Alternative Analysis of Local Government submissions on the Resource Management Act Discussion Document 2013

Focusing on the Concerns raised by the Local Government Sector

The Local Government Sector is intended to be the key implementer of the proposed set of planning reforms. It is critical to the successful implementation of these reforms, that they have the agreement and support of this sector. It should also be recognised that the Local Government Sector is the principle expert on the implementation of the RMA on the ground. Extremely serious concerns raised by this sector need to be given the upmost consideration. Responses from this sector to the Discussion Document indicate that it would be premature to proceed with the reforms as proposed, due to potential for environmental harm, loss of local democracy, increased costs to Councils, ratepayers and applicants for resource consent and increase in complexity and administrative burden.

5/11/2013

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OVERVIEW

I have compiled a report which details major concerns held by the Local Government Sector regarding a lack of evidence demonstrating a need for the proposed planning reforms, lack of merit for several of the proposed changes and/or anticipated problems with their implementation.

Local Government will be responsible for implementing the vast majority of the changes proposed, and the fact that so many have raised strong objections to parts of the package, should be of significant concern. It is also alarming that concerns have been raised about the lack of compatibility between elements of the reform package and the fundamental purpose of the Resource Management Act (RMA) 1991, being the sustainable management of effects.

The Local Government Sector covers a diverse group of organisations and opinions from the sector vary over a range of matters. However, a striking feature of Council submissions to the RMA Discussion Document titled *"Improving Our Resource Management System"* is the absence of strong support for the package as a whole. Whilst Councils have identified perceived benefits from some aspects of the package, there is a lack of any general sense of commitment or faith in the package as a group. Nor is there any general sense of agreement that the package will deliver more effective planning practices or an improvement in housing affordability.

Parts of the package with the greatest support from Local Government appear to those parts which would not be their responsibility to implement [such as changes to appeal processes, EPA processes, use of existing national instruments (National Policy Statements and National Environmental Standards), planning for natural hazards and Maori involvement]. Support is also far stronger for the intention of the reforms (in promoting better planning outcomes) than the proposed solutions. A significant proportion of Councils have raised concern that the wrong solutions have been proposed, which could make the existing systems worse rather than better. Individual councils have identified a host of existing initiatives or methods whereby problems identified in the discussion document are being addressed. In addition to putting forward a range of alternative suggestions, which are considered to be better targeted at the real issues facing Councils.

Local Government also represents one of the most informed groups as to how the RMA works in practice, given their existing responsibility for preparing/reviewing/updating District/Regional/Unitary Plans and the assessment of resource consents. In this respect, the knowledge held by Local Government as to how the Act works in practice, is considered to be superior to that held by Central Government. Collectively the Local Government Sector has raised very serious concerns that warrant investigation. Concerns extend far beyond technical details and strike at the fundamental concepts and assumptions behind the proposed solutions. In short, many Councils indicate that to proceed with the implementation of the package of reforms, would be premature, especially given the lack of evidence (as opposed to rhetoric) put forward for changes. Central Government focuses attention on small-scale development of little concern to the general public, and downplay that proposed changes are likely to fundamentally alter the assessment of the largest scale of development.

As some Councils suggest, the RMA was never intended to act as a tool to expressly provide for a specific type of activity, promote economic development or address affordable housing. Development related principles sit uncomfortably within the Act. If the government wanted to put in place a more strategic framework for urban development and expansion, including the use of spatial planning as advocated by some Councils and the Local

Government Infrastructure Efficiency Advisory Group[1], and require a greater integration of land use, transport and infrastructure planning as referred to the *"Better Local Government"* Programme, a more appropriate approach would be a fundamental review of the purpose of the Resource Management Act and the modification of Section 5. Such an approach would also be far more honest and transparent, in providing a clear indication to the general public of the change in government direction.

Notwithstanding, the Government has already signalled the declining importance of avoiding and mitigating environmental harm (referred to in Section 5) through:

- The scope to allow approval of new housing in special housing areas that do not comply with the existing principles of the RMA or local planning instruments through the *Housing Accord and Special Housing Areas Act*;
- The exclusion of the *Housing Accord and Special Housing Area Act* from the list of legislation which the Ministry for the Environment is required to ensure consistency with the environmental principles contained in the *Environment Act 1986*;
- The change of purpose to the *Local Government Act 2002* in 2012 to exclude reference to social and environmental well-being.
- The absence of the need for resource consent for the Anadarko Exploratory Deep Sea Oil Well in October 2013;
- The questionable quality of the *EEZ regulations* and proposed intention to exclude interested (and expert groups) from commenting on future exploratory deep sea oil wells via the use of a newly created non-notified discretionary activity status;
- Stepping away from its earlier promotion of the *NZ Urban Design Protocol, Building Competitive Cities* and the promotion of good urban design principles;
- Reduced support for the *Quality Planning website*; and
- The absence of monitoring of outcomes in terms of whether planning policy and resource consents are achieving the purpose and principles of the Act (despite a dramatic increase in attention in monitoring process e.g. time and cost).

The following attachments illustrate the number and strength of concerns raised by Local Government. The analysis of Council views needs to go beyond initial statements of support, due to the tendency of some Local Government representatives to down-play their concerns. For example, Local Government New Zealand expresses general support for the merging of existing sections 6 and 7 in Part 2 of the Act, whilst strongly suggesting that this approach is inferior to that which exists. Several Councils, including Auckland are supportive of the single/joint plan with national template, subject to several major modifications. Despite the length of this report, it does not cover all concerns raised.

The shortness of the consultation period for the discussion document (being between 28 February and 2 April 2013), combined with the number of other government documents out for public consultation around the same time (such as the *Draft Auckland Unitary Plan* by Auckland Council, *Proposed Freshwater Reforms* by the Ministry for the Environment, *Earthquake Prone Buildings Policy* by the Ministry for Business Innovation and Employment, *Development Contributions Discussion Paper* and *Performance Standards for Infrastructure* by the Department of Internal Affairs, Council amalgamation proposals, and *Heritage New Zealand Pouhere Taonga Bill)* indicate a reluctance to enter into meaningful consultation

[1] Report of the Local Government Efficiency Infrastructure Advisory Group, March 2013 published by the Department of Internal Affairs

with the Local Government Sector, as does the timing of the announcement of the RMA Reform Package in August 2013 following the consideration of over 13,000 submissions,[2] and the indicated timeframe for the submission and approval of the next RMA Reform Bill.

It is also apparent that Local Government has taken offence at statements which indicate that Central Government believes it to be incompetent as a whole. Various councils have responded in turn that the Central Government needs to take some responsibility for problems with the implementation of the Act, particularly in terms of a lack of national guidance. In addition to recent attempts to simply and streamline processes, which have in reality, increased complexity, uncertainty and costs for Local Government. These include:

- The RMA Simplifying and Streamlining Act 2009[3];
- National Environment Statement for Assessing and Managing Contaminants on Soil to Protect Human Health;
- National Policy Statement for Electricity Transmission Activities;
- National Environmental Policy on Air Quality;
- The RMA Reform Bill of 2012;
- Aquaculture Reform Bill;
- The Local Government Act 2002 Amendment Act 2010; and
- Local Government Act Amendment Act 2012

The National Monitoring Strategy proposed in June 2013 has also been the subject of criticism from the Local Government sector in terms of its high cost and limited effectiveness.

Concern is raised that unless Central Government is genuinely willing to listen to Local Government, proposed reforms will be poorly executed and implemented and lead to considerable financial, social and environmental costs for Councils, ratepayers and residents.

I am of the view that it would be irresponsible for the NZ Government to proceed with the proposed reforms at this stage and that the entire suit of reforms requires far more investigation. An unwarranted climate of urgency appears to surround the proposed reform package. Little evidence is provided for the need for reforms, that the planning system is unduly inhibiting economic growth or that the reforms proposed will lead to a significant improvement in housing affordability. Nor are problems with housing affordability new or limited to New Zealand.

These reforms should not be rushed. Especially given the strength of feeling expressed by thousands of submitters, including Local Councils that that they are contrary to the fundamental purpose of the Act, will create additional confusion and uncertainty, be costly to administer, increase legal uncertainty and likelihood of legal challenges, encourage the overuse/wastage of resources, and fail to put into place a strategic planning framework for urban expansion.

The following pages contain a summary table of concerns/benefits of the proposed changes as perceived by Councils. Benefits have not been specified where Councils do not perceive a significant benefit over the existing situation. A more complete understanding of perceived benefits and costs can be gained from reading the full set of submissions from this sector.

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[2] This timing would have seriously compromised any ability to investigate alternative solutions put forward or the collection of information to address concerns.

[3] Identified as having a deficit Regulatory Impact Statement in the Productivity Commission Report on Towards Better Local Regulation, May 2013

In addition to a long list of quotes from Councils arranged by theme. I have added comments in square brackets [ ] to improve the readability of abridged quotes. The use of emphasis (bold font) is also my own. Actual and draft submissions were either located in agenda reports for Council meetings or obtained through information requests.

SUMMARY TABLE OF COUNCIL CONCERNS

General Issues

- Proceeding with proposals as detailed would be premature.
- Insufficient detail provided to understand the proposals (the devil is in the detail).
- Implementation and costing analysis is lacking.
- The need for various changes is not adequately justified.
- Reliance on poor quality sources of information.
- Central government has a poor understanding of local government.
- Poor relationship between Central and Local Government (appears to be antagonistic and distrustful).[4]
- Councils given insufficient time to respond to proposed changes.
- Mixed support and reactions from Councils (when support is given it is generally highly qualified or conditional)
- Greatest support raised for intent, rather than solutions proposed.
- High level of concern about loss of local decision making by Councils, including diminished role for Elected Members.
- Councils would like more options to be explored, including those already provided by existing legislation.
- High level of concern about cost of implementation, particularly for local government and their respective ratepayers.
- Several Councils have put in place good planning practices that achieve the outcomes sought.

Changes to existing s6 and s7 of RMA to create new section 6

Overview

Mixed reactions from Council ranging from support, principle support, partial support, toleration/acceptance and strong opposition. Of those Councils which express support or partial support, most express concerns with some aspect of the proposal.	
New direction referring to s5	Few Councils refer to. Some strong opposition.
Merging of existing s6 & 7	Mixed reactions. Some support and some sense of toleration.

[4] This is reflected in findings of the Final Report for the NZ Productivity Commission, Towards Better Local Government, May 2013

Provision	*Cost*	*Benefit*
General	• Legal cost & associated time delays to establish new case law[5] • Cost of amending District Plans to be consistent with new principles. • Uncertainty about future interpretation and application of new provisions. • Less direction on which matters have the greatest weight. • Alters the existing balancing of economic and environmental effects.	• Puts principles into a single list • Increases need to consider principles in plan drafting, rather than reliance on assessment at resource consent stage.
New section 6(b) regarding natural landscapes	• Lack of direction about specification i.e. criteria for specification and whether it needs to be at local or regional level. • Lack of transitional arrangements, with a loss of protection in interim. • Few Councils have specified these features in plans. • Costs to Councils to investigate features and change plans to specify them. • Lower protection to features not specified. • Terminology does not require Councils to investigate whether land warrants specification.	• Some Council's see benefit in restricting principle to specified natural features and landscapes. • Greater certainty about features/landscapes protected.
New section 6(c) regarding significant indigenous vegetation and habitats.	Not applicable. MfE has since announced that intended use of the word 'specified' has been dropped. Some Councils raised strong concerns about the inclusion of this word.	
New section 6(d) regarding public access to coast and waterways.	Not applicable. MfE has since announced that intended change of working to this section has been dropped. Some Councils raised strong concerns about the initially proposed wording.	
New section 6(g) regarding use and development of resources	• Lowers focus on the sustainable/efficient use of resources. • Appears to place a higher value on the benefits of resource use, than costs arising from use. • New principle could conflict with other principles.	
Deletion of the need to have particular regard to the finite characteristics of resources.	• Lowers focus on the sustainable use of resources. • Reduced protection for high quality soils to grow crops from urban expansion.	

[5] Point also raised in *Towards Sustainable Development, The role of the Resource Management Act',* Office of the Parliamentary Commissioner for the Environment, 1998 http://www.pce.parliament.nz/publications/all-publications/towards-sustainable-development-the-role-of-the-resource-management-act-1991-pce-environmental-management-review-no-1

New section 6(i) regarding historic heritage	• Weakens the protection of historic heritage. Importance of retaining historic heritage is downgraded. • Principle could encourage the demolition of historic heritage[6]. • Could undermine existing Council policies regarding heritage protection. • Terminology creates uncertainty and is open to interpretation.	• One Council considered this would improve flexibility in managing historical resources.
Deletion of the need to have particular regard to the maintenance and enhancement of amenity values[7]	• May threaten the ability of Council's to control development in the interest of protecting amenity, character and sense of place. • Could jeopardise the principle reason for District Plan rules. • Alters the existing balance of considerations of economic and environmental/amenity effects. • Would encourage poorly designed urban development, which harms adjacent residential amenity or visual amenity of the area.	
Deletion of the need to have particular regard to the maintenance and enhancement of the quality of the environment[8]	• May threaten the ability of Council's to prevent adverse effects on the quality of the urban and natural environment. • Could jeopardise the reasoning for several District Plan rules. • Raises possibility that a decline in the quality of the environment could be traded for the achievement of another principle. • Alters the existing balance of considerations of economic and environmental effects.	
New matter of national importance regarding function of built environment and land supply 6(l)	• Does not cover urban design. • Does not set a minimum quality standard • Favours greenfield development over intensification of existing centres. • Could make it difficult to refuse urban expansion, even in less appropriate locations. • Inability to control future urban growth direction could undermine Council's strategic growth plans and asset	• Increased focus on urban environment.

[6] A resource consent for the demolition of a historic building could comply with the amended principle, providing the decision maker had adequate regard to the value of the historic building, in reaching their decision.

[7] Almost all Councils are opposed to this deletion.

[8] Almost all Councils are opposed to this deletion.

	management plans. • Provision is not appropriate for Councils with little demand for additional housing.	
New section 6(m) regarding natural hazards	• Additional national guidance is needed to avoid confusion and duplication of effort. • Uncertainty regarding obligations of Council. • Intention of principle will not be met by the proposed changes alone. • Need for guidance on a wide range of hazards, seismic, flooding, sea level rise and coastal erosion/inundation.	• Greater promotion of natural hazard management. • General support for new principle.
New section 6(n) regarding infrastructure	• Lack of definition of 'efficient' infrastructure. • Could decrease the ability to consider adverse effects associated with infrastructure provision.	
New section 6(o) regarding aquatic habitats	• Lowers protection for habitats of trout and salmon not identified as significant. • Requires councils to investigate and identify significant habitats. • Costs of additional investigation.	
New section 6(p) regarding ecosystems	• Weakens protection of ecosystems. • Allows for declining quality of ecosystems. • Potential for conflict with other matters. • Intrinsic value of ecosystems is not the same as 'life supporting capacity'.	

New Section 7 (Methods)

Overview

General opposition to new section 7 for mixed reasons, including placement within Part 2 (principles) of the Act and lack of need for provision. Reference to 'compensation' has been dropped in response to submission comments.

Cost	*Benefit*
• Increases the prospect of legal challenge and uncertainty, particular in regards to the balancing of private interests. • Could create additional impediment to achieving some national matters of importance such as management of natural hazards and changes to plans to specify outstanding natural features and landscape, which could affect the use of private land.	

Single Resource Management Plan with National Template

Overview

Mixed reactions from Council ranging from support, partial support to strong opposition. Most Council's express some concern/reservation with proposal, such as time of introduction, use of compulsion, cost of producing and possible content of national template. Several Councils raise concerns as to the workability of the proposal, particularly within a 5 year timeframe. Some raise

concern that there is little demand/need for a single resource management plan, that this is a method for achieving Council reorganisation by stealth and that insufficient time has been given to assess the outcomes of 2nd generation District and Regional Plans.

