policy direction that may not address localised key resource management issues or reflect community aspirations. Planning is a multi-disciplinary profession and successful planning and

implementation requires interaction between various arms and departments of local government, a function often provided by planners.

42. As such, NPDC considers that the proposed changes to plan making may result in system inefficiencies based on the reality of local government structures and the interaction and multi-disciplinary approach required to implement plans.
43. NPDC supports further involvement of TLAs in the process.

### **Statement of Community Outcomes (SCOs)**

44. NPDC generally supports the intent of SCOs (as captured by clause 107 and clause 14, Schedule 7 of the NBE and clause 24 of the SPB).
45. It is noted that Councils already develop Community Outcomes under the Local Government Act that support the strategic framework of Councils. Recognition and alignment of this requirement is requirement to ensure community outcomes developed under the LGA and RM reform are aligned and fit for purpose.
46. However, NPDC is concerned that insufficient weight is placed on SCOs to ensure that they are an effective and meaningful mechanism for TLAs to contribute to plan making.
47. NPDC considers that more clarity regarding the process, form and content of SCOs would be beneficial for local authorities and would create greater efficiencies in the planning processes under the Bills.
48. NPDC agrees with LGNZ/s submission that the scope of SCOs is currently too weak and supports any further amendment to clarify and strengthen the scope and purpose of SCOs. Currently SCOs are intended to provide a summary of “the views of a district or local community” – NPDC considers that this purpose is too high level. NPDC encourages the amendment of the scope of SCOs to enable district councils to prescribe particular local matters or rules within plans.
49. NPDC supports LGNZ’s recommendation that the Bills be amended to require RPC’s to “give effect” to SCOs, or alternatively at least a greater weighting than “have particular regard to”. SCOs are the primary mechanism for councils to influence RPC planning decisions, and accordingly they should carry sufficient weight to ensure that there is appropriate local input into plan making.

### **IHP recommendations**

50. NPDC shares the concern with LGNZ that there is only a limited substantial role for local government in the Independent Hearing Panel process (IHP) (as a submitter). Accordingly, NPDC supports any amendment that would enable enhanced local government input into the IHP process.



51. The LGNZ draft submission also recommends that the Independent Hearings Panel be required to ensure that their recommendations “give effect” to, or alternatively, are “not inconsistent with” SCOs. NPDC supports this recommendation. As set out above, NPDC does not consider that SCOs are provided with sufficient weight, as one of the primary mechanisms for territorial authority input into plan making.
52. NPDC would also support and encourage an amendment to the NBE to require the RPC to seek advice from affected councils on any decision to accept or reject an IHP recommendation, and the provision of reasoning where the RPC does not adopt any comments or advice received from councils.

### *Recommendations*

53. Amendment of the scope and purpose of SCOs to provide further direction and weight to these documents.
54. The amendment of the NBE to require RPC’s to “give effect” to SCOs, or alternatively a weighting greater than “have particular regard to” in preparing RSS’ and NBE plans.
55. The amendment of the NBE to require IHPs to ensure their decisions “give effect to”, or alternatively “are not inconsistent with” SCOs.
56. The amendment of the NBE requiring RPCs to seek advice from affected local authorities on any decision to accept or reject an IHP recommendation, and where the RPC does not adopt such advice, reasoning to be provided for this.
57. For clarity, NPDC supports any other recommendations made by other submitters that provide for greater local authority and territorial authority input into the plan making process for the NBE and RSS, and any other high order documents under the new system.

### **Spatial planning and RSS process**

58. NPDC is generally supportive of regional spatial planning and the intent of the RSS (subject to the points raised in this submission). The Spatial Planning requirements will be of substantial benefit to areas such as Taranaki that have not under taken region wide spatial planning.

### **RSS planning process**

59. NPDC is concerned that while Schedule 4 of the SP sets out the “key process steps” to be taken in preparing a RSS, clause 30 provides the RPC with the ability to adopt its own preparation process.

60. NPDC is concerned that there is insufficient TLA input into the development of the RSS. Accordingly, NPDC is supportive of any amendments that provide more mandatory TLA input/consideration of local authority's position in the "key process steps". NPDC considers that the need for more local authority input is strengthened by the fact that there are no appeal rights once an RSS is adopted.
61. This position is intensified by the fact that the RSS process does not have to include hearings (clause 35 states that the processed may include hearings). Clause 28 however requires that the RPC ensure that the RSS is based on robust and reliable evidence and other information that is proportionate to the level of detail required in the particular context. NPDC is concerned that the failure to require hearings, or at least the opportunity for interested parties to be heard, limits the ability to ensure that the RSS is based on robust and reliable evidence. Further, NPDC acknowledges that the RSS does not include appeal rights, including for interested parties. NPDC considers that this strengthens the need for more meaningful and integrated local authority involvement in the RSS process.
62. There is a need for alignment of the Spatial Planning Bill with the Local Government Act to ensure that there is a clear distinction between statutory requirements. The Spatial Planning Bill's amendment to Section 76AA of the Local Government Act is misplaced. The effect of it is that Council's can only consult on issues with the public on the options that are consistent with the Regional Spatial Strategy. However, it does not mean that Council's can only choose from options consistent with the Regional Spatial Strategy. This means Council's would be consulting on only a subset of options that they can determine from.
63. Consequently Sections 77 and 79 also need to have similar amendments to ensure that Council's only consider options consistent with the Regional Spatial Strategy.

### *Recommendations*

64. The "key process steps" in Schedule 4 of the SP be amended to include more local authority input.
65. The amendment of the NBE to require RPC's to "give effect" to SCOs, or alternatively a weighting greater than "have particular regard to" in preparing RSS'.
66. That there is better alignment between the Local Government Act and SP Bill.

### **National Planning Framework ("NPF")**

67. NPDC supports the LGNZ submission seeking a co-design process for the NPF with local government. Given the importance of the NPF, and that it will inform all further planning documents, NPDC consider that it is vital that there is enhanced local authorities in the development of the NPF, to ensure that good community outcomes are achieved.

68. NPDC understands that as drafted, the responsible Minister must engage with “individuals or organisations that the Minister considers representative of the local government sector” before notification of an NPF proposal. NPDC considers that the extent of the engagement and who will be engaged is unclear. NPDC submits that all local authorities in the relevant region must be engaged with in the pre-notification stage and that the Bill provide further clarity regarding what that engagement looks like and to ensure that the engagement is meaningful.

### *Recommendations*

69. Amendment of the NPF process to provide more opportunities for local authorities to contribute to the preparation of the NPF.
70. Amendment of the NBE to require engagement with local authorities in the pre-notification stage and further clarity and direction regarding that engagement.

### **Consenting**

71. NPDC does not submitted in detail on the proposed consenting regime. However, NPDC supports proposals for efficient and effective consenting processes. NPDC also wishes to record its concern with the requirement that TLAs have as a consent authority and in implementing, administering and enforcing plans which have limited input from TLAs (noting in particular the requirement of clause 645 of the NBE to implement and administer the committee’s plan and regional spatial strategy).
72. As set out throughout this submission, NPDC considers that good community outcomes are achieved when plans have sufficient TLA and community input. NPDC is concerned that the implementation of the consenting regime may provide difficulties where there is limited meaningful TLA input into plans which may result in a disconnection between the plan making and consenting/implementation functions of local government. Accordingly, NPDC reiterates its submissions and recommendations set out above which request more mandatory TLA input into plan making.