

Our future resource management system - materials for discussion

Submission on Transforming Aotearoa New Zealand's resource management system.

February 2022



Submission on Transforming Aotearoa New Zealand's resource management system: Our future resource management system - Materials for Discussion.

Taituarā thanks the Ministry for the Environment (the Ministry) for the opportunity to provide feedback on Transforming Aotearoa New Zealand's resource management system: Our future resource management system - Materials for Discussion (the discussion document).

What is Taituarā?

Taituarā — Local Government Professionals Aotearoa is an incorporated society of approximately 934 members drawn from local government Chief Executives, senior managers, and council staff with significant policy or operational responsibilities.

We are an apolitical organisation. Our contribution lies in our wealth of knowledge of the local government sector and of the technical, practical, and managerial implications of legislation.

Our vision is:

Professional local government management, leading staff and enabling communities to shape their future.

Our primary role is to help local authorities perform their roles and responsibilities as effectively and efficiently as possible. We have an interest in all aspects of the management of local authorities from the provision of advice to elected members, to the planning and delivery of service. We are therefore highly motivated to assist the Ministry to create a more efficient and less complex resource management system that delivers positive outcomes for the environment and communities. We are particularly interested in ensuring transition arrangements are workable, adequately resourced and there is sufficient capability and capacity within the local government sector and workforce to make the significant shift to the new system.

Many of the questions raised in the discussion document are questions that have been raised by local government and our members in earlier submissions on the reform process and the Natural and Built Environments Act (NBA) exposure draft. This feedback therefore builds on our previous submission on the NBA exposure draft. In giving this feedback we have also had the benefit of reading the draft LGNZ feedback and support their key recommendations.

Executive Summary

Taituarā wishes to acknowledge the Government's efforts to work closely with local government and our members on the reform of the resource management system. We appreciate the efforts officials are making to understand, convey and address the issues and concerns that local government, Taituarā and LGNZ have raised through previous engagements and submission processes as well through the Local Government Resource Management Steering Group.

Taituarā supports the move to outcomes-based planning and clearer national direction and guidance that resolves conflicts between outcomes and reconciles key competing interests at the national level. We see this as critical to the creation of a system that will achieve the Government's stated objectives for the reform.

We are however concerned that the pace of reform and the complex environment within which the work is progressing put those objectives at risk. We caution against relying on the select committee process and a myriad of supplementary order papers to address issues and unintended consequences that could and would best be resolved collaboratively prior to the introduction of legislation and enable a smooth transition to the future system.

That said, as per our previous submissions we continue to support the need for long term strategic spatial planning, commitment to implementation from local and central government, and others such as infrastructure providers, measures to increase partnership, participation and protection of Māori rights and interests and the use of Te Ao Māori and matauranga Māori in resource management. We remain committed to ensuring local councils and communities have a strong role in the new system and can influence and make decisions about the place where they live and continue to have concerns about the transition to and implementation of the new system.

We have therefore structured our feedback around 3 key issues and recommendations and then provided detailed responses to the questions posed by the Ministry for the Environment (MfE). Unfortunately, this leads to some repetition, however we trust this is useful for teams who may be working on specific aspects of the reform.

The key points of our submission are:

1) The need for clear direction in national legislation and the NPF

In our submission on the exposure draft we emphasised the need for the primary legislation to resolve the inevitable conflicts between the key outcomes and interests of national importance to avoid a rinse and repeat of the issues experienced under the current system.

We note that this was not the view of the Environment Committee, where it specifically recommended that there should be no hierarchy of outcomes in the NBA. We disagree. There needs to be a clear hierarchy to provide certainty, improve the efficiency and

consistency of the plan making and consenting processes, reduce litigation, and avoid the frequent changes and inconsistencies in national direction that have occurred under the current regime. We also support including in the primary legislation the criteria that must be used to manage these outcomes at the regional and local level.

If conflicts are to be resolved in the NPF (and not the primary legislation) it is imperative that the NPF provides clear direction on how conflicts between competing national outcomes are to be resolved, prioritised and managed in the development of regional plans and regional spatial strategies. We also recommend that the NPF is developed using a collaborative approach that includes local authorities and Iwi/Hapū/Māori in the decision-making process and that it is stress tested on real life examples and scenarios at the regional and local level to ensure it delivers on the Government's objectives and does not lead to unintended consequences.

We reiterate our previous concerns regarding the capacity in the system to develop a robust NPF that addresses all the key matters in time to influence the first suite RSSs and NBA plans and avoid inconsistency across regions and within them. Given the amount of change that will be required and capacity constraints, it's important that the first NPF creates certainty and stability within the new system as it beds in and out of cycle "do-overs" of RSSs and regional plans are avoided. We favour reviewing the NPF every 9-10 years (in advance of second-generation RSSs and regional plans) to create this certainty and stability.

2) Taituarā strongly supports the inclusion of local community voice and local accountability within the reformed system:

While we can see value in stronger national direction in the resource management system, we would like to reiterate the need for local input into and participation in decision making processes. What a community looks and feels like is highly localised, and something that should be determined by local people. The regionalisation of plan making functions has the potential to significantly curtail the ability of local communities to influence and make decisions about the place they live.

It will be important for the proposed reforms to strike the right balance between the nationally consistent delivery of resource management outcomes within environmental limits and the flexibility required to meet the needs and aspirations of varied and diverse communities across the country and within regions.

Taituarā appreciates that MfE officials are working with the Local Government Resource Management Reform Steering Group (the Steering Group) to consider how the proposed system could retain local democratic input and better accommodate local authorities who will be tasked with delivery under the reformed system. Taituarā, in principle, supports the recent recommendations of the Steering Group as outlined in the 'Enabling

local voice and accountability in the future resource management system' report (the 'Enabling Local Voice' report).

In essence, the 'Enabling Local Voice' report proposes that statements outlining community aspirations and environmental outcomes are included in a bottom-up approach to regional plan making and provides a role for communities and local authorities to meaningfully participate in the development of the regional strategy and plan for their locality. This is complimented by a top-down mechanism, a National Spatial Strategy and local authority representation on committees overseeing the development of RSS and NBA plans.

We think that the mechanisms proposed (following any refinement because of the current consultation and engagement processes) have the potential to enhance local accountability, and the acceptability and legitimacy of the proposed regionalised system, and may be of value to other reform and review programmes. As such they are worthy of serious consideration by Government.

3) Transition, collaboration and the need for significant capacity building and funding:

Taituarā reiterate our serious concerns regarding the scale, pace, current information gaps, lack of integration with other reforms and the consequential cost of these reforms and the serious risk this poses to already stretched local authorities and Māori, who are participating in a plethora of central and local government review and reform processes.

Seeking to completely overhaul the resource management system quickly whilst local government capacity is already low (and decreasing), stretched across other reforms and amidst significant ongoing plan change activity to meet current national requirements, will likely undermine the ultimate success of these reforms. Indeed, the Randerson report noted that implementation issues resulted in several deficits in the operation Resource Management Act and warned that such implementation issues would be detrimental to the successful delivery of resource management outcomes under the new system.

We encourage the Government to consider adjusting the pace of change to ensure it receives the quality input it needs from the sector and Māori. Joined up conversations between local government, central government and Iwi/Hapū/Māori will be critical to the development of a successful system.

We ask that implementation of these reforms is logically staged, interim measures, expectations and timeframes are clearly articulated, and transformational funding to support the transformation of system is provided. Local authorities are already stretched and will be unable to shoulder a large proportion of the financial burden these reforms represent.