Cost	*Benefits*
• Financial cost of amending plans. • Prior Council expenditure on District Plan reviews will be effectively wasted. • Complexity of incorporating Regional provisions in District Plans. • Would significantly add to length of plans. • Size of plans could further inhibit local understanding of plans. • Loss of consideration of local context. • Possible lower quality plans from diminished recognition or acknowledgement of local issues. • Possible worsening of environmental outcomes from diminished recognition or acknowledgement of local conditions. • Difficulty in adapting plan template to local issues • Creates expectation that Council officers are able to provide an expert opinion on both the district and regional parts of the plan. This could result in increased Council workloads and inconsistent advice. • Could create expectation of joint consenting over district and regional council matters.	• All planning documents in one place. • Greater national consistency. • Reduced duplication and costs in drafting definitions.

Joint management plan with reduced scope of appeal

Overview

Mixed reaction from Councils ranging from support, partial support and strong opposition. Several Councils point out examples of existing collaborative exercises. Suggestions are made for an alternative approach. A number of Councils support intention of proposal, but envisage problems with elements of the proposal, particularly in regards to a reluctance to further review plans recently reviewed and use of independent hearing panels.

Costs	*Benefits*
• Cost of plan production. • Previous expenditure on review of plans could be effectively wasted. • Complexity of preparing joint management plan. • Loss of Council control over final content of plan policies and rules. • Loss of local decision making. • Lower accountability of independent hearing panel to local community. • Reduced rights for submitters. • Could lead to more formalised hearings and a more intimidating environment for submitters. • Potential inconsistences in decision making from existing	• Consistent rules and provisions throughout region. • Increased speed in plan making. • Reduced scope for delay from appeals.

Council decisions and between independent hearing panels.	

Requirement to provide 10 year land supply for Housing

Overview

Several Councils have questioned the need to officially include this as a Council statutory function. Most Councils indicate that either this amount of zoned land is available or that the Council has a strategic plan for population growth in place or going through the process of preparation/adoption. Questions raised as to the applicability of this function for Council areas experiencing static or declining populations.

Costs	*Benefits*
• Could lead to urban development in inappropriate locations, such as highly productive land for agriculture. • If Councils have less control over direction of urban growth expansion it could increase costs of providing infrastructure. • Concern that local Councils would be required to service a 10 year supply of residential zoned land, well in advance of development. • Increased costs from infrastructure provision, could require an increase in rates.	• Ensuring future availability of land for urban expansion. However benefit of this is reduced due to existing examples of Council planning for future urban growth.

Introduction of 10 working day timeframe for "simple" consents

Overview

Most Councils have raised concern over the workability of this proposal and whether implementation costs imposed on Councils (and potentially ratepayers) will exceed benefits to the applicant. Several Councils refer to a large number/proportion of existing consents being assessed within 10 to 20 working days. A few Councils offer fast-tracked resource consents at a higher fee, which have little take-up. Several Councils suggest that reductions in timeframes need to be accompanied by a reduction in process requirements.

Costs	*Benefits*
• Need to employ more staff or professional consultants. • Greater time pressure on staff. • Could increase staff turnover. • Could hinder the ability to achieve 20 working day target for more complex applications. • Could divert resources to resource consents of lower benefit to the general community. • Higher costs to Councils. • Increase in bureaucratic red tape. • Adds an additional step in the assessment process. • Could increase confusion to applicants, as to consent category. • Greater likelihood of arguments between applicants and Council staff as to consent category. Increases potential for judicial review of decisions. • Councils may need to increase application fees to recover higher application/processing costs. • Councils may need to introduce pre-application meeting fees. • Uncertainty as to what applications this would apply to.	• Marginal time benefit to applicants. Time benefit reduces with expectation of pre-application discussion.

• Difficulty in identifying "simple" types of applications, especially as effects for similar/same types of activity can vary between locations.	

Approved exemption to technical or minor rule breaches

Overview

Mixed reactions from Councils ranging from tentative/in-principle approval to strong opposition. Almost all support is heavily qualified, indicating a degree of concern that has not yet been addressed. Many see a 1 working day as unfeasible.

Cost	*Benefit*
• Possible need to employ more Council staff or professional consultants. • Greater time pressure on staff. • Could divert resources away from other activities of higher benefit to the general community. • Higher costs to Councils. • Increase in bureaucratic red tape. • Uncertainty as to process requirements. • Adds an additional step in the assessment process. • Increases potential for judicial review of decisions. • Application fee likely to be required to cover costs. • Uncertainty as to what applications this would apply to. • Would create a new permitted baseline • Could lead to progressive creep in permitted baseline. • Time to process does not give sufficient time for site visits or internal consultation to Council departments. • Time to process would be very hard to achieve. • Loss of transparency over decision making. • Risk of inconsistent application due to need for subjective judgement. • Undermining of integrity of plan rules • Greater likelihood of arguments between applicants and Council staff as to consent category. • Lowering of the rights of adjacent property owners to comment on breaches of permitted standards. • Exemptions may be strongly resisted by adjacent owners. • Inability to consider cumulative impact. • Uncertainty as to how treat development with multiple minor breaches.	• Greater certainty to applicants about acceptability of small breaches. • Time benefit to applicants.

Use of Fixed Fees for Resource Consents

Overview

Most Councils have raised concern about the use of fixed fees or fee caps and are of the view that costs would outweigh the benefits. Many Councils emphasise fees paid cover actual and reasonable costs, with some councils adopting a policy of reduced fees to encourage particular types of development (which are partially subsidised by rate revenue). A few councils use fixed fees.

Costs	*Benefits*
• Would result in cross-subsidisation of resource consents with more simple and higher quality resource consents subsidising the costs of more complex and lower quality resource consents. • Removes financial incentive for applicants to produce higher quality resource consents. • Could result in higher resource consent fees to ensure actual costs are covered for lower quality applications. • Actual costs of processing above fee cap would be paid by Council and its ratepayers. That is, could lead to rate rises. • Reduces transparency of fee calculation.	• Greater certainty over application fee for applicant.

Mandatory Fee Estimate for consents not covered by fixed cost

Overview

Several Councils have raised strong opposition to mandatory fee estimates and consider that costs would outweigh the benefits. Reference is given to existing publication of fee schedules and the existing ability of applicants to request a formal fee estimate, which few applicants have taken up. In addition to few formal objections raised to fee charges.

Costs	*Benefits*
• Increases costs and time requirements on Councils. • It is very difficult to accurately predict final fees with sufficient certainty as to almost 'guarantee' a fee level, prior to lodgement. • Increase in bureaucratic red tape. • Increased costs to Councils may need to be transferred to applicants through higher fee charges to cover higher administrative/processing costs. • Does not address an objection from some applicants to paying a fee of any	• Greater certainty to applicants over application fee.

Memorandum Accounts for Councils

Overview

Mixed reaction from Councils ranging from support, toleration to strong opposition. Councils generally support intention, although concern is raised as what precisely this requires. Several Councils consider this unnecessary given existing performance monitoring requirements under the RMA & LGA. Councils also raise concern that other initiatives introduced by Central Government designed to improve performance, have instead increased complexity/time/costs for Councils. Greater support exists for performance monitoring relating to outcomes (in terms of quality of decision making and achieving principles), rather than time/cost.

Costs	*Benefits*
• Increased reporting and administration costs of Councils	• May assist in explaining fee charges

Limiting scope for Submissions and Appeals on Resource Consents

Overview

Mixed views from Councils ranging from support to strong opposition. Several Councils point out that only a small number of resource consents are notified[9]. A small number question the appropriateness of this proposal, particularly for consents with a Discretionary and Non-Complying Activity Status.

Costs	*Benefits*
• Administration costs. • Increase in Council officer time needed to assess all applications, prepare notification decision, specify reasons for notification, check standing of submitters and content of submissions and defend decisions. • Increase in bureaucratic red tape. • Adds an additional step in process. • Increases potential for judicial review. • Loss of submitters rights. • Loss of submitters ability to identify effects not previously identified • Increased frustration by general public. • Would require changes to drafting of plan rules.	• Reduced scope for appeals. • Time savings to applicant from reduced prospect and scope of appeals.

Limiting scope of Conditions of Consent

Overview

Mixed views of Council ranging from support to strong opposition. Several Councils point out that existing legislation and case law already provides an effective limit on the scope of conditions.

Cost	*Benefit*
• Could add an additional administrative step. • Could increase the refusal of consents, if mitigation measures can not be imposed as conditions of consent. • Alternatively if consents are approved without mitigation, it could increase adverse effects on the environment. • Uncertainty as to what conditions would be acceptable, such as whether this would include administrative and monitoring types of conditions or conditions voluntarily offered by applicant. • Loss of flexibility to alter conditions to suit specific cases.	• Greater certainty for applicant as to scope for conditions.

[9] 6% nationwide in 2010/2011

New Crown Entity to Make Decisions on Consents

Overview

Strong opposition raised by Councils and other parties. Proposal has since been dropped.

Tools to Prevent Land Banking

Overview

Strong opposition raised by Councils and other parties. Proposal has since been dropped.

Identification of activities as Non-Notified

Overview

General opposition by Councils. A number of Councils question the need for the change given existing use for non-notification provisions in District Plans and section 95 of RMA.

Cost	*Benefit*
• Loss of local democracy • Loss of ability to require notification in special circumstances or in response to local conditions.	• Less time needed for notification assessment.

Removal of Appeals by De Novo (looking at issues afresh)

Overview

Mixed reactions of Councils ranging from support to strong opposition. Some Councils refer to the low number of appeals received, of which the vast majority are settled without an appeal hearing.

Cost	*Benefit*
• Increased formality/legality of Council hearings • Increased expense in holding Council hearings. • Could discourage public participation. • Alters the role of the Environment Court in a way that has not been sufficiently examined.	• Faster appeal decisions. • Will encourage submitters to prepare and submit evidence at Council level hearing, rather than waiting for appeal.

Measures to Increase Efficiency of EPA

Overview

Mixed views from Council ranging from support, partial support and neutrality. Several Councils raise concern about the proposed decrease in time to comment on draft conditions. Some suggest changes are of marginal benefit.

Cost	*Benefit*
• Reduced ability for Councils and other parties to comment on complex decisions and draft conditions in time. • Higher possibility of drafting condition error. • Any errors in drafting could translate into long run operational costs.	• Marginal reduction in time taken to release final decision.

Central Government Power to Direct Plan Change	
Overview	
Strong opposition raised by Councils. Proposal has since been modified.	
Cost	*Benefit*
• Loss of local democracy. • Cost of plan changes. • Loss of community faith in plan making process. • Loss of natural justice. • Undermining the intent of the Act to provide for public participation in decision making. • Undermine purpose of Environment Court. • Increases scope for lobbying to Central Government to clear the path for certain types of development.	• National consistency

QUOTES FROM LOCAL COUNCILS ARRANGED BY THEME

Need for Reform

"Suggested proposals are **unlikely to make any substantial gains** over those that have already been achieved and constant reform of the resource consent process only makes matters more complex…PNCC believes the current RMA/LGA legislative framework can deliver on the Government's objectives without further reform."
Parmerston North District Council[10]

[It is the Council's experience that criticism of the RMA] "is often unwarranted. Therefore, Council urges caution in attempting peripheral changes that may have the opposite effect of their intention…

Council is concerned at a number of **unsubstantiated statements** made throughout the decision document that posit an identified problem to be addressed. UHCC considers that such changes as are proposed need to be evidence based. UHCC does not, in many instances, see such evidence presented and notes at least one occasion where opinion evidence is used incorrectly around satisfaction with the RM system."
Upper Hutt City Council[11]

"The issue identification is light on detail and **lacks sufficient justification** for some proposals…"

The Council is concerned that the justification provided for the recommended proposals is based on anecdotal evidence, satisfaction surveys or worst case scenarios, and that the proposals lack robust assessment…the changes seem piecemeal…A more fundamental review…is required…

Overall, there is lack of clarity, a lack of factual base to understand the key issues outlined, a poor explanation of what is proposed, and a somewhat confusing explanation of how it would be implemented…"

"..The Council…does not see the proposed RMA changes as having any positive outcomes for housing affordability in the Kapiti Coast District. Instead, the proposed changes appear to be **undermining the protection of the environment for the sake of economic efficiency**."
Kapiti Coast District Council[12]

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[10] Draft Parmerston North Council submission referred to in agenda report for Council meeting of 27 March 2013. http://www.pncc.govt.nz/media/2039704/agenda_council_27-3-13.pdf
[11] Upper Hutt Council Agenda Report for Policy Committee 15 May 2013
http://www.upperhuttcity.com/store/doc/Policy_Agenda-150513-Item-A6.pdf
[12] Kapiti Coast District Council Agenda Report for Council meeting 18 April 2013
http://www.kapiticoast.govt.nz/Documents/Meetings/Current/Council%20(KCDC)/2013/1013%2042%2018%20April%202013/1013-42-KCDC-APP-Submission-SP-13-844.pdf -

[According to the *Draft Productivity Commission Report – Towards Better Local Regulation* December 2012] New Zealand ranks 60th out of 60 countries in how much of an impediment its environmental law poses to development". [That is, New Zealand was identified as having the lowest impediment to development].
Bay of Plenty Regional Council[13]

"We are concerned that the Discussion Document is not well aligned with earlier work, in particular the *Building Competitive Cities Discussion Documen*t (2010). Future Proof is concerned that the approach is **ad hoc**…The proposed package to address housing affordability set out in the Discussion Document…is overly **simplistic** and has the potential to create significant issues…"
Future Proof[14]

"Throughout the document the problems the proposals seek to address are often poorly defined or are not supported by evidence. In other instances the proposed solutions will create more problems than they solve."
Auckland Council[15]

"The Council feels that some of the proposals…are questionable and based on little practice evidence. The cost to communities to further implement RMA reform, if based on **poor evidential information**, is highly questionable, particularly when all Councils are under pressure to reduce expenditure and improve efficiency.