To reduce the issues arising from transitioning to the new system Taituarā recommends a suite of measures be put in place:

- Firstly, we request that guidance is published on how local authorities should perform statutory duties while this reform is legislated and implemented. Advice to councils who are currently working on planning documents (e.g. second generation plans) on how this work will be affected by the reforms is particularly time critical.
- Secondly, we request the Government reconsider the timeline of the reform package and whether it will be possible to implement a quality resource management system in that period. We then ask that Government's likely timeline is communicated to local authorities as soon as practical to provide local authorities certainty around the level of activity and resourcing required over the next few years.
- Thirdly, we support the 'Enabling Local Voice' reports' suggestion to develop a planning and consenting workforce plan, to ensure regional plan making and consenting will be effectively resourced without leaving small and or/remote councils stripped of staff and enable voluntary collaborations to occur in anticipation of future change.
- Fourthly, we recommend that central government work closely with Taituarā, LGNZ and the New Zealand Planning Institute to fund and deliver appropriate capability building and support, including training and guidance to enable the shift in planning culture from effects to outcomes.
- As per our submission on the NBA exposure draft we continue to support a model region testing the system to manage the transition risk and to ensure we learn lessons and adapt and improve the framework, legislation and processes before commencing significant reform. In our original submission we recommended that this occur using an area specific piece of legislation to enable any problems to be addressed through revised legislation. We are aware that if the Government wishes to stick with its previously articulated timeframe for enacting the NBA and SPA this will not be possible. However, we still support a model region "pilot" occurring before any other regions commence the transition.
- And finally, significant funding and support from central government will be required to ensure the sector and Iwi/ Hapū/Māori can build capacity to transition to and effectively participate and partner in the transformed system. Transformational change will require transformational funding.

National Planning Framework

What role does the National Planning Framework (NPF) need to play to resolve conflicts that currently play out through consenting?

1. The NPF should support the direction set in the NBA.
2. Without clarity of direction in the primary legislation it will be left to the courts, local government, Iwi/Hapū/Māori, businesses and community groups to interpret how priorities are balanced. This would risk perpetuating the issues that have plagued the current system. We note that this was not the view of the Environment Committee, where it specifically recommended that there should be no hierarchy of outcomes in the NBA. We disagree.
3. Competing interests and outcomes concerning the use and development of natural and physical resources inevitably and frequently result in conflict. The current situation is that the hard environmental decisions about which national level outcomes should be prioritised have typically been left to local government with little, if any, national direction or guidance and resourcing. This has contributed to the delays and litigation inherent in the current system as parties seek to maintain “their rights” and others seek to uphold the intent of the new strategic directions, policies and standards.
4. It therefore remains our position that the NBA should provide a hierarchy of outcomes, resolve key conflicts between them and set out criteria for managing outcomes. To do otherwise introduces uncertainty and the potential for a changing framework with the appointment of each new Minister. We support a collaborative approach to this process, with effective input from Iwi/Hapū/Māori and local government (on behalf of communities).
5. Turning to the NPF itself, as we noted in our submission on the exposure draft, a robust NPF is essential because without it, Part 2 of the NBEA will be directionless. Taituarā supports the need for a single integrated piece of national direction and an integrated set of mandatory policies and standards. The proposed NPF’s role should be to provide a consistent and clear pathway to conflict resolution. In addition to this, the NPF should give strong direction to the development of regional plans and regional spatial strategies, detailing how conflicts between competing national level outcomes should be managed.
6. Decision makers need clear principles, direction and guidance to manage conflicts at the regional and local scale. At the risk of repeating ourselves, it will be necessary for the NPF to not only give direction and guidance about the outcomes desired but also achieve integration between them and establish which outcome should take priority

where co-benefiting solutions cannot be found. Where this is not possible the NPF must provide direction on how to resolve conflict within the plan and consenting process. It will be important, however, to avoid repetition across every layer. When developing the NBA and the NPF, central government needs to develop a good understanding of the scope and scale of conflicts that occur currently and those that are predicted to exist in the future (for example, as we attempt to reduce emissions and respond to climate change).

7. Enabling effective input from Iwi/Hapū/Māori and local government (on behalf of communities) will be critical to ensure the key conflicts are identified and understood early in the process and to gain agreement on how these should be prioritised and managed and if, when and how economic, social, and cultural matters are considered. Inconsistency between outcomes and environmental limits should be avoided.
8. We anticipate that there will need to be very clear direction on the prioritisation of housing, quality urban environments, climate change, biodiversity, water management, and the appropriate allocation and location of infrastructure (including future investment) in a successful NBA and NPF.
9. Examples of conflicts that play out now that we are aware of include:
 - housing with inadequate infrastructure capacity (or planned further investment), urban development efficiency and quality urban environments
 - controls on activities to reduce significant risks from natural hazards and improve resilience
 - climate change, water allocation, food production, water storage, and the protection of wetlands and biodiversity
 - the allocation of roles to territorial and regional councils
 - climate adaption and private property rights.
10. There needs to be more focus on the built environment than what was indicated in the NBA exposure draft and in the discussion document. As we said in our submission on the exposure draft, the limited focus on the built environment runs the risk of the new system not delivering the outcomes Aotearoa needs. While our preference is that this is resolved in the NBA itself, if it isn't then it must be resolved in the NPF.
11. A key function of the NPF must also be to provide high level direction and guidance to local government (and other agencies) on what giving effect (to the principles) of Te Tiriti entails; particularly if this is not adequately spelt out in the legislation. Everyone in the system needs to have clarity around what is expected from whom and when to ensure effect is given to Te Tiriti.
12. There also exists an opportunity at this juncture to look across all legislation that applies to local government and consider whether this too should be amended to ensure consistency in the application of Te Tiriti across local government's roles and

functions. In making this point, we note that the amendment of legislation and regulation won't be sufficient on their own but acknowledge the need to get the framework set consistently.

13. It will be important to run real world examples against the draft NPF to ensure it lives up to the aspirations set for it. It would be undesirable to have these conflicts relitigated unnecessarily through the regional plans and consenting processes. We therefore support a model region testing the system and see merit in this being mandated through the legislation.
14. We also see merit in the development a national spatial strategy that would sit alongside the NPF to provide national guidance to inform the development of RSSs and NBA plans and in turn be informed by them. As described in the Steering Group's 'Enabling Local Voice proposal' the function of a national spatial strategy would be to provide a coherent, spatial view of long-term national priorities and outcomes, particularly in relation to Crown investment. Such a strategy would enable balanced and sustainable regional development and inter-regional co-ordination and co-operation. It would inform the decisions of the joint committee, and in particular the work of the secretariats, and assist them to reconcile local input with national level direction.
15. We await the results of the current consultation with the sector, but for now wish to emphasise that we see merit in the development of a whole of government national spatial strategy and while it might not be possible prior to the development of the first regional NBA plans and spatial strategies, it would be advantageous if the legislation committed the Government to their preparation rather than remain silent as it does now.
16. As we noted in our submission on the NBEA exposure draft, the timing of and capacity to develop the NPF is an area of significant concern for Taituarā.
17. It will be important to ensure that the quality and appropriateness of the NPF is not compromised by a desire to expedite the wholesale reform of Aotearoa New Zealand's resource management system without critical building blocks in place.
18. We therefore reiterate our original position that the NPF should be in place before work on the NBA plans and Regional Spatial Strategies begin to ensure these first generation plans and strategies are consistent with the NPF, are effective and avoid the need for costly and time-consuming subsequent changes to reflect the NPF. We are aware however that this is unlikely to be the case given the pace at which the process is moving.

How would we promote efficiency in the Board of Inquiry process while still ensuring its transparency and robustness?

19. Board of Inquiries (BOI), while robust, are cumbersome and bureaucratic processes that could lead to inefficiencies in developing the NPF.
20. As noted above, local government and Iwi/Hapū/Māori involvement in the development of the NPF will be critical to the success of the NPF. Early participation in the process will increase the efficiency of the process by reducing the points of disagreement heard by the BOI. In suggesting early input we recommend that this occurs at the very outset i.e., in preparing the draft NPF and that this occurs in a co-design environment. This will allow for a more comprehensive understanding of issues and potential points of conflict that need to be addressed from the outset.
21. As we indicated in our submission on the exposure draft one way to mitigate the risks associated with preparing the NPF and the timing of it coming into force would be to integrate and upgrade the critical elements in the current national direction to achieve a holistic framework. This would help direct activity under the RMA in the interim and the first NBA plans. This framework could then provide a key building block for the rest of the draft NPF. Attention should then be focused on the key gaps that remain and what more needs to be incorporated into the draft NPF for public consultation to inform the NBA plans.
22. As MfE will be aware, the lack of specific detail from the Minister for the Environment or MfE regarding the intended policies and positions that will be included in the NPF has created significant short-term uncertainty for our members, particularly those who are currently in the process of developing second generation plans. It is highly desirable that the government signals as soon as possible what decisions it has taken or will take on the content of the first NPF and whether, for example, will the NPS-IB and NPS-HPL continue under their own steam ahead of the NPF or be put on hold awaiting the NPF. This will enable councils to plan and prioritise their resources, rather than making assumptions (that may be incorrect) about the work that needs to be done now (or not) and the money that needs to be budgeted to do necessary work before the new regime comes into force.
23. A clear indication from MfE regarding the timeframes in which the NPF will be developed and implemented would also give local authorities time to plan the release of staff, recruit and retain experts, prepare information and evidence, and consult with communities.
24. In addition to giving sufficient time to develop the resource capability of the sector to properly participate in the process, central government needs to consider avenues of funding the additional resources required (which we address again at the end of this submission).