…In the Tauranga model, land use, infrastructure and funding policy and delivery are closely related and the Council does not want RMA reform to undermine that…

Any RMA reform has to be absolutely justified and based on sound evidence of problems, not on perceived issues or be ideologically driven. There are many aspects on the discussion paper that do not provide sound evidence or thinking for change".
Tauranga City Council[16]

"The need for reform needs to be justified…[We are] significantly concerned that the reform to the extent proposed will lead to **increased costs** on councils and will undermine existing investment in plan making…Many of the issues are not relevant to provincial New Zealand… Need to ensure that local planning issues are not inappropriately directed at the national level. The proposals do not acknowledge the positive aspects of effects based planning (as in the New Plymouth District Plan) and there is concern that some of the proposals may undermine this".
New Plymouth District Council[17]

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[13] Bay of Plenty Regional Council Agenda report for Strategy, Policy and Planning Committee Meeting of 11 April 2013 http://www.boprc.govt.nz/media/276211/spp-20130411-agendapart4.pdf
[14] Future Proof is the name of the organisation responsible for implementation of the 50-year Future Proof Growth Strategy which includes representatives from Hamilton City Council, Waipa and Waikato District Councils and Environment Waikato.
Future Proof Submission on RMA Discussion Document
http://www.futureproof.org.nz/file/Submissions/future-proof-submission-improving-rm-system-discussion-doc-on-rma-reforms-260313.pdf
[15] Auckland Submission on the RMA Discussion Document
[16] Tauranga City Council Submission on RMA Discussion Document
[17] New Plymouth District Council Agenda report for Policy Committee Meeting of 9 April 2013

"…there is particular concern that the level of analysis undertaken does not justify some of the proposals… It is questioned as to whether legislative review is required in all instances or whether issues can be addressed through either best practice guidance, existing national instruments or through more targeted legislation…

"There is particular concern that many of the issues are not nation-wide but are relative to the larger centres…Placing additional legislative responsibilities (and therefore costs) on communities where these issues are not relevant is not appropriate."
New Plymouth District Council[18]

"Any reform package should fit within the structure and underlying fundamentals of the Resource Management Act…there needs to be better, or more balanced, problem definition. Some of the proposals show inadequate definition of the problem, **gross assumptions** about cause and effect and many lack any evidential basis. Some in fact seem to **ignore what evidence does exist** and simply respond to anecdote, innuendo, fear and suspicion. It would be much better if the Government was clear about the problems it is trying to solve and come up with efficient and targeted solutions…

While the intent of some of the proposals may have merit, there needs to be robust analysis and testing to ensure that they can be put in place without creating **complexity and confusion**. There is much work that would need to be done in order to give confidence that some of the proposals are actually feasible."
Tasman District Council[19]

"The Council considers that housing affordability is not a RMA function. The RMA is being used as a blunt instrument to deal with an economic problem…"
Hurunui District Council[20]

"The issue of housing supply will not be resolved solely by amendments to the RMA…"
Horowhenua District Council[21]

"The discussion document contains unclear and inadequate identification of the problems, **lacks any evidence base** or understanding of processes and practice that is currently occurring and fails to provide any cost benefit analysis. The DCC is disappointed in the **failure** of the discussion document to provide adequate analysis which makes it difficult to fully comprehend the costs and benefits for Dunedin City or understand how the changes proposed will actually address the concerns…"

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[18] New Plymouth District Council submission on the RMA Discussion Document
[19] Tasman District Council Submission on RMA Discussion Document reported in Environment and Planning Committee Agenda for 11 April 2013
http://www.tasman.govt.nz/council/council-meetings/standing-committees-meetings/environment-and-planning-committee-meetings/?path=/EDMS/Public/Meetings/EnvironmentPlanningCommittee/2013/2013-04-11
[20] [20] Hurunui District Council Submission on RMA Discussion Document
http://www.hurunuilibrary.govt.nz/assets/Documents/Submissions/Hurunui%20District%20Council%20Submission%20-%20Improving%20our%20Resource%20Management%20System%20Discussion%20Document.pdf
[21] Minutes for Horowhenua District Council Meeting of 10 April 2013
http://www.horowhenua.govt.nz/Download/?file=/Documents/Meetings%202013/13%20415%20HDC%20Agenda%2010%20April%202013.pdf

"The proposed reforms are focused upon issues that have occurred in Auckland and Christchurch, both of which are unique issues that do not apply consistently across the country…It is not appropriate to impose a one size fits all approach..."

"The DCC does not consider that the proposed reforms will make any significant impacts on resolving the housing affordability issue…"
Dunedin City Council[22]

"HCC is concerned that there has been **no compelling evidence** presented to suggest that there is an issue with the timeliness or cost of the current resource consent regime…There is also a lack of evidence presented to show that the proposals in the document would indeed make it cheaper for applicants to apply for resource consent"
Hamilton City Council[23]

"Council has major concerns with a number of the solutions proposed. The manner in which the changes are proposed could result in a **diminution of environmental protection** and enhancement.

It is proposed that a number of matters be deleted from section 7 all of which relate to protecting core environmental values. Council does not believe there is an imbalance between environmental values and economic development which needs correcting. Rather, the Council is of the view that the emphasis in the RMA and its attendant practice should be redirected back to its original focus as set out in section 5. This will not be achieved by **fiddling** with the matters of national importance.

Council also does not consider the issue to be that there is inefficient duplication of effort or unnecessary variation and complexity in planning documentation. There seems to be a general misunderstanding of the role of plans in the RMA context...Where the system currently falls down is that the need to resolve this tension [between providing for economic, social and environmental wellbeing] is generally not well understood by participants in the system.

The proposed changes will only exacerbate these existing problems. Growing **complexity** within the RMA makes it more and more difficult… "

"There is no lack of predictability. However, there is often a huge cost in people trying to reverse negative decisions. This can be time consuming and resource hungry…What appear to be inconsistent approaches may actually be the appropriate outcome for each community and shows effective planning at a local level… "
Marlborough District Council[24]

"…Some of the proposed reforms will actively negate the current work…through increased **transition costs** and a lack of alignment with co-reforms, namely the recently announced water reform programme…

After 22 years of the Resource Management Act (RMA), **many key environmental outcomes are not improving.** Section 35 RMA monitoring or natural resource condition indices in the Waikato region

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[22] Working Draft for Dunedin City Council's submission on the RMA Discussion Document. http://www.dunedin.govt.nz/__data/assets/pdf_file/0004/315769/DCC-submission-RMA_2013-reforms-discussion-document_draft-v28_03.pdf

[23] Hamilton City Council submission on the RMA Discussion Document.

[24] Marlborough District Council submission on the RMA Discussion Document

have indicated a decrease in quality of many of the resources we manage…This reform should be undertaken with **caution**…" [Suggests there is a need to consider the interconnections between land use, erosion and other soil related issues and regional/catchment wide water quality].
Waikato Regional Council[25]

"…There are proposals within the Discussion Document which staff believe will actually make the process **less effective, and potentially cost our community significantly**. Many changes have been proposed at a high level and sound good [in theory]…but in reality it is difficult to see how some of these will be implemented or improve on the current situation".

"…Care needs to be taken during this reform that the effects on the community and environment are also balanced with improving the efficiency of the resource management system. For the Taupo District, it is unlikely that refinements to the RMA will result in significant gains to the District's productivity."
Taupo District Council[26]

"The central government argument [regarding housing affordability] here seems to be simple, plausible and **wrong**. Planning can provide the environment to encourage residential development, but it cannot compel it…there are other players and factors that have a greater impact…"
Napier City Council[27]

"…It is **not realistic** to expect total certainty where value judgements and competing considerations are involved…"

"…The task of responding to the proposals is made difficult by the prevalence of **generalisations** and the lack of rigorous analysis of the issues…Many of the proposed changes are only outlined in broad terms, with important questions left unanswered. Some of the proposals suggested are already in effect at Christchurch City Council…"
Christchurch City Council[28]

"The proposal in the reforms is not supported, as it **does not address the actual problem** [in relation to efficient and effective consenting]…The bulk of the provisions do not seem to actually address the actual issues with the Act…

"The changes do not seem to enhance the application of the Resource Management Act (the Act), but seems like a way to **squeeze out due regard to small communities and natural resources**…Kaikoura District Council do not consider that the proposed changes add value to the Act."
Kaikoura District Council[29]

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[25] Waikato Regional Council submission on the RMA Discussion Document
http://www.waikatoregion.govt.nz/PageFiles/26101/Submission_Improving_our_Resource_Management_System%20_2_.pdf
[26] Taupo District Council Agenda Report for Council Meeting 30 April 2013
http://www.taupodc.govt.nz/our-council/meetings/meeting-dates-agendas-and-minutes/Documents/2013%20Council%20Meeting%20Agendas/2013-04-30-council-agenda.pdf
[27] Napier City Council submission on the RMA Discussion Document
[28] Christchurch City Council submission on the RMA Discussion Document
[29] Kaikoura District Council Agenda report for Council Meeting 13 April 2013
http://www.kaikoura.govt.nz/docs/Council%20Documents/Agendas/council_130417_agenda.pdf

"The Council is concerned that a number of the assumptions contained in the discussion paper are based on **incorrect information** about current RMA practice…the changes are **piecemeal**…with a poor understanding of the pressures at work. A more fundamental review of the RMA is required…

Overall there is a lack of clarity, a lack of factual basis to understand the issues, a poor explanation of what is proposed and a somewhat confusing explanation of how it would be implemented…The proposed changes…will not effectively address housing affordability issues."
Wellington City Council[30]

"It is not at all clear that the regulatory response proposed is justified…Some proposals, such as the new Crown body…do not appear to have come from a careful and principled analysis and problem definition. In other cases there is no discussion of the likely costs associated with such major change to the RMA…"

"There are a number of issues with these proposals that **need re-examination** as to their need, practicality and workability across the board…

Consent authorities already define and process minor activities, specify that applications for certain activities are to be processed on a non-notified basis, and limit consideration of effects and conditions on consents to those matters specified in plans. The question remains where is the problem? Most consents issued nationwide are non-notified and the large majority processed within statutory timeframes."[31]
Taranaki Regional Council[32]

"We are concerned that...there are instances of amendments with the potential to create more **complexity, uncertainty and additional cost** for both the council and other parties involved in resource management processes…

Second generation planning documents should be given time to test effectiveness before changes are made to the requirements for these plans (for example the proposed national template)…Many of the actual problems…have occurred as a result of lack of national guidance"
Greater Wellington Regional Council[33]

The proposed changes [re]present a major shift in the purpose of the Resource Management Act, and roles and responsibilities…

ORC is of opinion that there needs to be more focus on problem definition from the outset, in order to sufficiently identify the real issues, and find workable solutions to them. As proposed, a number of the issues raised relate to behaviour by participants rather than as a direct result of the existing RMA provisions. Most stated issues arise from poor practice. A re-write of the RMA is **completely unnecessary** in many of the stated circumstances."

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[30] Wellington City Council Agenda Report for Strategy and Policy Committee 21 March 2013 http://wellington.govt.nz/~/media/your-council/meetings/Committees/Strategy-and-Policy-Committee/2013/03/21/21%20March%202013%20REPORT%205%20APPENDIX%201%20Draft%20submission%20improving%20our%20resource%20management%20system%2015%203%202013%20to%20Dem%20Services.pdf

[31] This point is also raised by several other Councils.

[32] Taranaki Regional Council Agenda Report for Policy and Planning Committee 21 March 2013 http://www.trc.govt.nz/assets/Uploads/pp2103W2.pdf

[33] Greater Wellington Regional Council submission on the RMA Discussion Document

"A number of the proposed changes go against the intent of simplifying and streamlining and will in face increase **complexity, time and costs**. A number of the changes are proposed to take immediate effect. However some of the guidance document, regulations, national plan templates and so on are proposed to take 1 to 5 years to develop. This is **unacceptable** and would further increase problems the government is seeking to resolve e.g. differences in interpretation and application, Environment Court creating policy."
Otago Regional Council[34]

"The discussion document…contains **unclear and inadequate** identification of the problems, lacks any evidence basis or understanding of processes and practice that is currently occurring, and fails to provide any cost/benefit analysis…"

"The proposed reforms appear to be focused upon addressing issues that have occurred in Auckland and Christchurch…it is **short-sighted** to force the rest of the country to use that model… It clearly will not fit properly…T he new plan for Auckland should be given some time to settle in before engaging in further widespread change."

"The discussion document lacks recognition of the significant improvements, including improved coordination and working together across regions, which have occurred as most councils progress through their second generation plans."
Joint submission from Otago Councils[35]

"Environment Southland believes careful consideration of the proposals is required to ensure that the intent of Act being 'sustainable management' is not compromised. It would also appear that many of the changes are as a result of issues in larger urban centres, further consideration needs to be given to the proposals' implications in a regional context."
Environment Southland[36]

"…We have not, however, seen evidence of the need for whole scale changes and, to the contrary, argue that the sector is meeting its statutory obligations….Council considers the use of language in the discussion document is frequently emotive, and some of the statements appear to lack an evidence base…

…it is hard to assess whether the costs faced [by the small proportion of businesses operated in multiple Council areas] are significant and greater than the benefits of local variations in regulatory approaches that may be driven by local preferences and conditions…[Council] considers a 'one size fits all' approach to residential land supply should not be applied across the country."
Matamata-Paiko District Council[37]

"WDC…has concerns regarding the wider Reform process…which in the opinion of WDC may fail to deliver…We have not, however, seen evidence of the need for changes…

The problems perceived to be process related under the Resource Management Act (RMA) are actually in WDC's opinion really the result of a lack of comprehensive national guidance…

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[34] Otago Regional Council submission on the RMA Discussion Document
[35] Joint submission by Otago Councils (Central Otago District Council, Clutha District Council, Dunedin City Council, Otago Regional Council and Waitaki District Council) on the RMA Discussion Document
[36] Environment Southland submission on the RMA Discussion Document
[37] Matamata-Paiko District Council submission on the RMA Discussion Document

…Specific Auckland region land management issues have crept into provisions of the Resource Management Act that have the potential to disadvantage smaller territorial authorities in delivering the core services required under the Local Government Act and put pressure on the retention of good staff, achieving good environmental outcomes and may in fact increase the burden of additional costs onto ratepayers which has **little to no public benefit**."
Wanganui District Council[38]

"Council is concerned that in a number of cases the Discussion Document is unclear about, or misstates, the problem at issue….The Document also appears to rely heavily on anecdote and selected examples (e.g. Case Studies on individual Plans) rather than factual information".
Clutha District Council[39]

"Many of the issue are being addressed by Council as part of the development and implementation of the second generation plans.

This proposed reforms seem to counter the simplifications or streamlining that the Government is trying to attain. The statistics suggest that the large majority of resource consents are processed efficiently due to a number of process improvements made by local government in recent years...

The competency and capability of the private sector to prepare quality applications is also a significant factor which needs to be accounted for and is reflected in the large number of resource consents that are placed on-hold for further information."
Manawatu District Council[40]

"[Planning reforms]…needs to be done in ways which are effective, and do not impose significant costs or unrealistic timeframes on councils or compromise local decision-making by elected representatives…a number of the proposals for reform would cut across or undermine local, values-based decision-making…

There is also the question of whether the issues or problems have been defined with sufficient accuracy to be sure the proposed solution is appropriate. In many cases there is inadequate or insufficient detail in the discussion document of the likely costs associated with major changes to the RMA."
South Taranaki District Council[41]

"There needs to be further analysis undertaken which demonstrates whether the suggested changes would enhance, better achieve or detract from achieving the purposes and principles of the Act… [particularly existing Section 5]."

"The Council is concerned about the level of analysis that has been undertaken to support the proposed changes to the RMA. In particular, it appears the examples provided in the document have been selected solely to support the view that changes to the RMA are necessary, as opposed to being representative of current planning practice….A more robust statistical analysis of costs and time delays associated with the planning process are required as opposed to picking isolated case studies to support the proposed changes… Another concern is that one paper that has been used to

[38] Wanganui District Council submission on the RMA Discussion Document
[39] Clutha District Council submission on the RMA Discussion Document
[40] Manawatu District Council submission on the RMA Discussion Document
[41] South Taranaki District Council submission on the RMA Discussion Document

justify the changes was published in 2003 [and is therefore inappropriate as it does not reflect subsequent changes to legislation]… Overall, we feel that the discussion document lacks justification around the proposed changes to the RMA."

"…we feel that further changes and considerations are required to ensure that a balance is reached between achieving future economic development and the maintenance of environmental values. We believe further analysis is required to justify the suggested changes and assumed improvements and we consider that there is the high potential for there being unintended consequences as a result of the proposed legislative changes. Many of the suggestions to speed up the process will only capture smaller proposals where the time taken to obtain consent are less important."
Hutt City Council[42]

"…Council would like to see additional evidence provided that confirms the issues identified are problematic for the majority of councils and are not based on worse case scenarios or exaggerated perceptions".
Far North District Council[43]

"…Efficiency should not be at the expense of appropriate local representation in RMA decision making. The Council also notes that many of the proposals **lack sufficient detail** for a fully informed comment to be made."

"Increasing resourcing and focus at the Central Government level is required to ensure successful delivery of the content of the discussion document".
Nelson City Council[44]

[The Council does not believe] "that a number of the amendments outlined are either necessary or will in fact create the efficiencies that are sought. Of key concern are the **sweeping statements** that these changes will deliver significant benefits and efficiencies when the actual detail is not currently there to support them. Council considers that many of the matters are already being provided for by Councils and within the Act…

The Council is extremely concerned at the **ambiguity** within the document regarding the role of Local Government Councillors… it sets up a regime whereby these decisions [on joint plans] are to be made by an independent hearings panel and must be agreed to by the Council otherwise there is no narrowing of the scope of appeals to the Environment Court. What exactly is the role of elected Councillors to be, decision makers or **rubber stampers**?