25. An option to streamline the process would be to establish a working group with representatives of local authorities and Iwi/Hapū/Māori, who could sit alongside Ministry researchers and practitioners. The purpose of this working group could be to provide the advice and work in partnership with the Minister(s) and officials responsible for the drafting of the NPF. This group could test ideas and real-life scenarios during the development of the NPF openly and transparently with sector groups, communities and Māori. This same group could potentially assist the BOI once the proposed NPF is released.
26. This would ensure that the NPF is practical and implementable. If sufficient time is given to develop capacity and engage, local authorities and Iwi/Hapū/Māori could be very agile and ensure efficient participation in the process.
27. An additional advantage of harnessing the strength of the local government and Māori would be that 'on-the-ground' practitioners would have a better understanding of the potential areas of contention and of the issues that may arise as the future as plans and strategies are developed, and consents are processed. The ability to utilise this knowledge and expertise would add to the efficiency and robustness of the process.
28. However, care needs to be taken in selecting this group of people and the operation of the group. Wide sharing of information, reasonable periods for feedback and good, open communication will be required throughout the process.
29. We also stress that great care should be taken in drafting the NPF to reduce legal arguments around its interpretation, which will only lead to delays, unnecessary costs and frustration in the future.
30. It is as yet unclear, how the NPF and the NBEA and SPA will integrate with the emissions budgets and National Climate Change Risk Assessments prepared under the Climate Change Response Act 2002. Further work will be required to ensure that the environmental limits align with the guidance set out in these documents.
31. Minor changes and updates to the NPF could be made by the Minister for the Environment rather than a full Board of Inquiry process to make the process more efficient.

How often should the NPF be reviewed, bearing in mind the relationships between the NPF, regional spatial strategies and Natural and Built Environments Act plans?

32. We support the proposal to do a full review the NPF every 9 (or 10) years as this would provide certainty and stability to the resource management system and we

note that these reviews need to occur in advance of the next cycle of RSSs and Regional NBEA plans.

33. Partial reviews, however, will be necessary within the 9-year timeframe to adequately respond to issues arising and new innovations. Care needs to be taken that there is not an endless cycle of change that destabilises or undermines imbedding strategic directions.

Regional spatial strategies

To what degree should regional spatial strategies (RSSs) and implementation agreements drive resource management change and commit partners to deliver investment?

34. Regional Spatial Strategies and implementation agreements are pivotal to the successful delivery of investment in the new system. They are more than just a map. While they can't control everything, they provide a clear signal to markets and increase certainty. They will provide the platform for co-ordinated, efficient and consistent investment in public infrastructure and future development and provide opportunities for central and local government partnerships with Māori, business, and others for collective benefit.
35. If there is a lack of buy-in for the strategy, communities and their elected representatives may be more reticent in allocating the appropriate funding and resource to deliver on objectives of that strategy. The same is true for other partners, including central government. Therefore, we recommend that both RSSs and supporting implementation plans should be formally adopted / agreed to by all authorities involved in their development.
36. Without clear capital investment up front the desired objectives of the strategy are unlikely to be achieved. Enforceable financial and legal commitments need to be included in the implementation agreements to ensure they are effective. Public investment in these agreements will need to go through statutory processes for funds to be allocated. Taituarā proposes that in addition to the RSSs being adopted by local authorities (and funds being allocated through Long Term Plans), that a Government representative with the delegated authority be included in the development of the RSS to ensure central government funding can be allocated through the budgetary process.
37. Finally, it is important that a flexible or staged approach is taken to the implementation agreements. Significant infrastructure projects and developments tend to either result in overspend or underspend. This is largely due to two main

factors: changing economic and social factors and the difficulty in accurately costing a project which is set to be delivered over the next decade. Implementation agreements should therefore include expenditure to develop detailed business cases and an assurance that, if practical, the estimated cost identified in the detailed business case will be funded.

38. Taituarā recommend that the cycle of planning and investment and key decision points are mapped out across the central and local government system to inform future decisions on the timing of reviews for the NPF, NBEA and RSSs and integration council and central government budget cycles. The map should also consider where there are significant capability and capacity constraints are that need to be factored into to any review process.

How can appropriate local issues be included in RSSs?

39. Taituarā supports the use of spatial planning as an excellent tool to articulate a long-term vision and objectives and identify and address key challenges, achieve better integration between national, regional and local priorities, and across neighbouring geographies. They can send clear signals and provide a degree certainty about where the opportunities are and where they are not.
40. We understand that the Government has made decision in principle to move to a regional planning model. While this level of spatial planning could improve system efficiency and effectiveness by reducing complexity, there is clear need to also provide for local issues and retain local democratic input.
41. There is local variability, and a diversity of interests, issues and aspirations held by different communities of interest within the current regional boundaries. Of particular concern is the differences in the challenges faced by Tier 1 growth areas and rural areas within the same region. There are also sizeable portions of districts that are managed to protect biodiversity in the national interest, which affect development opportunities. As such, it will be crucial to the success of the RSS (and regional plans) that local issues and aspirations are addressed through appropriate mechanisms to ensure equitable outcomes are achieved.
42. Taituarā supports the use of existing community led, council enabled placemaking documents and existing local spatial plans and strategies to identify and incorporate local issues in RSSs. For example, Waikato Regional Council, Hamilton City Council and Waipā District Council have developed The Future Proof Strategy. A significant amount of time and resource went into developing this plan. Not only would it be a sunk cost if this work was disregarded in the development of the Waikato RSS but there is also an opportunity to gain insights into the practical challenges and solutions discovered in the development of the plan.

Alongside the technical expertise required to develop a plan grounded in evidence there was a significant undertaking to negotiate competing interests across the authorities and

Iwi involved in the development of the Future Proof Strategy. The relationship management insights gained during this process would be particularly relevant for the implementation of the current reforms. We would encourage the Government to work with those that have developed a spatial plan in collaboration with others to better understand the potential issues and solutions that could arise in the development of RSSs.

43. Taituarā believes the key aspect of the process by which local issues can be identified and included in RSSs is engagement and participation. It will be important that local government representatives and Iwi/Hapū/Māori are represented on RSS Joint Committees. The importance of their presence on these committees is discussed below (in the section on joint committees). Furthermore, to reflect the diversity of views and identify a variety of issues it will be important that local communities have ample opportunity to participate in the submissions and hearings phases of RSS development.
44. We support the recent 'Enabling Local Voice' proposals from the Steering Group as a potential mechanism to ensure local democratic input, accountability and legitimacy during the regional spatial strategy and plan-making processes. We appreciate that the proposal is currently being tested with the local government sector and that there are further conversations that need to be had and feedback received from the sector and from Māori (Iwi, Hapū, Māori land owners, authorities and representative bodies, and PSGEs).
45. We expect that this engagement and feedback process will lead to further refinement of the proposal and consequential work. That said, we think that, within the constraints of the proposed system, that the local voice work is heading in the right direction and could be great fit for the future, the bones of which are with us now.
46. There are already significant reforms happening in health, education, three waters, civil defence and emergency management, social services, and the future for local government review that will impact on the resource management system, communities, local government, infrastructure provision, housing, and community resilience. We see real potential for joined up community led statements of aspiration, objectives and plans that can feed into multiple structures and decision-making processes. As such the local voice work provides hooks and does not foreclose options that may emerge under the Future for Local Government Review and may prove to be a suitable vehicle to address some of the concerns that have arisen in the 3 Waters reform. With refinement, this approach could accelerate better integration across the wider system for the improvement of community wellbeing, equity, the environment and the honouring of Te Tiriti.
47. We would like to emphasise that both the regional NBA plans and RSSs should be developed using both bottom-up and top-down mechanisms.