A further area of concern is the focus primarily on local government processes when there is a significant issue that needs to be addressed by the applicants themselves. If the quality of the applications were to improve dramatically there may also be less frustration with the process…
Southland District Council[45]

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[42] Hutt City Council submission on the RMA Discussion Document
[43] Far North District Council submission on the RMA Discussion Document
[44] Nelson City Council Agenda Report for Governance and Policy and Planning Committee 23 April 2013 http://www.nelsoncitycouncil.co.nz/assets/Our-council/Downloads/council-agendas/2013/RAD-n1495601-v1-Governance-and-Policy-and-Planning-public-agenda-pp119-227-23Apr2013.pdf
[45] Southland District Council submission on the RMA Discussion Document.

The Planning Consultant said…it was hard to respond to outcomes sought when there was not a clear understanding of why something was being done…His Worship said… people appeared to be rushing to fix problems, only to find out that a problem was either not what they thought it was, or was not a problem at all…"
Gore District Council[46]

"…In some cases the problem is unclear and therefore we are concerned that the 'fix' proposed is **unlikely to be effective**. We have looked at the 'problem statements' in the discussion document and have identified cases where the 'evidence' does not support either the mooted problem or the proposed solution.

We commissioned New Zealand Institute of Economic Research (NZIER) to undertake an independent assessment of the discussion paper… NZIER considers (page 1) that: "*The intention of the discussion paper, in removing undue costs and uncertainty from resource management processes is unquestionably beneficial, but the paper's analysis and evidence base is not compelling in supporting its conclusions and proposals for improvements. Those proposals are so widespread and so disparate that it is difficult to foretell what their combined effects will be, and the paper has no cost benefit analysis of implementing what it proposes…*

While the paper strongly states the need for improvements it contains little evidence of the analysis that it has undergone to reach its conclusions. The justification for some of them is based more on assertion than evidence…"
Local Government New Zealand[47]

"Most problems identified with the RMA [in the discussion document] relate to execution rather than design, or from a lack of guidance on execution. A weakness of the RMA from the outset is that, having identified matters of national importance to be recognised and provided for, government provided no guidance on how to do that until belatedly – 15 years after the Act came into force – it started using national policy statements and national environmental standards. That omission has contributed to the delays, uncertainties and recourse to the Environment Court that the discussion paper takes aim at, and redressing that omission would do much to remove the problems **presumed** by the paper."

"While the paper strongly states the need for improvements, it contains **little evidence** of the analysis it has undergone to reach its conclusions. The justification for some of them is based more on assertion than evidence…In short, the case of the mix of proposed changes, either singly or in combination, is not compelling demonstrated…"
NZIER

[46] Minutes of Gore District Council Regulatory and Planning Committee Meeting 12 March 2013
[47] LGNZ is a member based organisation representing all 78 local authorities in New Zealand
LGNZ submission on the RMA Discussion Document
http://www.lgnz.co.nz/assets/Uploads/Improving-our-Resource-Management-System-2Apr2013.pdf

COMMENT BY AUTHOR

As outlined in my earlier report '*Grave Concerns regarding proposed RMA Reforms'*[48] a number of organisations have raised strong concern that there is both a lack of justification for the reforms put forward and a lack of understanding of the cost implications of these changes. Concerns raised by Local Government are well demonstrated in the quotes above.

Information provided in the Discussion Document has been described by some local government representatives as incorrect, simplistic, unsubstantiated and based on gross assumptions. Proposals put forward have been described as ad-hoc, piecemeal, ineffective, not addressing the key issues, unnecessary and short-sighted.

Existing statistical information on resource consents provides no evidence of a need to improve the efficiency of the consenting process, especially when these statistics are compared with New South Wales (Australia), England and Wales, as outlined below:

- In 2010/11 95% of resource consents were processed within statutory time targets, including 95% of non-notified consents, 86% of limited notified consents and 87% of public notified consents[49].
- In 2010/2011 89% of resource consents were processed on a non-notified basis within 20 working days (that is 94% of applications determined without notification of which 95% are determined within statutory time limits).
- In comparison, the average planning consent time in NSW is 71 days, with a lower median time of 45 working days[50] ;
- 58% of all planning consents for 'major' developments[51] in England were processed within 13 weeks and 68% of all minor development decided within 8 weeks[52].
- 0.56% of all resource consents are declined in NZ, in comparison with 12% in England[53].
- 94% of all resource consents in NZ in 2010/2011 were processed without notification, with this figure rising to 96% for subdivision and land use consents[54] (the principle forms of consent in urban environments).

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[48] A copy of which can be viewed on https://www.greens.org.nz/sites/default/files/tindale_-_analysis_of_submissions_on_govts_rma_proposals_2013.pdf

[49] Ministry for the Environment, Resource Management Act: Two-Yearly Survey of Local Authorities 2010/2011, published September 2011 http://www.mfe.govt.nz/publications/rma/annual-survey/2010-2011/index.html

[50] NSW Government Local Development Performance Monitoring 2011-2012 http://www.planning.nsw.gov.au/LinkClick.aspx?fileticket=u6oLbuYPeiA%3d&tabid=74&language=en-US

[51] Major development in England and Wales is defined as residential development for 10+ units or commercial development providing more than 1,000m^2 floorspace. This type of development is likely to be treated as minor development in NZ.

[52] Table P124 District Planning Authorities[1]: Planning decisions by speed, performance agreements and type of development England, Year ending March 2013 (Year ending March 2012) https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics

[53] These figures are not directly comparable, as more development in England requires consent than in NZ. Statistic sourced from the English Department of Communities and Local Government Table 120 January to March 2013 https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics

[54] Ministry for the Environment Ibid.

- Only 3.7% of resource consents were publicly notified in New Zealand, with a further 2.32% with limited notification.
- In comparison, all planning applications in England and Wales are notified and 77% of applications in NSW[55].
- New Zealand ranked as the 12th easiest economy out of 185 to obtain necessary approvals associated with the construction of a warehouse in the World Bank Doing Business Index[56].

Not only do suggested reforms largely ignore reports written pre-2011 such as *Building Competitive Cities*, *Building Sustainable Urban Communities*, *Value of Urban Design* and the *Urban Technical Advisory Group Report*, some recommendations are inconsistent with more recent reports commissioned by the current Government.

The Final Report of the *Productivity Commission on Towards Better Local Regulation* 2013[57] did not support the centralisation of regulatory powers or the fixing of fees.

The *Report of the Local Government Infrastructure Efficiency Advisory Group*[58] stated that:

> "Part of the rationale given for the current reform package is that planning rules set by one council can be quite different to the one next door. We agree that this is an issue, but have not been able to find any documented evidence as to its scale. The Productivity Commission noted, '*it is hard to assess whether the costs faced are significant and greater than the benefits of local variation in regulatory approach that may be driven by local preferences and conditions*.'
>
> Local preferences and conditions will always be important and depending on the issue, may be justifiable…. "

As such no compelling justification is given for standardisation across the country.

The report also:

- Supported the value of public participation in local decision making;
- Identified the high value local communities had for the character of their neighbourhood and their ability to be involved in decisions affecting them; and
- Reinforced the existence of a strong belief among councils that central government does not understand or adequately consider the financial implications of new regulations assigned to local authorities.

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[55] NSW Government Ibid.
[56] http://www.doingbusiness.org/rankings June 2013 results published October 2013. Consents are not limited to resource consent.
[57] http://www.productivity.govt.nz/inquiry-content/1510?stage=4 Published May 2013
[58] Published by the Department of Internal Affairs, March 2013
http://www.google.co.nz/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CCoQFjAA&url=http%3A%2F%2Fwww.dia.govt.nz%2Fpubforms.nsf%2FURL%2FLG-Infrastructure-Efficiency-Expert-Advisory-Group-Final-Report.doc%2F%24file%2FLG-Infrastructure-Efficiency-Expert-Advisory-Group-Final-Report.doc&ei=RRNzUs7cD8jbkgW0Eg&usg=AFQjCNG2mrHZvuCc3PJw3mxpV3SMO_L7rQ&sig2=7rgCL8ibzIfF4I-gvH4eAA&bvm=bv.55819444,d.dGI

The July 2013 Cabinet Paper '*Better Local Government: Opportunities to Improve efficiency*'[59] also expressed a lack of support for amending the *Local Government Act* to legislate for good practice, due to the likelihood of creating confusion and greater scope for legal challenge. This is in stark contrast to proposed Section 7 of the RMA, which has been elevated in importance by its inclusion in the principle section of the Act.

It is understood that a key justification for the proposed set of reforms is the government's desire to address the issue of Affordable Housing. In this respect, it is hard to see the need for the proposed reforms in terms of improving housing affordability, especially following the introduction of the *Housing Accord and Special Housing Areas Bill* and associated signing of the *Auckland Housing Accord.* Seven local government representatives have clearly indicated they do not believe the reforms will have a significant effect on housing affordability. Furthermore, there are considered to be more effective methods to deal with this problem.

The *Local Government Development Contributions Discussion Paper*, January 2013[60] identifies that for an average 145 square metre house in Auckland, consent (resource, building, subdivision) fees and legal fees comprise 3% of the modelled cost of building. It is hence unlikely that any reduction in application fees would have a significant effect on house costs.

Nevertheless, the question remains as to whether an objective of improving housing affordability by promoting greater land supply for housing (and possibly opportunities for increasing densities in existing urban areas) belongs in the *Resource Management Act.* Such a provision appears contrary to the intentions of the original drafters. This original intention was for an effects-based planning regime that neither promoted nor discouraged specific activities, but rather allowed for the approval of any application, subject to its effects being considered acceptable.

The Government has also stated that they consider that too much weight has been given to the avoidance of environmental harm rather than to the benefits of resource use. This argument:

- Suggests a lack of understanding of the effects based principle of the Resource Management Act.
- Ignores the very low refusal rates for resource consents (0.56% in 2010/11).
- Is at variance with a number of reports published by the Parliamentary Commissioner for the Environment (PCE) between 1994 and 2002.
- Is contrary to the comments made by Waikato Regional Council.
- Is contrary to the contents of the report '*Protecting New Zealand's Environment: An Analysis of the Government's Proposed Freshwater Management and Resource Management Act 1991 Reforms* (2013) by Geoffrey Parker[61].
- Is contrary to comments within OECD reports.

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59 http://www.dia.govt.nz/vwluResources/Cabinet_paper_Opportunities_to_improve_efficiency/$file/Cabinet_paper_Opportunities_to_improve_efficiency.pdf

60 http://www.dia.govt.nz/vwluResources/Local%20Government%20Development%20Contributions%20Review%20Discussion%20Paper%20(pdf)/$file/Development_Contributions_Discussion_Paper_Jan2013.pdf

61 http://www.fishandgame.org.nz/sites/default/files/Fish%20and%20Game%20RMA%20Paper%20-%20FINAL%20PRINT.pdf

In the report titled '*The Cities and their People: New Zealand's Urban Environment'* (1998)[62] the Office of the Parliamentary Commissioner for the Environment, describes the typical New Zealand approach to the purpose of the RMA as "*we will chose our development pathway on the basis of economic efficiencies and mitigate any resulting environmental effects that arise."*

The '*Creating Our Future'* report (2002) commissioned by the PCE states:

"New Zealand could have been a leading light on sustainable development…Instead, sustainable development has not progressed in a New Zealand in a coordinated or meaningful fashion over the past 10 years."[63]

The OECD report on *'Green Growth and Climate Change Policies in New Zealand'* (2011)[64] comments:

"While environmental quality is still high, worsening performance trends are being seen in a number of key indicators, such as green house gas emissions, and in some areas, water quantity and quality."

More recently the *Local Government Infrastructure Efficiency Advisory Group* in their March 2013 report identified that 1.5 billion litres per day (or 547.5 billion per year) of domestic wastewater are discharged in the environment daily and that as far back as 2006, 139 small communities were identified has having wastewater facilities that are inadequate in terms of public or environmental health.

The argument that too much weight has been given to the environment appears somewhat ludicrous.

Given the existence of a poor relationship between Central and Local Government, it is useful to examine this relationship further, in terms of Local Government's perception of the quality of advice, reliability of evidence and quality of implementation analysis undertaken by Central Government.

[62] http://www.pce.parliament.nz/publications/all-publications/the-cities-and-their-people-new-zealand-s-urban-environment

[63] http://www.pce.parliament.nz/assets/Uploads/Reports/pdf/Creating_our_future.pdf

[64] http://www.oecd-ilibrary.org/economics/green-growth-and-climate-change-policies-in-new-zealand_5kg51mc6k98r-en

Poor Relationship between Local and Central Government

"PNCC is also concerned the continued identification of local government as the 'the problem'…Local government is clearly seen as an **easy target** by this Government". [The proposal for memorandum accounts] has an incorrect underlying assumption that some councils are using the resource consent process to make a profit".

"PNCC submits that the proposal [for a Crown-established body to process some types of consent] highlights the **lack of understanding** that that the writers of the discussion document have for the planning process…

The general tone of this section [working with Councils to improve practice] is **condescendin**g and shows a lack of respect and appreciation of the multiplicity of the challenges faced by local government."
Parmerston North District Council

"UHCC is troubled by this section [an obligation to plan positively] as it appears to show a disregard of what Councils do."
Upper Hutt Council

"The Government's proposal is that power over local public policy be centralised, but that Local Government continue to bear the cost of going through planning processes, including the **whim** of the Minister in place at that time."

"…Council strongly believes that the Government's current processes [for developing National Policy Statements and National Environmental Standards] are **insufficient**."
Auckland Council

"TCC's experience with those NPS's that have been created to date is that they fall far short of being really useful and need significant work to implement at district plan level. Each uses differing terminology and there is no hierarchy on use or application when values are competing…There needs to be a greater rigour in the regulatory impact assessment of such tools by central government, a point made recently by the Productivity Commission."
Tauranga City Council

"The RMA is an **easy target** for criticism and because local authorities are involved in its administration, they also attract criticism. The discussion paper, while floating some proposals that may have merit, displays a disconcerting level of **ignorance** as to how things actually work on the ground. The apparent inability to appreciate how things work, or not, means that some of the so called solutions are **impractical, ill targeted, inefficient and costly**…"
Tasman District Council

"…it would have been helpful if the Ministry had allowed sufficient time for such an important matter. The process had been **very rushed**…The time allowed for submissions is too short…We question how genuine a consultation process can be under such a tight timeframe".

"The so called simplified and streamlining of the Act we have seen to date has not served that purpose in a practical sense…"
Horowhenua District Council

"TCDC is concerned that the feedback loop and review of NPS and NES is lacking. When a new NPS/NES is found to be ambiguous, has **incorrect assumptions** or underlying data, or has unintended negative consequences, MfE seems unwilling to adapt and improve it".
Thames-Coromandel District Council[65]

"Gisborne District Council is concerned about the limited time for considering these far reaching proposals...Similarly Council is concerned that interest groups, iwi and the public in general have had **insufficient time** to be able to consider the matter fully and provide full submissions."
Gisborne District Council[66]

"Each time the RMA has been amended since 2009 the stated intention has been to simplify and streamline resource management processes. The experience of Council has been that through these amendments the processes have become more and more **complex, time-consuming, costly** and in many cases had **unintended consequences**".
Marlborough District Council

"Mayor Ayers noted the community will receive proposals which will reflect the policy directions of the **political masters**. There is a tendency to centralise and taking the 'local' out of local government".
Waimakariri District Council[67]

"There have been a number of attempts from successive governments to 'fix' the RMA (1993,1994,1996,1997,2002,2003,2004,2005,2007,2008,2009,2011) and each set of reforms fixed some of the concerns and creates others…In Councils view there is **insufficient evidence** based work undertaken to identify the real drivers for the problems. Each 'fix' seems to be **reactive** to the concerns of the day."
Opotiki District Council[68]

"There is an implication that local authorities act as a 'handbrake' to development and economic activity in their area and we do not accept this. All councils want and encourage vibrant businesses and strong infrastructure to support growing their economies…For many councils outside the main centres it is not an availability of land, but a lack of growth that is a key issue."
Taupo District Council

"The resource management system is subject to ongoing review, and it is unclear at this stage where the Resource Management Act is going, what further changes are to come and what the government's **ultimate objective** is…

The other reservation about this review is the identification and analysis of the present situation, problems and the solutions...complaints and letters to the Ministers were cited as evidence of the problems. There are obviously problems in this methodology as the complainants are **self-**

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[65] Thames-Coromandel District Council Agenda for Council Meeting 3 April 2013
http://web.tcdc.govt.nz/24DocServ/cache/6f9f4c87a730d6db360fdc2f9b3d204a.pdf
[66] Gisborne District Council Agenda Report for Environment and Policy Committee Meeting 17 April 2013
http://www.gdc.govt.nz/assets/CommitteeMeetings/13-142-Report.pdf
[67] Waimakariri District Council Minutes of Council Meeting 2 April 2013
[68] Opotiki District Council Agenda Report for Ordinary Committee Meeting 23 April 2013
http://www.odc.govt.nz/media/97572/2013-04-23%20ordinary%20council%20meeting%20complete%20appendices%2023%20april%202013%202%20items%204-7.pdf

selecting…Policy development based on anecdotes, misinformation or an information deficit has the potential to generate **non-solutions** that are worse than the present situation".

[The effect of changes to achieve 'greater national consistency and guidance' may be]:

- "A period of uncertainty and legal dispute while the implications of the change to Section 6 and 7 are worked through.
- A return to the ethos of the 1953 Town & Country Housing Act where the use of planning scheme templates encourage one size fits all rigidity.
- A huge temptation for central government to do '**helicopter management'** by hovering above local government and intervening when a problem is spotted, in the **belief** that central government know better."

"…It seems to result in more **nanny-state** central government intervention on the basis that the central government has a better information base…The actual proposals [for working with Councils to improve practice] when boiled down translate into **managerialism blather**…A suggested translation could be: 'The Minister will tell the local authorities what to do when a political crisis blows up and a **scapegoat** is needed. Councils will be named, blamed or shamed.'"
Napier City Council

[We want the Government to] "Recognise that economics is not the sole [issue] for resource management and that tough decisions sometimes have to be made in advance of resources becoming scarce". [The costs of rectifying resource scarcity are higher than for management to avoid scarcity].

"Council is concerned that there is a disconnect between Governments view of previous amendments and the realities Councils have faced trying to implement **poorly considered** legislation[69] – the 'Simplifying and Streamlining' amendments have been anything but.

Council is concerned that there is a mismatch between what central government believes is being achieved through the development of NPSs and NESs and what they actually do[70]. Cases in point are the NES on Air Quality and also Managing contaminants in Soil[71], both of the central government documents have been **poorly crafted** and issues regarding the practicalities of implementation **poorly understood** by their creators….

Council notes that the Productivity Commission is aware that the lack of understanding or attention paid to implementation issues is a key matter that has been raised by many Councils".
Southland District Council[72]

"Councils around the country spend significant time and effort submitting on these Documents [NPS & NES], when often there does not appear to have been adequate background work undertaken, or appropriate pre-notification consultation…it appears that to-date, NPS's and NES's have been developed as a result of lobbying and/or **political agendas**…Reassessing priorities every three years,

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[69]Southland District Council identifies that Central Government and applicants/appellants are at least partially responsible for existing problems with the resource management system and that is unfair to assign sole blame for problems to the local government sector.

[70] Widespread poor opinions held by Local Government of guidance produced to date by Central Government are illustrated in Council survey results from the Productivity Commission on Local Regulation http://www.productivity.govt.nz/sites/default/files/towards-better-local-regulation-data-compendium_0.pdf

[71] This NES has been criticised by several councils.

[72] Southland District Council submission on the RMA Discussion Document.

presumably in-line with national elections, would continue to risk the development of **ad-hoc** policy…"
Ruapehu District Council[73]

"the additional **burden** that central government continually imposes of local government…"
Kaikoura District Council

"The Ministry for the Environment should be incentivising and assisting Councils…rather than imposing **arbitrary** legislative requirements on Councils which will not necessarily promote better practice and will add significant compliance costs on ratepayers and plan users."
Wellington City Council

"PCC has concerns about the accuracy and appropriateness of some of the evidence used…This evidence would not be acceptable in the Council's resource management plan making or resource consenting processes…

Recent examples [of national policy] including the NES for Assessing and Managing Contaminants in Soil to Protect Human Health and the NPS for Electricity Transmission Activities have not been practical and have significant cost implications in their implementation…

PCC also considers that working with councils to improve practice should mean just that…PCC sees this as a more positive way to proceed than to rely just on additional reporting obligations that may be used against councils."
Porirua City Council[74]

[Non-statutory agenda for the production of national guidance] "would reduce ad-hoc reactions to lobbyist interests…"
Hawkes Bay Regional Council[75]

"The Council urges caution in making legislation decisions based on 'anecdotal evidence'. There is a danger that a one sided 'horror story' may influence the policy maker; when the other the other side of the story is not being communicated (and is not sought)."
Central Otago District Council[76]

"The current Discussion Document unfortunately has been developed without partnership with local government, and it will not successfully address the issues raised unless local government is involved in both defining the problems and developing the solutions… Tellingly, the current changes have been developed with **virtually no engagement with local government**, and the mindset that councils can submit once proposals have been released…."

"[The little national guidance developed] is largely of little practical assistance (eg. NPS for Renewable Energy Generation)"
Clutha District Council[77]

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[73] Ruapehu District Council submission on RMA Discussion Document.
http://www.ruapehudc.govt.nz/Cache/Attribs/2070006/559078_-_MFE_-_Improving_RM_Systems.pdf
[74] Porirua City Council submission on the RMA Discussion Document
[75] Hawkes Bay Regional Council submission on the RMA Discussion Document
[76] Central Otago District Council submission on the RMA Discussion Document
[77] Clutha District Council submission on the RMA Discussion Document

"…We feel this unduly brief consultation period has not provided sufficient time to properly consider the proposals put forward or fully assess their potential implications. We also note, with regret, that the Ministry for the Environment **did not actively collaborate with local government** over recent changes (RM Bill 93-1) and neither has it done so with this latest suite of proposed changes.

It's both our wish and our request that the Ministry specifically, and central government more generally, recognises the benefit of quickly re-establishing in a constructive, respectful and positive partnership with local government…"

"[The Discussion Document]…does not represent a balanced or accurate description [of key issues], nor does it recognise the largely good RMA performance being achieved. The *Productivity Commission report – Towards Better Local Regulation*, is far more comprehensive and balanced."
Waitaki District Council[78]

"MDC is concerned that [the single resource management plan]…has the potential to encourage local government reorganisation. If this is the motive then this should be made very clear so that local government is not left to pick up the pieces and implement the Government's plans by **stealth**."

"Unless there is much more thought put into the problem definition, it is likely that we will continue to see almost-yearly further amendments to the Act, and more **poorly thought out changes** such as the timeframe calculations and consent application requirements contained in the 2012 Reform Bill…
Manawatu District Council

"It is preferable to design a plan making system that is sufficiently responsive for local communities to respond to changing circumstances than rely on a system of ***ad hoc*** or **political** interventions from central government or the Minister of the day."

"Over the years the Council has at times been disappointed by the lack of good quality analysis (problem definition, option identification, implementation issues, costs and benefits, implications and costs for local authorities) that has sat behind national policy statement development processes. There has been a lack of capacity to actually come up with proposals that are workable for local government to implement in a practical and cost-effective way...

The Council considers that much more attention and appropriate resourcing must go into front end data gathering, problem definition, economic, social and environmental impact analysis, consultation with local government etc before these tools are promulgated."

"This proposal is obviously based on a **political agenda**, rather than an environmental / economic necessity, which **tarnishe**s not only the integrity of this act, but law making processes in general."
South Taranaki District Council

"The lack of engagement with Councils in the consultation round is disappointing (with only 45 minutes provided in a meeting with local Taranaki Councils). The government needs to consider these proposals more comprehensively and to consult wider with local communities before progressing legislation."
New Plymouth District Council

[78] Waitaki District Council submission on the RMA Discussion Document.

"…Council requests that more regard be given to the potential impacts at the implementation level, including technical and financial support…" [Reference is made to a lack of support in relation to the introduction of the NES on Soil Contamination].
Far North District Council

"We encourage Central Government to re-engage in partnership – there is more to be gained from active collaboration and meaningful engagement than from **tinkering** with regulation".
Joint submission from Otago Councils

"In an environment where central government consistently complains about rates and fees levied by local government, this **casual approach** to the generation of further costs is undesirable and further evidences the concerns recently, expressed by the Productivity Commission. Central government ought to be carefully considering the points that have been made by the Productivity Commission; instead it seems to be continuing on the same track…

This general lack of attention to implementation detail was identified by the Productivity Commission as a significant problem in central government policy formulation generally."

"There is an implication that local authorities act as a 'handbrake' to development and economic activity in their area and we do not accept this. Frankly, all councils want and encourage vibrant businesses and strong infrastructure to support growing their economies…**Pigeon-holing** councils as being anti-development is patently incorrect…**Rhetoric** of this kind only lends itself to poor and uncertain law, as was the case with last year's amendments to the Local Government Act."

"We note that the changes to s 88 and the 4th Schedule in the 2012 Bill run contrary to the streamlined process that Central Government is seeking – the 2012 Bill requires a Rolls Royce process for every application, even when it is not warranted."
Local Government New Zealand

COMMENT BY AUTHOR

Central Government has been described in submissions from local government as

- Using local government as a scape goat;
- Contributing to the poor reputation of local government;
- Having a poor understanding of existing planning practices and issues facing local government;
- Arrogant in their dealings with local government;
- Reactive to political issues of the day;
- Allowing insufficient time for consultation, implementation and drafting of legislation/policies;
- Introduced planning legislation that is cumbersome, complex and costly;
- Making arbitrary decisions; and
- Careless of the additional regulatory burden and costs imposed on the Local Government sector.

Some Councils have indicated that they have little faith in central government's ability to implement the proposed reforms in a way that will lead to genuine improvements in planning practice. Given strong concerns raised on the quality and workability of recent planning legislation, it would make sense for these concerns to be investigated, before proceeding with major changes to the RMA.

Comments also suggest a lack of faith in the information sources/expertise of Central Government.

A sense of this lack of faith is captured in the amusing recommendation from Southland District Council that "*local government is provided with the same crystal ball that central government has.*"

The above quotes of Local Government representatives provide a strong indication that the relationship between local and central government is dysfunctional, with each level of government having a poor opinion of the other. Local Government suggests that references made by Central Government to working with them in developing policy and guidance have not materialised into a meaningful co-operative partnership[79]. This bad relationship will make it particular difficult for Local Government to implement the proposed reforms, forced upon them. It is considered unrealistic to expect legal agreements to provide an adequate substitute for genuine co-operation.

[79] However reference is made by some councils regarding a more consultative approach to the development of the National Monitoring Strategy.

Loss of Local Democracy

"The proposals in the discussion document, together with the changes promulgated in the 2012 Bill are disrespectful and represent a fundamental challenge to the role of councils, elected members and local communities in the RMA decision making process".
Parmerston North District Council

"Council has concerns regarding the emphasis on 'streamlining' processes which appear to be at the cost of local decision-making and rights to appeal decisions made…the Council is opposed to being **told which issues to plan for regardless of local views**."

"Development potential is something which is best assessed by Council, and the methods to enable sufficient growth of the district should be determined with community consultation not by central government."
Kapiti Coast District Council

"Local issues should be resolved by the local council in consultation with their community. If this is not done than this is likely to result in a significant erosion of local decision making."
Future Proof

"…On the whole the changes will reduce the ability of councils to make decisions on consenting and planning matters in accordance with the aspirations of their communities. It is likely, for example, that subsequent to these amendments councils will be less able to appropriately consider the full range of the potential adverse effects of applications in respect of infrastructure projects or rezoning of greenfield land to residential, particularly in respect of urban amenity or environmental considerations…

…the Council's consideration…will be less influenced by environmental, heritage or amenity considerations and there the Council will have less ability [through plan development or assessment of consents] to ensure that these critical considerations are appropriately provided for through controls on development, or mitigation measures or other conditions imposed on resource consent it grants.

The proposals…weaken or entirely circumvent these procedures [for community involvement in decision making] constitute an **unprecedented undermining of the Act's purpose** and the expectation of New Zealanders that they will be able to have a say in planning issues critical to the future of their local areas…decision making should be undertaken at the level of government closest to those most affected…"
Auckland Council

"TCDC is concerned that the proposal allows central government to intrude on local communities' plans when it is not to the government's liking - even if a majority of the local community support that plan..."
Thames-Coromandel District Council

"…There is a concern that governments in future may want to exert influence over local councils' and communities' resource management policies on other matters such as mineral exploration and production…The Council seeks the retention of s43A (3) to ensure that national environmental standards do not create a situation of **allowing for significant adverse effects** on the environment".
Gisborne District Council

"The proposals suggest a significant reduction in local decision-making around planning with far greater controls and influence by central government, including both a removal of decision-making powers from elected members and reductions in the community's ability to have a say. This change is a fundamental shift in decision-making away from local communities, local representatives, into the centralised hands of central government.

This is a serious and dramatic change in the role of local government, local democracy, and DCC considers it **extraordinary** that such a change is being considered with almost no serious discussion with New Zealanders, based on **scant evidence** beyond anecdotal. The suggestions belittle the democratic process where plans are conceived and adopted with the emphasis reflecting local interest and input – for example Dunedin has substantial emphasis on heritage values that should not be diluted by changes in the Act…"
Dunedin City Council

"Decisions made without local knowledge would risk being at odds with local circumstances such as infrastructure constraints, and consistent plan administration".
Hamilton City Council

"Are resource management plans local community plans or central planning instruments? The proposals in the discussion document seem to be a half-way house without really opening this issue up for discussion by communities.

Council is concerned that the thinking around further central government intervention puts at risk the ability for local communities to plan for their own futures; it does not allow local communities to be able to identify for themselves where their values and priorities lie in a resource management context. There is a real risk that l**ocal communities will no longer be able to plan for their own futures.**

Council considers that central government already has sufficient powers to give guidance and direction in matters that are considered to be of national importance. If these existing powers are properly exercised no further powers should be necessary".
Marlborough District Council

"As a general rule planning decisions are best made by the people who are closest to the issue, and who have the most at stake and presumably have the best information. If national interests are to outweigh local decision making the temptation to intervene and centralise will be irresistible."

"…Extension for the general government to intervene more seems another manifestation of centralising decisions because central government knows better than local government about what is best for the community. Going back to the 1970's, this was the underlying approach to the Clyde High dam which was a $2 billion **disaster** decided by the Central government, after removing the application from the standard [resource consent] process."
Napier City Council

"…An implicit greater 'hands on' direction by central government… signals a significant change in the practice of planning in NZ…The Council is not convinced that the aspirations of different sectors of the community will always be able to be resolved 'upfront'. Council considers that resource consents are an appropriate forum to consider site specific proposals and ensure that projects fit well into their environment, and on occasions these proposals will require public input of some kind".
Christchurch City Council

"The intention of the RMA was to ensure local communities retained local decision making powers. The proposed changes have the potential to over-ride this principle, **undermining local democracy**…No evidence has been provided to justify the need for such a potentially significant approach."
Ruapehu District Council

"… In this proposal, the minister may direct the outcome of the plan change and also specify the content of the plan change. This is considered to be completely beyond what the Act intends and takes the decision making process away from the local community…"

The purpose of a District Plan is for the local community to direct the important issues for the district and provide input into these issues. The Minister is effectively removing the participatory right through the proposed changes….this is applying a national approach to local plan making. This is not considered to be effective resource management and **will remove the voice of local communities** in the plan making process… "
Kaikoura District Council

"It is the officer's view …a number of proposed changes need to be given careful consideration as they appear to reduce local government autonomy through the provision of increasingly powerful tools for Central Government, constrain local community involvement and have significant resource implications (time and money) for Council…

Local councils are best placed to identify the capacity of existing infrastructure and services to accommodate growth, the costs of urban expansion in different areas, the appropriate mix of greenfield and infill development, and take into account the views and housing preferences of the local community. It would be of concern if the government choose to use its proposed 'enhanced' intervention powers to intervene in Council's policy decision around growth management."