With regional and unitary council boundaries proposed for RSSs, how should cross-boundary issues be addressed?

48. Cross boundary issues can be resolved through dialogue. Lessons can be learnt from the spatial strategies that have been developed already. The recent Wellington Growth Framework, which included Horowhenua governance representation and staff and technical advice (Executive Review Group and Project Steering Group) and included the Horowhenua district in the development of the strategy. This inclusion acknowledged the interconnectedness of the Kapiti and the Horowhenua communities, economies, infrastructure, environment, and Iwi/Hapū rohe and whakapapa connections.
49. If the local voice proposal or a variation of it is accepted as part of the process to develop NBA plans and RSSs, then this provides an early opportunity to share the aspirations and desired outcomes, including IHEMPs from neighbouring or “cross boundary” Iwi/Hapū and communities in the adjacent region. It also provides for national direction in the form of a National Spatial Strategy and a clear articulation of national direction, policy and investment.
50. Taituarā recommend that Committee sub-groups can be created to engage early with and work through matters with neighbours on cross boundary issues. The respective secretariats would also be expected to engage with each other, including the government officials providing input into both the work of the secretariats and at the committee level.
51. The system should provide for joint hearings on joint issues if required.
52. That all being said, it does highlight the point that while predicating the reform on the current regional and unitary council boundaries appears at first glance to be administratively easy and efficient, it does create issues that may be more complex to work through than is strictly necessary. Further exposition on this issue is located in the answer to the following question.

NBA plans

Do you agree with the Randerson Panel’s recommendation to have one combined Natural and Built Environments Act (NBA) plan per region?

53. In summary, given the in-principle decisions that have already occurred, Taituarā would support the introduction of one combined NBA plan for a region if the legislation includes the ability for regions to create sub-regional plans or overlays and local voice and local democratic input is retained (questions the consultation poses separately). A clear process to ensure these are incorporated into the regional NBA plan is required. In addition, the process for preparing these plans will significantly

reshape the role, functions and form of local government in the future. This needs to be carefully worked through, particularly considering the other reviews and reforms already occurring. There also needs to be significant support for the reform, the transition and the culture change that needs to occur to achieve an outcomes based planning system that gives effect to Te Tiriti.

54. While the introduction of 14-16 NBA plans would likely provide more consistency and certainty in the planning decisions made throughout the regions, we remain concerned that this will significantly curtail opportunities for local input into plan making and introduce unnecessary complexity.
55. As we said in our submission on the exposure draft, what a community looks and feels like is highly localised, something to be determined by local people and local issues need to be resolved locally. We reiterate our concerns about the likelihood of communities engaging with regional scale processes and bodies. The retention of local voice in the process will be paramount to ensuring positive outcomes for the natural and built environment occurs and for the efficacy of the purportedly more efficient regional planning functions.
56. The introduction of regional NBA plans needs to consider the community severance that may occur through imposing arbitrary boundaries which do not align with established communities of interest. Regional boundary lines were established to conform with water catchments rather than regional identity. While these boundaries may be useful in the management of water resources, they may be unhelpful when considering growth approaches, place-making and Iwi/Hapū/Māori involvement.
57. Furthermore, adopting regional council boundaries may not be as simple an option as it seems. For example, arrangements for Taupō District Council will need to be worked through, given that the district is split between four different regions (Waikato, Bay of Plenty, Hawke's Bay and Manawatū-Whanganui). Although most of the district's land area sits within the Waikato Region, the people of the Taupō District associate with various communities of interest and regional groupings (particularly depending on context). Further work will need to be done with Taupō District Council to come up with a solution that doesn't end up being more complex than the current plan making process.
58. There are also significant implications for the current local government workforce and for many councils. The arrangements to support the Joint Committees and plan making processes (such as staffing / supporting the secretariats) are not yet clear and will impact on the ability of councils to perform their current roles, manage transition and prepare for the new functions that are envisaged.
59. It's not yet entirely clear to us how work on the reform of the resource management system is integrating with work on the reform of three waters services. Work should be done to consider how any regional boundaries used for NBA plan making and the multi-regional boundaries adopted for the proposed new Three Waters Services Entities will integrate.

60. In addition, the proposed system needs to be adaptable to any proposed changes under the Future for Local Government review.
61. The local voice proposal offers a pathway forward within the constraints of the future system as it is currently proposed.
62. We encourage the Government to continue to work with local government to address the complex issues and options that exist, and to ensure planning is able to occur at the appropriate scale.

Would there be merit in enabling sub-regional NBA plans that would be incorporated into an NBA plan?

63. While a lot depends on the eventual content and scope of NBA plans, Taituarā sees merit in enabling sub-regional NBA plans.
64. As this submission notes, creating new regional plan making functions and regionalised rules has the potential to undermine the ability of local communities to influence and make decisions about the place they live, how local issues are resolved, and their aspirations and needs are met. Enabling sub-regional NBA plans would provide a mechanism for addressing local issues, aspirations and objectives. For example, allowing sub-regional NBA plans would accommodate the need for Tier 1 authorities to resolve significant urban growth challenges, without these challenges being diluted by a focus on wider, regional issues or imposing potentially inappropriate rules on predominantly rural communities.
65. The same is true for addressing the issues and objectives for predominantly rural areas, who don't face the same scale of urban growth pressure, and for communities that have a sizeable proportion of their district "locked up in environmental protection" where more flexible development options may be appropriate for the non-protected areas.
66. Although the incorporation of sub-regional plans into regional NBAs would likely increase the complexity, variability, and resources required to get a plan approved there may be ways in which to mitigate these undesirable outcomes.
67. Firstly, clearly defining the scope and structure of sub-regional plans (or statements of outcomes if the local voice work is picked up) in legislation would reduce unnecessary variability of these plans. Secondly, clear processes and guidance would be needed to allow for easy integration of sub-regional NBA plans into regional NBA plans. This should include ways in which to resolve conflicts between sub-regional NBA plans, guidance for the strict implementation of national planning standards, and clearly outlined roles and responsibilities.
68. Finally, consistency between NBA plans and sub-regional NBA plans could be dependent on the level of collaboration achieved through the development process.

Clear direction and guidance to facilitate collaboration and partnership throughout the NBA plan making process will be key to whether the desired outcomes of this reform are achieved. This collaboration should not be limited to within regions, and as previously mentioned we would also encourage the Government to consider enabling planning to happen at an inter-regional level.

69. In preparing the necessary direction and guidance we reiterate that this should be developed with local government and Iwi/Hapū/Māori.

What should the role of local authorities and their communities be to support local place-making and understanding of local issues in NBA plans?

70. Local authorities and their communities should play a critical role in the development of NBA plans. Local communities are best placed to not only understand the issues they are facing but also to hold knowledge of what solutions are practical to implement in their communities. The relationship between communities, their cultural landscape, the natural environment and built environment is key to developing vibrant liveable towns and cities.
71. Taituarā supports local authorities working in partnership with Iwi/Hapū/Māori to develop NBA plans, both at the Joint Committee level (decision making) and in the preparation of the building blocks to form the plan. In addition to this, local authorities and Iwi/Hapū/Māori should be involved in determining how NBA plans will be implemented on the ground and have the right to make submissions on the draft plan.
72. We recommend that draft NBA plans and RSSs are provided to local authorities covered by them for a time-bound period of consideration and feedback, prior to notification. This would enable local authorities to sense-check whether the plans appropriately reflect local aspirations, priorities and concerns particularly if they are not represented on the Joint Committee. While we come to this later, we consider it imperative that every local authority has a representative on the joint committee and that the member is an elected member, accountable to their communities.
73. Councils know from experience that people tend to get concerned when something happens next door, or in their neighbourhood, but typically have little understanding that the rules dictating these things need to be influenced at the district or regional planning level. The amount of participation and engagement that occurs early in the process and how accessible the (draft and final) policy or planning documents are, will influence people's willingness to participate and their support or otherwise for the final product, the outcomes it achieves, and whether the system produces a more certain and less litigious environment.
74. There will therefore be a need for extensive community engagement, participation, education and consultation throughout the process. A key issue to resolve is what

roles and functions constituent local authorities play. There is a role for local authorities in effectively engaging with communities and communicating local issues and aspirations of those communities in the development phases. There also is a role for local authorities when the draft plan is developed to engage with communities on what the plan aims to achieve, how it intends to achieve it, what this means in practical terms for communities and how they (communities) can have their views heard, including through local authority submissions on the draft plan.