"Changes will significantly increase the government's ability to direct local authorities to address particular issues in their district…Increased use of ministerial intervention powers could represent a significant shift away from local decision making to much more centralised planning. This is of concern if it is done in an **ad-hoc manner on highly politicised central government issues**…"
Wellington City Council

"…Proposals that would lead to a loss or erosion of local democracy and decision-making which is at the heart of New Zealand's resource management system…The proposal to extend central government powers to direct plan changes…can be seen as undemocratic and potentially open to misuse leading to antagonism and **fractured relationships with local communities**…There are less **draconian mechanisms** to deliver on national priorities…"
Taranaki Regional Council

"We have concerns over decision making being taken away from a local level and rules be added to plans with insufficient consultation with local councils…This represents a shift away from local decision-making towards a more centralised directive decision-making resource management regime."
Greater Wellington Regional Council

"…They also represent a **major threat to local autonomy** and public participation."

"ORC opposes these changes as they create a loss of local autonomy, particularly for the development of local solutions. Local representatives and communities must retain the ability to address local issues at a local level. These changes would create a gross breach of public process with **no accountability** to the local community…This is undemocratic and contrary to Parliament's push for public participation in the planning process."
Otago Regional Council

"The proposals suggest a significant reduction in local decision-making around planning with far greater controls and influence by central government, including both a removal of decision-making powers from elected members and reductions in the community's ability to have a say."
Joint submission by Otago Councils

"…there appears to be a theme running through the proposals to cut across elected representatives' and communities' ability to make decisions that affect them and their communities…"

Environment Southland is opposed to Central Government consulting and determining proposed rules for insertion into local resource management plans. Elected representatives and local communities must retain the ability to make decisions that affect them".
Environment Southland

"The RMA is based on the principle that resource management decisions are best made by communities affected by these decisions. Council supports that principle and does not want to see it undermined….There is also the potential for the erosion of local democracy…"
Matamata-Piako District Council

"…Where there are geographic areas with significant issues such as housing supply in Auckland, then the relevant territorial authorities should still be able to create resource management plans to address this specific and localised issue."
Wanganui District Council

"MDC strongly opposes any changes that will facilitate central government taking the lead on changes to RMA plans."
Manawatu District Council

"Plan preparation is a core function of democratically elected councils and it is essential that councillors have a role in hearing submissions and making policy decisions"[80].

[80] Emphasis given by South Taranaki District Council

"…The Council considers that what are straight-forward permitted activities that meet standards, or minor breaches of rules, when non-notification should apply, scope of submissions etc, are matters for local consent authorities to determine in the best interests of their communities."
South Taranaki District Council

"District Plans need to reflect community aspirations…

[We] Welcome central government support providing that local communities still maintain the mandate to plan for their futures. Concerned that some of the proposals go too far on this matter."
New Plymouth District Council

"…This approach has the potential to further shift the planning approach from local communities to a more centralised government process. This could result in an ad hoc approach to planning, based on politics as opposed to significant resource management issues…"
Hutt City Council

"…Local issues are best understood at a local level and on this basis resource management processes should be managed and controlled by local authorities."
Far North District Council

"The Chief Executive said…there were also some disturbing aspects in regard to its power of attack on local democracy which followed on a trend of insidious creep… It seemed a disturbing leap suggesting that local authorities should look after the small stuff while the Government took control from the centre... "
Gore District Council

"Some of the discussion document's proposals directly **undermine local democracy**. The proposals lack the necessary and proven evidential basis on which such a significant degradation in local representation ought to be based."
Local Government New Zealand

COMMENTS BY AUTHOR

The above quotes from Local Government illustrate strong fears about the loss of local democracy and ability to control and influence decision making by elected Councillors and local communities. Key issues raised are:

- Fundamental change in government direction about level of decision making since drafting of the RMA;
- Local Government is considered best placed to make decisions affecting the local area;
- Concern that national priorities will interfere with the ability to protect/provide features of value to the local community; and
- Greater scope for political interference in policy setting.

This fear is also reflected in the forward written by the Chief Executive of Local Government New Zealand, Malcolm Alexander in the report '*A Global Perspective on Localism'* (2013) that:

"…Councils voted unanimously for the call to have New Zealand local government given constitutional protection… As Sir Geoffrey Palmer recently commented, *'Local government needs a protected place in New Zealand's constitutional arrangements, so that it cannot be made the mere plaything of central government ministers.'"*

Cost of Changes

"There will be substantial time and costs associated with updating RMA plans"
Parmerston North District Council

"Some of the proposed amendments are likely to result in a greater cost to the ratepayer, for example, plan consolidation, and a reduction in the communities' ability to appeal planning decisions made by the Council and/or the Environment Court."

"The cost to Councils to implement the proposed changes appears to solely lie with Councils and would therefore add a **substantial financial cost to Council**…ratepayers would ultimately have to bear the additional cost on Councils to implement the wide ranging recommendations proposed."
Kapiti Coast District Council

"There are limits to how much faster and cheaper the RMA processes can be made, while still operating a devolved democratic purpose…

There are core precepts and processes that the RMA must include for it function effectively as New Zealand's primary legislation for resource management. Given that this is a lean regulatory framework already, eroding these may have unintended consequences of a scale matching that of Health or Safety or Building Act **calamities**".

"Bay of Plenty Regional Council believes that the proposals do not uniformly provide good solutions to time, cost, effectiveness and efficiency problems with the present implementation of the RMA. The discussion document does not adequately address the costs of decision-making to all parties, especially the costs to local government and communities.

…The Regional Council is also concerned about the timing schedule of the reform package. A number of initiatives are proposed to be put through the House well before the necessary guidance packages will be developed…"
Bay of Plenty Regional Council

"Council…is gravely concerned that, taken as a whole, the overall package of reform will erode local democracy, **fundamentally undermine the purpose and function of the RMA,** detract from Auckland's ability to realise its potential…and put at risk those aspects of the Act that are currently working well."
Auckland Council

"...there is also potential for increased costs for Council and consent applicants, and reduced protection for the environment".
Clutha District Council[81]

"…there are concerns about the process and cost implications of some of the proposals, and the efficiency of others".
Thames-Coromandel District Council

[81] Agenda report for Clutha District Council Regulatory Services Committee 28 March 2013

"[The Council's submission] also registers concern that proposed changes to the resource consenting process may run counter to the government's intention to speed up and simplify procedures."
Gisbourne District Council

"Overall, the proposed reforms contained in the discussion document will **impose significant additional costs** on the DCC with little evidence base to assess any benefits to the city. Additional costs will result from: the need to change the district plan in relation to section 6; litigation costs related to interpretation issues with section 6 and the operative district plan; the costs of developing the single resource management plan including the collaborative plan-making process; the loss of time, resources and cost in developing the second generation plan; costs of any plan changes directed by the Minister; and changes necessary to the operation aspects of consent processing systems".
Dunedin City Council

"HCC is concerned that the government is setting up a **costly process** for which ratepayers will foot the bill…All of the proposed changes would have significant impacts upon councils in terms of costs, the way that processes are undertaken, and potentially erode local decision making powers….

It is of concern that there have been no cost estimates, especially given the availability of data on the cost of first generation plans [stated as being **$2.4 million per plan** in today's dollars]. The costs are likely to be much greater than the first generation plans [especially with changes made to Section 32 which increase the cost of plan changes]…"
Hamilton City Council

"The cost of developing Plans falls 100% on the Council; therefore the ratepayers foot the bill…we are very concerned that an unintended outcome of implementing these proposals may shift the cost from applicants (especially large businesses) to the ratepayers".
Opotiki District Council

"The Council would like to point out that the changes being signalled in the discussion document, and in particular the requirement to create a single plan for each district, Part II changes and changes to plans to reduce the need for resource consents, could require district plan changes nationally. In combination these could cost the country's (currently 78) local authorities tens if not hundreds of **millions of dollars**[82]. For changes of this magnitude to be justified, the benefits would need to clearly outweigh the costs, and this has not yet been demonstrated".
Christchurch City Council

"..Significant changes such as those proposed may not be cost effective partly due to the costs of developing new case law."
Nelson City Council

"It is also not clear where all the costs referred to would fall although Council assumes from past experience that it will be on Local Authorities. That means it will fall on the ratepayer and Council is concerned that there is a significant tension between the directives to keep rates low and deliver more functions/administration created by central government is **untenable**."
Southland District Council

[82] $2.4 million average plan price X 78 = 187.2 million.

"While PCC recognised the value of effective and efficient resource management practices, it is considered that this should not be at the expense of quality decision making or unnecessary costs passed on to ratepayers…

PCC is concerned with the costs that local communities would be expected to carry….Councils will not be able to respond to suggested changes that require significant redrafting of current RMA plans or changes to existing resource consent processes within present Long Term Plan (LTP) budgets.

Many communities have already committed significant costs to the review and development of 2nd generation district and regional plans…the proposed changes will have a bearing on rates and will **likely result in rate rises**…"
Porirua City Council

"Council will strongly oppose changes that are fundamental to the integrated management of natural resources….Some of the changes being proposed are addressing concerns in the Auckland area, rather than what is being experienced throughout the country…

Concerns that some of the changes proposed have to the potential to impact significantly on Council costs…"
Environment Southland

"…Some of the proposed changes will result in unintended consequences and additional costs for Councils and others..."
Otago Regional Council

"The proposed reforms will have significant cost implications to the Councils…Given that recent changes to the Local Government Act effectively mean that rates funding is capped, any additional costs will have be **funded by reducing the levels of other services**, and/or imposing extra user charges. These impacts need to be expressly considered when deciding whether or not particular changes are justified."
Otago Councils Joint Submission

"The themes of greater central government intervention and direction are prominent throughout the discussion document. The Council is concerned about the potential cost implications of the proposals, capacity issues in central and local government and that a number of proposals will undermine the role of democratically elected councils in making decisions that affect their local communities.
South Taranaki District Council

"Councils and communities have invested a large amount of time and money in the development of their resource management plans. A number of the proposals will if progressed, require more time and money from councils and communities to change their plans."

"Environment Southland questions who will fund nationally directed plan change processes, as these should not be at a cost to local ratepayers."
Environment Southland

"…Many of the proposed changes will result in significant costs to ratepayers in having to redo work already completed and significantly increase the time it takes to develop Operative status plans."
Wanganui District Council

"A number of the proposed changes would impose significant extra costs on councils... This creates the problem of **'unfunded mandate'**, whereby councils are forced into poor quality spending which does not reflect their community's priorities."
Clutha District Council

"The significant shift in focus in some of the proposals would undoubtedly require a complimentary shift in focus to align our district plan with the revised legislation. This will have an additional cost to this community in terms of redrafting of plans, implementation of new consenting frameworks and also re-litigation of issues where interpretation is of concern. It is important that these costs do not lie directly with local communities.

There is a need to be mindful of the total costs of legislative reform... initial establishment costs are often significant…"
New Plymouth District Council

"…The majority of reforms warrant further careful consideration to ensure that the potential costs of compliance are minimised to territorial authorities, and in turn, communities…the timing of the reform will overlay further scope and a number of plan change processes upon councils that are already engaged in plan review and plan making. This will represent additional financial and opportunity costs to Councils."
Far North District Council

COMMENTS BY AUTHOR

The above quotes from local government representatives clearly indicate a high level of concern about the potential for increased costs to this sector. In addition to financial costs identified (principally from new plan production), other types of costs identified are greater complexity, administrative burden, loss of local democracy, reduced role for Elected Councillors and Environment Court, loss of rights for submitters, reduced ability to manage effects on amenity/character, reduced ability to control direction of urban growth and potentially the ability to achieve the purpose of the Act itself.

It is likely that financial costs will be higher, if a detailed implementation plan and clear guidance on interpretation is not available from the outset. The intended production of guidance to follow legislative changes by some two years appears foolhardy.

Several Councils raise concern about their inability to absorb these costs, and the likely need to pass these costs on through higher rates, higher user charges or a drop in service delivery.

Given that time and finances spent on one activity, represents a lost opportunity to spend those resources on an alternative activity, it is of great concern that changes are considered by a significant proportion of Councils as both costly and unjustified.

The report "*The impact of government policy and regulations on the cost of local government: A report on the extent of costs imposed on local government by legislation and regulation from 2006 until 2012'* by LGNZ 2012, also identifies a lack of consideration by central government of financial costs imposed on local government. *"Government legislation and regulation have created what can only be called a tsunami of costs that Councils have no other option than to meet."*

In 2009 Local Government New Zealand commissioned Price Waterhouse Coopers (PWC), to assess the cost on local government from four pieces of legislation[83]. PWC concluded that "*a significant proportion of the costs associated with legislation is unnecessary and can be avoided."*[84]

[83] The Long Term Council Community Plan (LTCCP) components of the Local Government Act 2002, the Public Transport Act 2008, the Health (Drinking Water) Amendment Act 2007 and The Land Transport Amendment Act 2008.

[84] http://www.lgnz.co.nz/assets/Uploads/Cost-shifting-report.pdf

CHANGES TO EXISTING SECTION 6 AND 7 (PRINCIPLES OF RMA)

Removal of hierarchy

"The current hierarchy between sections 6 and 7 assists greatly with providing direction to decision-makers on resource management priorities"
Parmerston North District Council

"On the face of it, the proposal to combine sections 6 and 7 into a single section 6 that lists the matters that decision-makers would be required to 'recognise and provide for' seems sensible. However, these are changes of substance that will alter the rationale for decision-making under the RMA and the costs of the change are potentially high."

"New case law will be developed that will replace the now quite settled case law around these sections and how they relate to the sustainable management purpose of the Act. Who quite knows how the courts will interpret the changes but certainly there are considerable risks and costs associated with such changes to the underlying principles of the Act.
Taranaki Regional Council

Reference to Section 5 (Purpose) in Section 6

"Object to change from 'environmental bottom line' approach to an 'overall broad judgement' approach… as it has the effect of amending the interpretation of Section 5(2)(a), (b) & (c)… there is a mismatch between the government's drafting and the Court's interpretation… "[85]
Waikato Regional Council

New section 6

General comments

"…the Council finds it difficult for the purpose of the RMA to be fulfilled under the amended principles."
Kapiti Coast District Council

"There is also a significant disconnect between central government policies around building competitive cities and focussing on good quality urban design and the current proposals which have potential to **undermine earlier initiatives**. ..If the Government's intention is to place more emphasis on the urban environment than is already provided in the RMA, then there needs to be a wider consideration of the whole purpose of the RMA…"
Hamilton City Council

"The changes to Section 6 of the Act are not considered to give effect to the Section 5 provisions…Kaikoura District Council does not consider enough analysis has been done to ensure the change does achieve more balanced decision making…These changes are not considered to support sustainable management in NZ".
Kaikoura District Council

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[85] This point is also raised by Geoffrey Palmer, Queens Council in his report "*Protecting New Zealand's Environment: An Analysis of the Government's Proposed Freshwater Management and Resource Management Act 1991 Reforms"* September 2013

[Changes to s6 and 7 "will allow trade-offs to occur between the elements of sustainability with potentially little guidance as to how the reasonably foreseeable needs of future generations will be able to be provided for…"
Bay of Plenty Regional Council

"Auckland Council…opposes the overall de-weighting of environmental, heritage and amenity considerations in the broad judgement approach…

[Proposal] **will significantly alter the understood purpose of the RMA**. Infrastructure and (an unfortunately narrow interpretation of) the built environment are to be elevated in importance whilst the importance of environmental considerations and amenity values is reduced…changes to section six will fundamentally alter the balance of factors councils are able to consider…

The intent of the discussion document proposals appears to be to force the rapid opening up of greenfield residential land on the urban periphery in an **unplanned** manner. This…contrasts starkly with the staged, evidence based and integrated (with other aspects of urban planning) approach that underlies…the draft Auckland Unitary Plan."
Auckland Council

"The review team should be aware that a substantial body of case law has built up around the existing sections 6 and 7 of the RMA. Costly litigation is likely to result from the new sections until new case law is bedded down."
Thames-Coromandel District Council

"The changes proposed [to section 6 and 7] will result in significant costs upon Council relating to the need to change the district plan along with issues of uncertainty and interpretation which will require time and new case law to settle".
Dunedin City Council

"HCC would be particularly concerned if it was expected to deliver certain outcomes via the RMA processes (such as economic growth outcomes), which may lead to an **unbalanced approach** to consideration of resource consent matters".
Hamilton City Council

"It will allow **trade-offs** to occur between the elements of sustainability…"
Waikato Regional Council

"Rather than reinforcing the importance of protecting environmental values, the proposed rewording of Section 6 appears to make it **easier to develop** increasingly at the expense of scarce environmental resources…it is concerned that **important environmental management safeguards may be dismantled** or de-emphasized for the sake of supporting development…"

The historical absence of natural hazards as a consideration within sections 6 and 7 is an example of how difficult it is for local authorities to recognise and provide for something that is not specifically listed. This demonstrates that it is not sufficient to rely on the provisions of Section 5 of the Act to plan for important environmental matters, and should serve as clear warning at the proposed removal of other Section 7 matters (amenity values, intrinsic values of ecosystems, quality of the environment, finite characteristics of resources etc)."
Porirua City Council

"…The RMA should not be altered to focus on economic matters at the cost of environmental protection…"
Otago Regional Council

"a hierarchy is apparent as a result of the terminology used". [That is, terminology used in the new principles indicates that some should be given greater weight].
Environment Southland

"The Council is concerned that the new provision will result in the loss of a significant body of caselaw available to the parties and decision makers; and will create years of uncertainty…"
Central Otago District Council

"…the insertion of today's values, will not provide for long term effective planning for good environmental outcomes..."[comments suggest that today's values would represent the government priorities of the day].

"…A single section of Principles…does not satisfactorily provide guidance on what of those matters is really important at a national level [especially…as to what weight matters should be given when these matters compete."
Wanganui District Council

"There will be substantial time and ratepayer costs associated with updating RMA plans to reflect the changes to sections 6 and 7…"
Manawatu District Council

"The discussion document gives little consideration to the costs of tossing out the current principles and associated case law (which is now quite settled in relation to the purpose and principles) and replacing them with new principles and case law. What are these costs likely to be? Has anyone looked closely at this?

…Proposed changes to sections 6 and 7 of the RMA are significant changes in substance with potentially significant costs to the resource management system in New Zealand."
South Taranaki District Council

"The New Plymouth District Plan does not list activities but manages activities purely by effects. There is concern that tipping the balance of the legislation to provide for economic concerns and to de-emphasise amenity, in particular, could undermine effects based plans".

"The elevation of some of the economic factors identified in section 6 could potentially tip the balance of planning assessment too far under an effects based planning regime where business interests are already balanced against environmental effects".

"…This is a significant shift from the environmental bottom-lines approach fundamental to the Act and a movement towards trade-offs...Legislating for an overall broad judgment may start to undermine some of the key environmental considerations, which are critical to sustainable management…"

"[We] question whether the changes are necessary…"
New Plymouth District Council

"These factors [amenity, quality of environment and intrinsic values of ecosystems] are fundamental to the integrated management of resources and will not be given sufficient weight in decision-making if they are not specifically identified in the new section 6."
Environment Southerland

"The collapsing of 'matters of national importance' and 'other matters' into one section is generally supported… We do however note that there are some attendant disadvantages with this approach…[including] having different weighting for different matters does in practice provide more guidance to decision makers than the proposed approach." [Hence suggesting the proposed approach is inferior to the existing situation].
Local Government New Zealand

"Proposed changes to sections 6 & 7 will change the balance [between environmental and economic outcomes required under Section 5] but it is not obvious that they will improve the achievement of the purpose of the Act [that is, sustainable management].

…New matters proposed for the new section 6…indicates a departure from (or perhaps an unconscious loss of understanding of) the economic rationale of controlling externalities which is required for socially efficient use and development of resources…To define built structures that are commonly privately provided and owned as if they are natural and physical resources…simply creates incentive for lobbying to create private benefit…

Changes to sections 6 and 7 are a lower priority for improvement than supporting the manner in which they are implemented."
NZIER

Specific Sections

New 6(b) Landscapes + Natural Features	"The inclusion of the word 'specified'… appears to weaken these provisions, and also puts the responsibility onto councils to identify these 'specified' areas – without which no protection will be provided. HCC submits that the word 'specified' should be deleted as it significantly weakens the environmental credibility of the Act". Hamilton City Council "There will be a requirement to map areas and features of significance – without significance criteria…" Waikato Regional Council "Taupo District Council has spent significant time and resources developing its Outstanding Natural Landscape section of the District Plan...We recommend that 6(b) extends to landscapes and features specified at a District Level". Taupo District Council "…Many Council's do not have these items [landscapes and indigenous vegetation/habitat] 'specified' in their Plan's currently, so we have concern over their protection in the time between legislation being enacted and 'specification' occurring. We suggest a nationalised process or guidance is developed to make it easier for Council's to undertake what is often a very controversial and lengthy process". Nelson City Council

	"…not all resource management plans or policy statements currently have these areas identified. There will be a resource implication for councils to implement this". Environment Southland "Councils do not always have the resources to identify specific areas of natural features and landscapes. This is often done in a broad/general way. Council does not wish to repeat the work we have already undertaken to meet this new requirement. There is a trade off between the costs of this work and the benefit of a more precise District Plan." Matamata-Piako District Council "…the process for specifying outstanding natural features is expensive and time consuming. It is for these reasons many councils have not undertaken this work to date. These costs are potentially prohibitive, especially for small councils." Hutt City Council "The net result as currently worded, is that it would only be landscapes and features currently specified in a plan that would be caught by the provision. There would be no requirement for local authorities which have not completed their identification process to continue to do.[86]...There will be significant costs, particularly to regional councils, associated with those recommendations requiring identification and specification (mapping)." "There would need to be a substantial transition period because most councils have not completed a comprehensive assessment of ONFLs [Outstanding Natural Features and Landscapes]…In our view, the more urgent decision is…where ultimate specification should occur….The current proposal is circular and **illogical**." Local Government New Zealand
New 6(h) Use of Resources	"…Appears to be an open door for extractive industries to benefit and use 'natural and physical resources' with no safeguard against the detrimental effects of ecosystems." Kapiti Coast District Council [Wording used] "assumes that there are more benefits from the use and development whereas in some cases there may be more benefit from preservation or protection…" Hamilton City Council [Terminology chosen] "is values based and sits uncomfortable with principle based drafting of the RMA". Christchurch City Council "We oppose the proposed new reference to benefits. The words provide a different logic and meaning to the intent of the TAG report…As a matter of logic and economics it does not make any sense to provide for the benefits of efficiency but not provide for the costs of inefficiency." Local Government New Zealand

[86] Proposed section 7 could hinder identification of future areas.

New 6(i) Historic Heritage	"The Council is concerned that the proposed change in wording will weaken the protection of the District's historic heritage…historic heritage buildings currently provide a major component of the character [of the area] in particularly the Gisborne City CBD." Gisborne District Council "The DCC does not support the removal of the reference to protection of historic heritage…as it diminishes the importance of historic heritage…Combined with the proposed changes to earthquake-prone buildings [it]…appears to signal a desire to remove perceived 'impediments' to the demolition of the country's heritage buildings…Important heritage buildings valued by the community [local, regional and national community] could be lost… The downgrading of significance and protection of heritage is inconsistent with New Zealand's participation in international agreements and regimes such as ICOMOS and UNESCO. Increased demolition of heritage buildings, due to a heavier weighting on economic considerations, will have negative impacts on the built character of small towns and the collective benefits for tourism and quality of life". Dunedin City Council "The wording…is inconsistent with the Heritage NZ Bill 2012, the Canterbury Regional Policy Statement and with the NZ Coastal Policy Statement, which all use the words 'protect' and 'conserve'". Christchurch City Council "Historic heritage is no longer required to be protected…Following the loss of heritage caused by earthquakes it may be important to retain/protect what remains." Rotorua District Council[87] "The Council is concern that this change of wording significantly weakens the legislative mandate provided for safeguarding of New Zealand's historic heritage…the Council has concerns that the Council's position on providing for good use and management of historic heritage will be undermined…the economic value of heritage to the city of Wellington is widely acknowledged… 91% of residents' perceptions are that heritage items contribute to the city's unique character (WCC Annual Report 2011/2012)". Wellington City Council "…the new wording for historic heritage matters will weaken the heritage protection system. The wording…will lead to the proliferation of interpretative panels where heritage features used to be…" Matamata-Piako District Council "Historic heritage is a finite resource…it is considered that protection of this resource is required. MDC is of the view that the amended [provision]…is open to interpretation…." Manawatu District Council

[87] Rotorua District Council submission on the RMA Discussion Document

	”The Council is concerned that the proposed changes to the wording regarding historic heritage will dilute and significantly weaken the mandate for councils to protect New Zealand historic heritage… the protection of heritage does not stop development. Rather it requires sympathetic development to occur which retains the heritage and economic values of the building/region.” Hutt City Council
New 6(k) Renewable Energy	“..The word efficient should precede ‘renewable’. The current proposal implies that all renewable energy generation is beneficial, when clearly there are environmental impacts associated with such proposals. In our view renewable energy generation proposals should only proceed if the effects on the environment can be properly mitigated and they make economic sense.” Local Government New Zealand.
New 6(l) Urban Land Supply	“…is not sufficiently broad to cover key issues affecting urban areas and the built environment. There is a risk that this principle would not support important design controls introduced by PNCC and other councils.” Parmerston North District Council “It is also not in the spirit of the RMA to have one land use automatically trump the RMA”. Kapiti Coast District Council “…It seems somewhat odd to single out the availability or land for urban expansion as a key principle of national importance…The presumption that housing supply can only be met by way of urban expansion is not appropriate…” Future Proof [This matter] “will prioritise outward physical urban expansion and prevent identification of urban rural boundaries, encouragement of efficient use of land and urban consolidation. This change would undermine the basis of the Dunedin Spatial Plan…and lead to additional costs upon the community and all infrastructure costs along with poor outcomes in terms of quality of place, liveability and loss of productive land…Making it easier to expand a city at the expense of efficiently utilising existing inner city infrastructure does not encourage good urban design, infrastructure use, a good quality of life for residents or support [town] centres… with a potential to devalue these elements which are key for globally competitive cities..” Dunedin City Council “The wording…would make it difficult for councils to manage urban expansion in a way that results in efficient, affordable, integrated and quality urban outcomes… Additionally, there is nothing in this section that relates to any ‘needs-based’ assessment. That is, if there is already sufficient land for urban expansion in the foreseeable future, this should be a relevant consideration…The subsection as written would encourage ad-hoc urban development and reduce the ability for councils to plan strategically for good quality urban growth. Additionally the ability for councils to resist development which would impose an unaffordable infrastructure cost on ratepayers would be diminished.” Hamilton City Council

	[This matter] "should be restricted to areas of identified growth as it would have limited relevance to many rural areas and could produce unintended consequences". Waikato Regional Council "The words 'effective functioning' do not sufficiently cover quality aspects. It could be argued that something could function effectively, despite a lack of design quality or not providing for good amenity…" Christchurch City Council [Wording used] "conveys the impression that the intensification and renewal of currently developed land is less important than newly available land." Wellington City Council "…There is potential with the inclusion [of this principle]…to undermine Council's strategic plans and asset management plans by unduly building the expectation in stakeholders that a proposed subdivision or development should be allowed…" Wanguanui District Council "The provision is much blunter [than that recommended in the TAG report] and simply assumes that urban expansion is needed, despite there not being an evidence based need for it…." Waitaki District Council "[The principle] is not sufficiently broad to cover the key issues affecting urban areas and the built environment…" Manawatu District Council "…there needs to be a reference to quality urban environments. The wording …'effective functioning' is not sufficient." New Plymouth District Council "…The wording of this new s.6 matter implies that there is a preference for greenfield development. However, in places like Hutt Valley, it is important that some of the future growth is accommodated in apartment style living….There appears to be no consideration of the importance that buildings play in ensuring quality urban areas. …[Changes] could make it more difficult to ensure developments…are both functional and…well-designed…" Hutt City Council "…It is unclear how this matter would in practice be provided for…there is a risk of land becoming available without adequate provisions for infrastructure, transport, recreation etc." Local Government New Zealand
New 6(n) Infra-structure	"The emphasis is on [the word] 'efficient' at the expense of achieving effectiveness in [terms of] delivery of environmental outcomes, with a high standard of design, sustainability, amenity etc." Christchurch City Council

New 6(o) Aquatic Habitats	"As worded, it is implied that all aquatic habitats will need to be surveyed within the region to identify which ones are 'significant' and then plans changed to reflect this. If the habitats are required to be mapped this will have significant resource implications… The current proposal on its own, would significantly downgrade the existing approach to protection of aquatic values which are not deemed to be significant. It will also lead to debate as to what is significant or not…the proposal will be inconsistent with the National Policy Statement on Freshwater Management…" Local Government New Zealand "Request the removal of the term 'significant' from the phrase 'significant aquatic habitats', given the implications that this could impose heavy workloads and costs on councils in identifying same." Environment Southland
New 6(p) Ecosystems	"HCC also suggests that [existing] Subsection 7(d) 'the intrinsic values of ecosystems' be retained as an important feature of the environmental credentials of the RMA". Hamilton City Council "The intrinsic values of ecosystems is worthy of consideration in contemplating development…There is a risk, with the removal of this matter of consideration, that little-understood and potentially fragile aspects of local ecological ecosystems would have little in the way of consideration or standing when contemplating development proposals." "As pressure for development of resource use intensifies over time, it is increasingly important to ensure that provision is made for considering…impact on biodiversity…" Porirua City Council [Environment Southland indicate that the life-supporting capacity of ecosystems, is not an adequate substitution for the intrinsic values of ecosystems].
Deletion of 7(c) Amenity + 7(e) Quality	"This section has been of significant value to Councils and the community. The quality of the urban environment should be an important consideration in resource consent decision making". Future Proof "…This will undermine important planning mechanisms used by the Council to ensure good planning outcomes…such as the use of historic character overlays or urban design requirements…" Auckland Council "The concept of amenity is (and the maintenance and enhancement of it) a core philosophy in urban and rural planning. Many of the City Plan provisions that relate to managing on-site or local neighbourhood bulk and scale and character evolve from the concept of amenity values, and the term is well understood through case law.