75. The above statements are however complicated by the lack of certainty within the proposals about who sits on the joint committees, who will have what responsibilities in the new system, including supporting the development of the plans and how the process is funded.
76. Taituarā envisages that the local authority role ascribed above would need to be a shared role with Iwi/Hapū/Māori under a resource management system that gives effect to Te Tiriti, although this too is unclear.

Will the proposed plan-making process be more efficient and effectively deliver planning outcomes?

77. The proposal to shift from over 100 planning documents to 14 - 16 regional NBA plans and regional committees is not an insignificant undertaking.
78. The complexity of developing new NBA plans that will take account of multiple (and potentially competing) regional and local interests should not be under-estimated. There is significant local variation within regions themselves – think only of the differences between areas like Christchurch and Timaru; Queenstown, Clutha and Dunedin; Tauranga and Ōpōtiki; Wellington and South Wairarapa, and their communities. These differences are wide-ranging, covering a breadth of factors including (but not limited to) socio-economic conditions; urban vs rural communities; different land uses; variation in population sizes; high growth vs stagnant communities; and varying levels of political power and influence.
79. The need for NBA plans to adequately provide for local solutions to local issues (as well as addressing regional and national matters) may mean that the process is less efficient than the Government anticipates, and plans may be less effective in achieving outcomes, be larger, and more difficult to navigate.
80. Whether the process is more efficient and effective depends to a large extent on the system providing clear national direction and guidance for regional and local decision-making, early local input, decision-making structures and processes that are perceived to be legitimate, clear and reasonable timeframes for each stage, and feedback loops that encourage the early resolution of issues and avoid unnecessary litigation. We reiterate the need for central government, local government and Iwi/Hapū/Māori to co-design as much of the system and plan making process together to get the balance right.

81. The first iteration will be messy and that is why we have recommended a staged implementation with a model region piloting the approach. This will enable lessons to be learnt and changes to be made.

RSS and NBA joint committees

How could a joint committee model balance effective representation with efficiency of processes and decision-making?

82. It remains to be seen whether the planning committee approach will result in more agile and efficient plan making. We envisage that plan and strategy making by the joint committee(s) will be complex and time consuming. This will be particularly so if relationships between members of planning committees are not strong and/or if there are concerns that the model chosen does not reflect "effective representation" and give effect to Te Tiriti.
83. While a consistent approach to plan and strategy making will help to achieve certainty and consistency, the approach to representation needs to be flexible enough to take account of local variation and circumstances. However, the legislation should articulate the Government's minimum expectations as to what constitutes effective representation in a Te Tiriti context.
84. Taituarā is firmly of the view that the role of the committees is empower communities and Māori to influence regional priorities, ensure they are part of decision making and their priorities are reflected within the constraints of national direction. Committees are guardians or stewards of the plan making process, as well as ensuring competing priorities are reconciled within key national constraints.
85. The Government seems to view a significant reduction in local democratic input into resource management planning and decision making as a necessary cost to achieving better system efficiency. We disagree.
86. Taituarā has consistently maintained that local government representatives on planning committees must be elected members. Elected members are accountable to the communities that elect them, and so should be responsible for making decisions about use and development of the environment that are likely to involve weighing competing interests and making values-based judgements. The role of an elected member is to listen to communities and make policy decisions based on professional advice and community aspirations and needs.
87. We are not convinced that it is appropriate for local government officers, who are unaccountable to their communities, to be responsible for making such decisions. Putting officers on planning committees would fundamentally undermine their role to provide technical and professional advice. Having staff responsible for making decisions that will significantly impinge on private property rights or on collective

rights is unlikely to satisfy a local authority's duty to be a good employer, particularly given the potential for significant criticism from elected members and communities if a planning committee makes a decision that is unpopular.

88. Council staff are well-accustomed to providing elected members with evidence-based policy and technical advice upon which to base decisions. Equally, elected members are accustomed to making decisions based on advice council staff (and members of the public) provide them with. The new system should continue this approach. This will require working through what mechanisms there are for supporting the local government representatives that are appointed to planning committees – both via the planning committee secretariat and via constituent local authorities.
89. We recommend that the secretariat comprises staff representing all affected local authorities, relevant central government agencies and the range of Māori rights and interests (to the extent that they wish to and are resourced to do so).
90. In terms of the joint committee's size and proportion, Taituarā recognises that providing for representation with a large number of members will likely reduce the efficiency of processes and decision making. This will be exacerbated by the varied and potentially competing interests and views that planning committee members may represent and which they must reconcile. We know that smaller territorial authorities are concerned that their views may be outweighed in the new process and planning committee structure by those of larger, metropolitan territorial authorities. Larger (Tier 1) local authorities, on the other hand, are concerned that they may be outnumbered on planning committees by smaller, rurally focused territorial authorities and regional councils, and worry that this may lead to a greater focus on wider regional issues and less focus on critical urban growth management. We recommend that every local authority can appoint one elected member to a regional committee, although they may choose not to, and a different number of local authority appointees may need to be considered for unitary authority regions.
91. We also note an expectation that committees will reflect a bicultural framework and enable arrangements that provide for Māori rights and responsibility holders to partner and participate in the system (including on committees at a ratio of 50:50). We encourage further conversations between central government, local government and Māori about this to ensure there is certainty around the process and procedures to achieve effective representation and expectations are clear.
92. As noted in our submission on the exposure draft, we have some doubts as to whether a regional approach will adequately address varied local concerns and needs at an appropriate level of granular detail. To manage the inefficiencies of attempting to manage and reconcile the varied interests, Taituarā recommends that a committee is made up of elected representatives and representatives of Iwi/Hapū/Māori supported by several sub-regional committees / or structures that are used as a mechanism through which aspirations can be captured and represented and local issues resolved.

93. More than the makeup of the committee, ensuring effective representation will be dependent on the extent of public and Iwi/Hapū/Māori participation across the process. Having opportunities for genuine and meaningful engagement with communities will be particularly important if certain districts and Iwi/Hapū/Māori groups are not represented on planning committees, given the need for NBA plans to reflect and meet the needs of the communities they're intended for. We accept that this should be balanced against the need for plan making processes that are efficient and not overly complex. To facilitate engagement in the plan making process Taituarā supports the use of sub-regional committees which reflect partnership under Te Tiriti and are required to consult and engage with the public and Iwi/Hapū/Māori.
94. This will require significant resource to undertake. The Government should invest in this engagement by providing funding to sub-regional committees and Iwi/Hapū/Māori to complete this important work.

How could a joint committee provide for local democratic input?

95. As discussed in the previous question, Taituarā recommends local elected representatives are given membership on the joint committee as they have the connections and mandate to represent the views of their community. In addition to this we recommend an arrangement that allows for councils to continue to provide some policy and technical input into plan making. Whilst we recognise the need for appropriate opportunities for public participation and representation there needs to be mechanisms to ensure that public views are not unreasonably outweighed by the views of technical experts. Developing an arrangement by which council officials can give advice will help to ensure that the deep technical planning expertise and community knowledge that local government has developed under the current system, and which is critical to effective resource management planning, is not lost. This specialised expertise sits across both regional and city and district councils.
96. While we expect there will be a role for a local authority to play in supporting their planning committee representative throughout the plan making process, the detail still needs to be worked through. The question of whether a planning committee can direct a constituent local authority to undertake work on its behalf to support the plan making process also needs to be resolved. If the committee can do this, some parameters around the types of work planning committees can request be undertaken, and guidance around reasonableness of timeframes for expecting work to be completed or meeting reasonable costs for undertaking work, would be helpful. Without such guidance we can foresee potential for unwieldy ways of working and unexpected and unmanageable pressures being added to constituent local authorities' existing workloads.

97. What roles constituent local authorities continue to play (or not) with respect to plan making need to be worked out in detail in partnership with local government. These decisions will have significant implications for existing employment arrangements (including the potential for significant changes to existing roles, and possible redeployments, secondments or redundancies) and councils' operational budgets. The work to clarify roles and responsibilities in respect of public consultation as between planning committees and constituent local authorities should also address the scope of any engagement that happens with the public ahead of NBA plans being notified.
98. Just as important as input into plan making by individual local authorities is input by the communities that they represent. As we have reiterated throughout this submission provision for engagement with the public and partnership with Iwi/Hapū/Māori will be critical to achieving the desired outcomes of this reform. Therefore, a pre-condition of the successful development of RSSs and NBA plans will be extensive engagement, partnership and consultation throughout development.
99. While the mechanisms for public input into regional plan making are still to be determined, we have reservations around the likelihood of communities engaging with regional-scale processes and bodies. These are likely to be perceived as operating at arms-length from local circumstances and issues, and unrepresentative of the communities they are making decisions on behalf of. Local authorities and their democratically elected governors are well connected to their communities, and particularly the many and varied community-based groups that contribute to the development of a place.
100. Taituarā suggests that engagement and the incorporation of local input is led by local authorities. We are concerned that limiting local authority involvement in plan making may, consequently, limit the input of community-based groups, who may feel less connected to regional level processes and concerned at their ability to influence highly localised, place-based decisions through a more regional system. However, as aforementioned, local authorities will require adequate funding and support from central government to undertake this engagement programme.

How could a joint committee ensure adequate representation of all local authority views and interests if not all local authorities are directly represented?

101. Taituarā supports all local authorities be given the opportunity to be represented on the joint committee(s). Should a local authority choose not to participate directly they could nominate another elected member to represent them and report back to them. This is not uncommon where high workloads need to be shared.

102. It would be important to ensure that any potential barriers to involvement – such as lack of resourcing and capacity – were addressed so that any local authority that wants to participate in the joint committee process could do so.
103. However, if a council decides not to be represented or if the Government does not allow local authorities to be represented then there must be alternative avenues for local communities to have their views represented and considered in the decision-making process. For example, ensuring that joint committees have the responsibility to consider that local community's aspirations, outcomes, sub-regional plans, and information etc in the plan development and through direct participation in the submissions and hearings phases of plan development.
104. We also support local authorities receiving draft RSS and NBA plans for a time-bound period of consideration and feedback prior to notification.
105. The secretariat should also provide impartial advice to all the committee members.

Are sufficient accountabilities included in the proposed new integrated regional approach to ensure the strategies and plans can be owned and implemented by local authorities?

106. At this stage the answer to this question is unclear. The current plan making process is local authority led and as such is "owned and implemented" by local authorities on behalf of their communities, subject to the decisions of courts and mediation processes.
107. Ensuring sufficient community and Iwi/Hapū/Māori input at the outset will be critical to ensure there is accountability and ownership. By providing for effective local authority input and appropriate mechanisms for local authority feedback when developing strategies and plans, there will be some accountability. This can be beefed up by council adoption of the plan prior to formal consultation on RSSs and NBA plans (e.g before notification) if desired.
108. Clear direction will be required around implementation and legal obligations. This is particularly relevant for regions comprised of multiple territorial authorities and where cross boundary commitments are made. It will be important to carefully assign roles and responsibilities. Critical allocations should be made in the legislation (and if not there in the NPF) with the remainder contained in the RSSs and NBA plans. This would enable councils to transfer or consolidate functions by agreement.
109. Central government accountability in the new system is also critical. The strategic directions and policy statements of Government and implementation plans will need to be enduring beyond single political cycles and the investment needed to achieve the desired outcomes will need to be forthcoming. Councils have had variable

experiences in other fora for example with Joint Transport Committee plans – where there is never enough funding, and the “rules of the game” can change quickly.

How should joint committees be established?

110. We think the process should be co-designed and agreed by central government, local government and Māori.
111. We note again our preference that each local authority in a region is represented (to ensure accountability and support effective implementation), although they may choose not to participate. We also note an expectation that committees will reflect a bicultural framework and enable arrangements that provide for Māori rights and responsibility holders to partner and participate in the system (including on committees at a ratio of 50:50). We encourage further conversations between central government, local government and Māori about this to ensure there is certainty around the process and procedures to achieve effective representation and expectations are clear.
112. If designed well, we think there might only need to be one committee per region to cover both the RSS and NBA plan. It then becomes a question of whether the committee is established under the LGA, the NBA or the SPA and what skills and experience is necessary for membership.
113. Taituarā recommends the Government considers whether existing bodies working on regional spatial planning (such as that in the Wellington/Horowhenua region) could be appropriate bodies to oversee the development of an NBA plan as a combined committee.

Consenting

Will the proposed future system be more certain and efficient for plan users and those requiring consents?

114. Front loading the resource management process (i.e., developing good, comprehensive plans, resolving conflicts early) has the potential to drive efficiencies at the consenting end of the process. The extent to which this proves to be the case remains to be seen.
115. While more consistent rules and improved national direction could improve certainty and efficiency, this will depend in large part on final decisions that the Government makes around the extent of the previous “shopping list” of matters that plan makers must consider and how plan making happens.
116. The time that it will take to develop comprehensive plans that will support efficient consenting processes should not be underestimated, particularly if some of the issues around how to resolve tensions within regions and ensure an appropriate level of local input into plan making are not addressed.

117. In summary, whether the consenting process is efficient ultimately depends on the legislative drafting of the NBA, the NPF and a staged/supported implementation of the new system.
118. Clear definitions and guidance on the application of the new consenting rules will likely produce more certainty and efficiency in the consenting system in the long term. In the short to medium term there is likely to be less certainty and efficiency. For example, if the number of consent classification were to change as proposed there would need to be considerable resource invested in communicating and educating the public and consent applicants, there may be litigation to develop precedent for interpretation of the new consenting rules, and local council's capability to respond to applications under the new system will need to be developed.
119. Ensuring a staged and well-funded transition to the new system will be critical to minimising uncertainty and inefficiency in the new system.
120. In our submission on the exposure draft we recommended the Government:
- Considering whether notified consent applications could be considered by some means other than a full hearing.
 - Looking at options for the establishment of one national, centralised online consent application portal. This would do away with councils needing to record every application stage in MfE's monitoring spreadsheet, which is laborious and time-consuming.
 - Developing a national set of template consent conditions that can be tailored locally.
 - Exploring options for implementing a consistent, national approach to consenting fees. This would help to deliver consistency and reduce complexity.
 - Exploring the option of developing a set of centrally prepared good design guidelines with the ability to tailor them to local circumstances where appropriate.
121. We look forward to hearing which if any of these options are in the mix.

Compliance, monitoring and enforcement

Do you agree with the proposed changes to compliance, monitoring and enforcement provisions and tools?

122. In short, yes.
123. Taituarā supports the broadening of the cost recovery provisions for compliance, monitoring and enforcement in the NBA, as these areas place a heavy demand on resources and have been requested by the sector for a long time to ensure local authorities can adequately resource this (the CME) statutory function.

124. As a matter of principle Taituarā supports compliance and enforcement decision-making being free (independent) from any inappropriate (and especially inappropriate political) influence or bias in the same way that the police enforcement decisions are not able to be inappropriately influenced by the government of the day or any other inappropriate influence or bias. We share examples of good compliance and enforcement practice and policy with our members, and we are currently updating our Compliance and Enforcement module in our Sector Toolkit to reflect best practice. Best practice for criminal prosecutions is usually expressed as meeting the Solicitor-General's Prosecution Guidelines despite this not being binding on local authorities.
125. We support, increasing financial penalties, particularly infringement fines, and think there is merit in the concept of prohibiting insurance (particularly for deliberate acts) that lead to prosecution and infringement fines. We think this will go a long way to curtailing the current practice where incurring a fine is seen an acceptable cost of doing business and risk worth taking.
126. We also request that the MfE works with DIA on the matter of bylaw offences and fines to ensure that nuisances and other matters more appropriately dealt with outside of the resource management system can be adequately managed and enforced using bylaws.
127. We are aware that many councils have ongoing issues with some applicants and developers and that they would welcome and support the ability to consider an applicant's compliance history when assessing future consent applications. This would be consistent with the current situation where an offender's history of non-compliance is factored into the use of current punitive and directive enforcement tools.
128. Finally, Taitaurā supports the consideration of further additional tools that improve outcomes for the environment and communities (such as spot fines, additional sentencing options such as community service and development and consent suspensions).

How practical will the proposals be to implement?

129. Practicality will, in part, be dependent on the level of input from local authorities into the tools, and the amount of sector capacity building that is undertaken before the changes are implemented.
130. Achievement of independent decision making can be demonstrated by regulatory authorities through appropriate enforcement policies and reporting on their application and Taituarā's legal compliance and regulatory modules within the sector toolkit offering would be an effective way of delivering model templates, processes etc to council officers.

131. Workforce capability and in particular training, learning modules and the sharing of good practice is something Taituarā can generally assist with and it would be good to discuss this further as the reform programme progresses and as part of transition.
132. We note the Government's decision not to set up CME hubs at this stage and look forward to further discussion on form that will be favoured in the future. Given the status quo position, it is likely that additional support for (at least some) councils will be required during the transition phase if compliance monitoring and enforcement capacity is to be equitably lifted across Aotearoa.
133. It would be unsafe to assume that the compliance, monitoring and enforcement function can be fully funded through cost recovery even with the introduction of higher infringement fines and the monitoring of permitted activities for example. Councils will still need to prioritise their efforts based on risk and additional public funding will be required to transform current practice.
134. We refer you to the section on funding at the end of this submission.

Monitoring and system oversight

Will these proposals lead to more effective monitoring and oversight of the system?

135. Yes. However central government will need to play a greater role in enabling fit for purpose monitoring as well as in the overall resource management system oversight.
136. We agree that more effective monitoring tools, standard methods and better direction for monitoring is required. However new tools and better direction will not be enough as a major constraint currently is funding, particularly if permitted development monitoring is also added to the list (as described above).
137. Another issue is that there needs to be a clear and well-understood links between the environmental limits set in the NPF, the national monitoring requirements and the environmental outcomes sought by Government. Currently there is not sufficient information to set limits across all the domains previously indicated, nor do we think that this needs to occur. We recommend that the Government take a targeted approach to limit setting in the first instance; one that focuses on the most pressing issues and where there is a detailed understanding of cause and effect over spatial areas and over time.
138. Nationally consistent data sets and processes for sharing data and information across the system will be necessary and will require investment.
139. We support enhanced opportunities for Iwi/Hapū/Māori to be involved in monitoring and oversight activities, and support embedding the use of mātauranga Māori in kaitiaki monitoring. As in other areas, resourcing for Iwi/Hapū/Māori and clear

frameworks for how they will undertake monitoring (and how this monitoring and local knowledge should influence future interventions) is required.

Will the system be able to adequately respond and adapt to changing circumstances?

140. Without further detail, this question cannot be answered. Further discussion with local government and Iwi/Hapū/Māori is encouraged.

Role of local government in the future system

What does an effective relationship between local authorities and joint committees look like?

141. Taituarā strongly supports local authorities having multiple opportunities to work with joint committees, build trust, understanding and shared ownership and accountability. This includes local authorities having representation on joint committees and local government officials being part of the secretariat servicing the joint committees. It also includes ensuring the joint committee receives (and welcomes) locally articulated community, Iwi/Hapū/Māori /hapu and Māori aspirations and objectives at the outset of the plan and strategy making processes, alongside top-down direction.
142. The recommendations in the Local Government Resource Management Reform Steering Group's recent 'Enabling local voice' provide an avenue to achieve an effective relationship between joint committees and local authorities, within a Randerson based resource management system.
143. Another option, which we referred to earlier in our submission, would be to create combined local plans that support local placemaking and community, Iwi/Hapū and Māori aspirations and objectives and feed these up into regional NBA plans, potentially via a sub-regional planning process.

What other roles might be required to make the future resource management system effective and efficient?

144. As noted throughout this submission, there exists a need for central government to provide significant support and oversight throughout the implementation of these reforms. The Government needs to outline the roles and responsibilities of all institutions and groups during the transitional period. These reforms are a significant shift from business as usual, and adequate support and clear guidance will be needed to avoid the implementation issues experienced with the introduction of the RMA. The scope of this support and the role central government should play in developing sector capability to respond to the reforms should be worked through with local authorities and Iwi/Hapū/Māori groups.

What might be required to ensure the roles and responsibilities of local authorities can be effectively and efficiently delivered?

145. Our major concern regarding the efficient and effective delivery of local authorities' roles under the new resource management system is regarding the speed at which these reforms are taking place and the lack of support to develop sector capability to respond to the upcoming changes. Providing a staged approach to the implementation of new roles and responsibilities will be key to ensuring that the new processes remain effective and efficient. Clear guidance on roles and responsibilities during the transition from the RMA system will be necessary to successful implementation of the reforms. In addition to this, significant investment in sector capability will be required to ensure the effective implementation of the new system. How central government can deliver on their responsibility to oversee a good transition to the reformed system is outlined below in the section on 'Funding in the New System.'

National Māori entity

What functions should a national Māori entity have?

146. The discussion document proposes that the national entity would be established to enable Māori as Treaty partners to participate in decision-making at a national level and we note that this role will not to usurp the mana of Iwi/Hapū/Māori at place, which we agree with.
147. The document proposes the following functions (tasks) for the entity: input into the development of the NPF; appointing Māori members to any board of inquiry process; and system oversight and monitoring (including monitoring of Te Tiriti performance).
148. Given the importance of a national Māori entity within the system we are extremely interested in understanding the views of Māori on the purpose, proposed role and functions of the entity and the level of comfort that exists with what is proposed.
149. We understand that this is an ongoing conversation and encourage the Government to not rush this process. It will be important for the future success of the system that the conversation is inclusive, supports the rights, interests and responsibilities of Māori and clarifies where the entity sits within the system and what decision-making role it has.

What should the membership and appointments process be for the entity?

150. The membership and appointments process should reflect where decision making sits and the role and functions of the entity. Again, we encourage MfE to engage with Māori that hold relevant rights, interests and responsibilities in the system to ensure the membership structure of the forum and the appointments process chosen give effect to the principles of Te Tiriti.
151. We are aware that there is an expectation that Māori decision-makers will be determined through self-determined processes consistent with the principle of Mana Motuhake and the UN Declaration on the Rights of Indigenous Peoples.

Joint committee composition

Should parties in a region be able to determine their committee composition?

152. As previously stated we strongly support a codesign approach to the process for establishing joint committees, representation and composition.
153. Each region is different, and the composition and size of the committee will need to fit the region's operating environment. As such it might be appropriate to set minimum numbers rather than maximum numbers. However, there should be certainty in the objectives to be achieved and clear procedures for ensuring effective representation.
154. We strongly urge the Government to work though issues of representation with their Te Tiriti partners, including issues of proportionality. We are aware that there are aspirations for a 50:50 partnership.
155. We are supportive of central government being represented at the table to ensure there is buy-in to the final plan and strategy. The representative needs to have sufficient authority to work across government and make decisions within the committee.
156. Please note that we support a single joint committee that sits across both the RSS and NBA plan for a region (subject to satisfactory supplementary mechanisms existing for ensuring local voice is heard and decision-makers around the committee table are accountable for plan delivery).

What should be the selection and appointments processes for joint committee members?

157. Each local authority in the region should have the opportunity to be represented. Local government representatives should be elected and there should be a good balance of understanding between them of the issues and opportunities within and across the region.
158. We are confident that Māori will be able to design their own process that recognises their respective rights, interests, and obligations and any mix of skills they wish to secure.

Are sub-committees needed to meet regional needs including Treaty settlements?

159. Yes.

How do we best provide for existing arrangements (eg, Treaty settlement or other resource management arrangements)?

160. Taituarā strongly encourage MfE to have this conversation with those that benefit from / are affected by the existing arrangements. Engaging and co-designing with Iwi and Hapū, and any others affected by these arrangements (including local government where it is part of the existing arrangement) is critical.
161. It is our expectation that the new system will continue to give effect to existing Treaty partnership and governance models and not disadvantage those still on the road to settlement.

Enhanced Mana Whakahono ā Rohe arrangements, integrated with transfers of powers and joint management agreements

How could an enhanced Mana Whakahono ā Rohe process be enabled that is integrated with transfers of powers and joint management agreements?

What should be covered in the scope of an enhanced Mana Whakahono ā Rohe and what should be mandatory matters?

What are the barriers that need to be removed, or incentives added, to better enable transfers of powers and joint management agreements?

162. Taituarā strongly supports measures to increase partnership, participation, and protection and the use of Te Ao Māori and matauranga Māori in resource management processes and the removal of barriers to achieving these.
163. Currently Mana Whakahono ā Rohe: Iwi Participation Arrangements are a tool designed for Iwi (and Hapū if invited by councils) to discuss, agree and record how they will work together under the RMA. This includes agreeing how Iwi/Hapū/Māori will be involved in decision-making processes.
164. There has been limited uptake of Mana Whakahono ā Rohe, transfers of powers and joint management agreements under the RMA to date for a variety of reasons. These include:
- existing arrangements, including Settlement arrangements, and Iwi/Hapū/Māori preferences for different mechanisms for partnership and involvement in decision-making which stem from non-RMA process
 - the intensive resourcing required to use the current tools
 - capacity and capability constraints for councils, Iwi and Hapū, and a lack of funding to increase capability and grow capacity
 - the barriers within the terms of sections 33 and 36B themselves (e.g. efficiency and its interpretation as cost efficiency, complex consultation usually reserved for significant council decisions, lack of community support, perceptions of bias, competing claims/contested land holdings, litigation risk, ability to cancel agreements)
 - the nature of current relations or the lack of an existing relationship and trust between councils and Iwi and Hapū
 - a lack of incentives from central government to use the tools
 - a lack of compulsion to actively consider their use.
165. In discussing partnership agreements and processes for the future system, legislative reform of the RMA can only take us so far.
166. Iwi and Hapū consistently state that the lack of financial resources is the most significant barrier to their full participation under the RMA.
167. There are well documented affordability issues within local communities, capacity and capability issues within local government, and a large variation within regions as to the number of councils, Iwi and Hapū. There is also variable knowledge and understanding of current Māori rights, interests, duties, responsibilities, and obligations in relation to “natural resources”, te Taiao and Te Ao Māori within councils and the community. These issues limit the opportunities and support councils can offer to Iwi/Hapū/Māori even where there are willing parties and successful relationships around other initiatives.
168. To enable transformational as opposed to incremental and variable change central government needs to come to the party with funding for both Māori and local government.

169. Taituarā supports significant investment by central government and the direct provision of money and resources to Iwi and Hapū to ensure they can build capacity and can actively participate in decision making, delivery, monitoring and evaluation. This includes resourcing the development of environmental management plans and enhanced mana whakahono arrangements (if they choose to pursue these), including access to required expertise for their development as well implementation.
170. Alongside this central government needs to provide adequate, equitable funding to councils to remove barriers to opportunities. It also needs to ensure there is clear legislation, regulation and guidance to councils on how they are expected to implement Te Tiriti and give effect to its principles within the new system. Most of all though local government leadership needs to lean in and support the transition.
171. With the significant changes in who is responsible for what within the resource management system, clarity needs to be provided to all the potential parties to future and current Mana Whakahono ā Rohe which parts of the resource management system and process should be negotiated with whom. The situation is complex given the significant changes in plan and strategy making that the reform proposes, the use of current local government boundaries, and uncertainty about where consenting, compliance, monitoring and enforcement will lie in the future.
172. Our expectation is that any enhanced process would not increase the obligations on Iwi/Hapū/Māori, would incentivise all, and appropriately recognise, reflect and provide for particular settlement agreements and arrangements in the new system as agreed between the Crown and the relevant Te Tiriti parties.
173. We continue to recommend that the Government directly engages with Iwi and Hapū and those exercising authority over resources, around the adaption of the existing provisions for Mana Whakahono ā Rohe, transfers of powers and joint management agreements.
174. Given Mana Whakahono ā Rohe were introduced effectively to ensure councils and Iwi have a working relationship, it is conceivable that in the future prescribed Mana Whakahono ā Rohe (MWAR) processes and content will not be necessary. Much depends on whether central and local government and Iwi/Hapū/Māori work together to lay the appropriate foundations for enduring relationships, genuine partnership, participation, protection and redress in the policy framework, legislation and implementation of the change. This takes leadership, time, resources and funding.

Funding in the future system

How should funding be distributed across taxpayers, ratepayers and individuals?

175. The Government has committed to transforming the current system. There is significant national interest and public benefit in ensuring the new system and the transition to it are governed, managed, resourced and delivered well and that the objectives of the reform are met. A lack of resources for local authorities and Māori has made implementation of the RMA difficult and limited in the past. We don't want another rinse and repeat.
176. The pace, scale, scope of change and the consequential costs of the reforms cannot be underestimated, and they pose significant risk to the success of the reform. Taituarā is concerned there is an implicit assumption that resourcing, including a large proportion of the financial burden for transforming, transitioning to and administering the new system, will fall on already stretched local authorities (including their staff and communities). Government needs to recognise that ratepayers in some areas, particularly those with high deprivation and lower incomes, simply cannot afford ongoing rate rises and for many of these council's their revenue streams are effectively constrained to rates income. As such there is a strong case for greater central government funding and support and new funding instruments for effective administration and transition of the system alongside local authority investment in implementation.
177. We have previously highlighted to you not only the affordability challenges and but the workforce constraints the local government sector faces, the latter of which have been exacerbated by the multiple new roles that are being created within central government agencies to service the Government's ambitious reform programmes. With transition planning for three waters now underway, it has become even more difficult to attract and retain quality staff to deliver under the current system, let alone engage with Government and prepare to deliver the reformed system. And alongside Māori, our participation is critical to the success of the reforms.
178. We consider that:
 - expanded central government functions and involvement in the new system should be funded from central government budgets
 - the transition to the new system should be supported and funded by central government
 - joint committees and their secretariats, and the preparation of NBA plans and Regional Spatial Strategies should be jointly supported and funded by central and local government. (We note that the acceptability and legitimacy of using local rates to fund these activities will be tied closely to the role of territorial authorities and the provision for local voice within the system.)

- central government will need to provide appropriate funding and resources Iwi and Hapū to ensure they can participate meaningfully in the key mechanisms of the legislative framework (e.g. preparation of NBA plans and regional spatial strategies, development of Iwi/Hapū management plans, membership of planning committees, technical advisory roles),
 - central government should work closely with Taituarā, LGNZ and the New Zealand Planning Institute to fund and deliver appropriate capability building and support, including training and guidance
 - central government should budget funding to support local government in early litigation and participate in hearings to test the meaning of the legislation as an interested party
 - greater central government funding is needed to support monitoring of national priorities.
179. When calculating the amount or proportion of central government support and funding required to transition to and implement the new system in partnership with local government and Iwi/Hapū/Māori, the calculation should include consideration of the intrinsic value of the environment, the Crown's role as Treaty partner, and the anticipated costs that will be avoided and spill over benefits central government will receive in a well-functioning system for outcomes. Avoided costs include the national costs associated with responding to and recovering from adverse events and natural disasters, future climate mitigation and adaptation costs, pollution impacts on the health of people, the health system and productivity, collapsed ecosystem services, etc.
180. As with NZTA and 3 Waters funding, the allocation of funding could consider population and demographics and land area to ensure there is equitable funding to achieve the objectives of the reform.

How should Māori participation be supported at different levels of the system?

181. The reformed system including the process to develop it must accommodate the different layers of Māori rights, interests and responsibilities across the various levels of the system and across the different spheres of influence created under Te Tiriti.
182. The primary legislation should clearly establish the framework for Māori participation and partnership.
183. As discussed, earlier Taituarā strongly supports central government funding to build capacity and enable Iwi/Hapū/Māori to participate in resource management decision making.

Thank you for the opportunity to provide feedback. We look forward to working with you to ensure the transformed system lives up to expectations, the transition is effective and the current system is improved in the interim.



Professional excellence in local government

Taituarā — Local Government Professionals Aotearoa

Level 9, 85 The Terrace, Wellington
PO Box 10373, Wellington 6143

T 04 978 1280

E info@taituara.org.nz

W taituara.org.nz