	People expect the amenity values of their neighbourhoods to be at least maintained, and this is often where most people come into practical contact with the RMA..." Tauranga City Council "We think that deleting Section 7(c) is a retrograde step. Amenity is a fundamental concept in planning for the use and development of land in both built and rural environments, and is also a key value for many natural resources…" Tasman District Council "Local authorities would no longer be able to consider impacts on urban and rural character...Removing amenity and environmental quality does not allow the regard and weighting of local values that communities expect." Thames-Coromandel District Council "The Council is concerned that the deletion of these matters will weaken the ability to provide good planning and urban design outcomes in regard to creating liveable towns and cities, and also the ability to consider matters in the rural context. There are significant areas that although not outstanding in their own right add to the visual quality of the area…" Gisbourn District Council "HCC objects to the deletion… and is of the opinion that the quality of the urban environment should be an important consideration in resource consent decision-making…The look and feel of cities is a crucially important issue for metropolitan councils…" Hamilton City Council "Waikato Regional Council questions the message being sent with the reduction in the emphasis of a clear direction for maintaining the quality of the environment and for amenity values, at a time when monitoring information shows that most of these are either degrading or are being lost. It could be seen as a lowering of the bar…[and] may make it difficult to achieve…the purpose of the Act." Waikato Regional Council "…We see these [amenity values] as essential components of both the urban and rural environment. People expect the amenity values of their neighbourhoods to be at least maintained…In our view these two matters [visual and noise amenity] also provide some balance to the more development oriented provisions…" Taupo District Council "There is a notable absence in section 6 of amenity issues. The mere inclusion of amenity in the definition of 'environment' does not give sufficient weight to such a defining issue given that amenity often constitute the majority of the issues addressed in planning reports". Napier City Council "Council is concerned that the deletion of [these sections]…will undermine its ability to appropriately consider the urban planning issues that the new subsections of section 6 purportedly seek to cover…[and] risks overweighting economic development over environmental considerations." Christchurch City Council

	"…amenity needs to be more explicitly referenced in the Act particularly given the need for Plans to address issues and consents to consider effects on amenity…" Nelson City Council '"Amenity covers a lot of issues such as noise, smells, appearance act….These are important to manage in both the urban environment and its interface with other environments such as rural, industrial, commercial etc". Rotorua District Council "At present, sections 7(c) and 7(f) are the only matters in the RMA which can be interpreted as directly relating to good planning and urban design outcomes. The concept of 'Amenity' covers important aspects of development such as visual quality, convenience of access, good urban form, views, shading, etc, which are fundamental qualities of liveable towns and cities…" Wellington City Council "PCC would not be happy at the prospect of contemplating forms of development that do not have to give regard to these matters…Ratepayers have a reasonable expectation that they will be able to live in neighbourhoods where they enjoy the amenity values and quality of the environment that those neighbourhoods provide." Porirua City Council "The proposal removes any reference to the amenity of these environments, which is a concept which has been used and tested in planning provisions and we consider it should remain as part of section 6." Greater Wellington Regional Council "Amenity values and quality of environment are the cornerstone of district planning…we consider explicit reference should be made. The new 6(k)…is not an adequate substitute – with its focus on land availability and provision of infrastructure" Matamata-Piako District Council "This is a crucial provision which guides decision makers in a rural and urban context…[and] should be provided for explicitly…" Central Otago District Council "The Council questions the wisdom of removing reference to amenity values from the new section 6. These matters underpin a number of policies in the Regional Policy Statement for Taranaki. They form a very important part of district plans where amenity values etc are significant considerations for residents and for visitors which maintain and enhance the overall quality of life and sense of place…." South Taranaki District Council "…due to their significant it is believe they [amenity and quality of environment] should be explicitly recognised and provided for within the Act". Environment Southland

	"Amenity is a critical "effect" integral for baseline performance standards (amenity of living environments controlled by noise, bulk, location etc). If amenity is de-emphasised this will significantly impact the legitimacy of effects based plans…This is the basis for many planning assessments and affects the livability of communities." New Plymouth District Council "The need for well-designed buildings (and the retention of the existing s.7 (c) and s.7(f)) matters) will become more important as the development density of our urban centres increases. It is important that the conflict between increased development density and sunlight, privacy, security and visual amenity values is managed appropriately and addressed through good urban design…[Changes could] make the councils role in managing this conflict more difficult. This in turn could lead to poor urban design outcomes and poorer quality urban centres. HCC has seen many examples of proposals which have been improved following an assessment against a design guide and subsequent amendments…" Hutt City Council [Amenity and Quality of Environment "…provide a very important basis for ensuring that developments are well designed and incorporate positive elements…" Clutha District Council [Amenity values are] "essential components of both the urban and rural environment. People expect the amenity values of their neighbourhoods to be at least maintained. This is an important provision in terms of noise and visual amenity amongst others…[They] also provide some balance to the more development oriented provisions suggested for section 6…These provisions underpin many rules in plans which are intended to minimise adverse effects on amenity values and the quality of people's living environments, so far as that is practicable." Local Government New Zealand
Deletion of 7(aa) Stewardship	"…will result in the disenfranchisement of community groups…" Auckland Council
Deletion of 7(g) Finite Resources	"The soils of our district are essential for the economic prosperity of the area and the Council opposes any lessening of the legislative protection of this resource. The protection of these finite resources [highly versatile soils] could be seen as being of strategic interest to New Zealand which has long term prospects for providing food resources…" Gisborne District Council "Our district has large sections of high quality soils which are finite resources and our District Plan contains rules to protect these. We have recently undertaken a review of our rural subdivision rules to ensure our high quality soils and rural amenity is protected. This proposal also has implications for heritage resources which are almost always finite….we consider there is nothing to be gained by its removal." Manawatu District Council

COMMENTS BY AUTHOR

Major concerns have been raised by the majority of Councils to proposed changes to existing sections 6 and 7. Changes are seen by many to be a retrograde step, in terms of inconsistency with the purpose of the Act and altering the existing balancing of economic and environmental considerations. Given the inherent conflict between proposed principles in section 6, it is even more necessary to give direction as to which matters take priority, and at what point is a trade-off between economic, social and environmental impacts unacceptable.

If this direction is not given by the Government, it will be provided by the Environment Court, Boards of Inquiry or Independent Hearing Panels at a higher financial cost to Councils and their ratepayers. This is in direct contrast to the approach adopted by the Welsh Assembly Government, of providing detailed policy advice in *Planning Policy Wales, 5th Edition 2012*.

Councils emphasise the huge importance of amenity values and quality of the environment in urban areas, especially as this is where approximately 85% of the population reside. Removal of the reference to this matter has the potential to undermine a large proportion of existing plan rules and Council strategies to protect or create attractive, vibrant and liveable cities.

The high importance of amenity is reflected by the inclusion of amenity within the description of the purpose or principles of planning legislation since at least 1977. The purpose of the *Town and Country Planning Act 1977* explicitly referred to promoting and safeguarding amenity of every part of the region, district and area.

The value of amenities has also been emphasised in reports by the Office of the Parliamentary Commissioner for the Environment.

"Strategic management of urban living must encompass the management of amenity values, heritage and urban design"[88].

"*The provisions of the RMA that address amenity values and the interactions between development and the environment (including people and communities) are essential and they must be retained."*[89]

"The failure to appreciate the linkages between the major 'systems' that affect amenity values in cities (i.e. population growth, demography, sewerage, transport, water, open space, vegetation and building design) will inevitably result in a decline in the environmental qualities of our urban landscapes."[90]

The 1998 review of the RMA titled '*Towards Sustainable Development, The role of the Resource Management Act*' also provides a strong warning about future changes to this legislation, particularly the principle section.

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[88] '*Towards Sustainable Development, The role of the Resource Management Act 1991*' (PCE Environment Management Review No. 1), Office of the Parliamentary Commissioner for the Environment, August 1998

[89] '*The Cities and Their Profile: New Zealand's Urban Environment*', Office of the Parliamentary Commissioner for the Environment, June 1998

[90] '*The Management of Suburban Amenity Values*, *Administration by Auckland, Christchurch and Waitakere City Councils*', Office of the Parliamentary Commissioner for the Environment, March 1997

"Resource management legislation can take at least ten years to become 'seasoned'. Time is needed to gain experience using new legislation to develop case law to give guidance to practitioners, and for people and communities to become familiar with the legislative objectives and hence requirements. This can happen most efficiently in a stable climate where there are no major changes to the Act."

"The following action is needed to ensure that change to the RMA will enhance environmental management:

1. *A real commitment and investment by the Government to make the RMA a key component of contributing to sustainable development in measurable ways.*
2. *If the Act is to deliver on sustainable management, it will require:*

   …no changes to Part II that would reduce the Act's core requirements to contribute to sustainable management…;

3. *The retention of core aspects of the RMA including:*
   - *recognition of intrinsic values;*
   - *potential for the establishment of environmental 'bottom lines';*
   - *inclusion of people and communities in the definition of environment; and*
   - *retention of amenity values as currently defined in the Act.*
4. *The New Zealand Government, communities and businesses must return their focus to the environmental outcomes that are being sought through the RMA rather than simply the processes associated with the Act".*

Another important consideration is the compatibility of the new principles with existing legislation.

Objective C of the *Environment Act 1986* is to:

> *"ensure that, in the management of natural and physical resources, full and balanced account is taken of—*
>
> *(i) the intrinsic values of ecosystems; and*
>
> *(ii) all values which are placed by individuals and groups on the quality of the environment; and*
>
> *(iii) the principles of the Treaty of Waitangi; and*
>
> *(iv) the sustainability of natural and physical resources; and*
>
> *(v) the needs of future generations".*

The Above Act sets out the functions of the Ministry for the Environment and creates an expectation that other legislation (including the RMA) is compatible with the above objectives[91].

[91] The *Housing Accord and Special Housing Areas Act* 2013 does not need to be compatible with the objectives of this Act.

Section 4(2)(b) of the *Historic Places Act 1993* refers to the:

> *(b) the principle that the identification, protection, preservation, and conservation of New Zealand's historical and cultural heritage should—*
>
> *i. take account of all relevant cultural values, knowledge, and disciplines; and*
>
> *ii. take account of material of cultural heritage value and involve the least possible alteration or loss of it; and*
>
> *iii. safeguard the options of present and future generations; and*
>
> *iv. be fully researched, documented, and recorded, where culturally appropriate."*

The purpose of the *Heritage New Zealand Pouhere Taonga Bill 2012* is to "*promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand".*

The new wording suggested for proposed section 6 appears to be incompatible with the terminology used in the above Acts. Multiple councils and heritage groups have raised strong concern about the removal of the word 'protection' from the principle regarding historic heritage, especially as there is no effective mitigation[92] for the demolition of historic buildings[93].

The protection of historic heritage was only upgraded to a matter of national importance in 2003, several years after the release of a damning report by the Office of the Parliamentary Commissioner for the Environment in 1996 about the abysmal state oh heritage protection in New Zealand[94]. There can be no doubt that a number of buildings of heritage value remain under threat.

Geoffrey Palmer in the report '*Protecting New Zealand's Environment*' identifies several new principles proposed in Section 6 as having doubtful consistency with the purpose of sustainable management due to the:

- promotion of increased use and development of resources;
- favours the approval of renewable energy development;
- facilitates urban sprawl; and
- favours the approval of infrastructure development.

The dramatic shift in government direction over time towards the use of resources (and land in particular) is made further apparent by comparison with national matters of importance identified in the *1977 Town and Country Planning Act.*

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[92] Mitigation could only occur in part, such as the reuse of materials, retaining facades, or recording of value.
[93] New Zealand Historic Places Trust did not make a submission on the RMA Discussion Document
[94] http://www.pce.parliament.nz/assets/Uploads/Reports/pdf/Pre97-reports/Historic-and-Cultural-Heritage-Management-in-New-Zealand-June-1996.pdf

Town and Country Planning Act 1977	*Proposed 2013 RMA Reforms*
The wise use and management of New Zealand's resources	The efficient use and development of natural resources, including the benefits derived from their use and development.
The avoidance of encroachment on urban development on, and the protection of, land having high actual or potential value for the production of food.	As above
The prevention of sporadic subdivision and urban development in rural areas.	The effective functioning of the built environment, including the availability of land to support changes in population and urban development demand.
The avoidance of unnecessary expansion of urban areas into rural areas in or adjoining cities.	As above

Urban expansion through intensification of existing urban centres or new greenfield development, can when well planned, be compatible with the principle of sustainable management of effects. However, unplanned urban expansion and in particular, rapid urban expansion, that is not accompanied by the proactive management of stormwater and treatment of wastewater, is likely to diminish the quality of waterbodies and remaining natural areas in and near urban areas.

Tracked Changes for New Section 6

Section 6 ~~Matters of national importance~~ Principles

In making an overall broad judgement under section 5, in order to achieve ~~In achieving~~ the purpose of this Act, all persons performing ~~exercising~~ functions and exercising powers under ~~it~~ the Act, must in relation to managing the use, development, and protection of natural and physical resources, ~~shall~~ recognise and provide for the following as matters of national importance:

6(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

6(b) the protection of *specified* outstanding natural features and landscapes from inappropriate subdivision, use, and development:

6(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:

6(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:

6(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:

~~6(g)~~(f)	the protection of protected customary rights
~~7(a)~~6(g)	kaitiakitanga: ~~(aa) the ethic of stewardship~~
~~7(b)~~6(h)	the efficient use and development of natural and physical resources, including the benefits derived from their use and development: ~~(ba) the efficiency of the end use of energy~~ ~~7(g) any finite characteristics of natural and physical resources~~
6~~(g)~~(i)	the ~~protection~~ importance and value of historic heritage ~~from inappropriate subdivision, use, and development~~
~~7(c)~~	~~the maintenance and enhancement of amenity values~~
~~7(f)~~	~~maintenance and enhancement of the quality of the environment~~
~~7(i)~~6(j)	the effects of climate change
~~7(j)~~6(k)	Efficient energy use and ~~the~~ benefits ~~to be derived from the use and development~~ of renewable energy
6(l)	The effective functioning of the built environment, including the availability of land to support changes in population and urban development demand
6(m)	the management of significant risks from natural hazards
6(n)	the efficient provision of infrastructure
~~7(h)~~6(o)	the ~~protection~~ maintenance of aquatic ~~the~~ habitats, including significant habitats of trout and salmon
~~7(d)~~6(p)	~~intrinsic values~~ the effective functioning of ecosystems:

Possible Implications for Section 5 (Purpose of the Act)

I am concerned that the cumulative impact of the proposed 2013 RMA Reforms, the adopted *Housing Accords and Special Housing Act*, the adopted 2012 RMA Reforms and adopted 2012 amendments to the *Local Government Act 2002*, will have the effect of altering the meaning of Section 5 from its current expression in the Act to something far different.

Existing Section 5

The purpose of this Act is to promote the sustainable management of natural and physical resources. In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

Will this be the new meaning of Section 5?

The purpose of this Act is to allow the use of natural and physical resources in a manner that does not pose an immediate threat to the functioning of the natural environment. Harmful effects on the environment are to be mitigated, so as to reduce adverse effects to no more than a minor level (i.e. something less than a major or significant impact), except where this is incompatible with the following:

a) Increase in land supply and housing affordability in special housing areas[95];

b) The ability to provide a 10 year land supply for housing growth[96];

c) Economic growth and employment opportunities outweigh non-financial costs[97]

d) Results in unnecessary restrictions on the use of private land[98];

e) Would lead to unnecessary increases in time taken to reach a decision[99]; or

f) Would interfere with the efficient and cost-effective[100] provision of local infrastructure[101].

[95] See hierarchy of matters to be considered in the assessment of resource consents submitted in accordance with s32 of the Housing Accords and Special Housing Bill 2013
[96] See proposed RMA 2013 Reforms
[97] See new s32(2) of the RMA introduced as part of the 2012 RMA Reforms
[98] See proposed Section 7(d) of the proposed RMA 2013 reforms.
[99] See proposed Section 7(a) of the proposed RMA 2013 reforms and justification for non-notified discretionary activity status for exploratory oil drilling under the EEZ Regulations
[100] Not necessarily environmentally friendly or sustainable infrastructure
[101] See amended purpose of local government under Section 10 of the LGA Act and proposed Section 6(n) of the RMA 2013 Reforms.

The proposed reforms are seen as incompatible with existing Section 5 as intended by its original drafters. As commented by Geoffrey Parker in his report '*Protection New Zealand's Environment*' the intention of the reforms is to smooth the *"path for development. Their effect is similarly clear. The weight given to environmental considerations under the Act will reduce while the weight given to development considerations will increase…The new language of section 32*[102] *makes clear that planning should be driven first and foremost by economic and employment opportunities – not by sustainable environmental outcomes..."*

[102] Amended as part of the approved 2012 Amendments to the Resource Management Act

New Section 7 (Methods)

"The matters covered in the new section 7 do not belong in the RMA"
Parmerston North District Council

"UHCC does not see the purposed of proposed section 7, opposes its inclusion and is of the strong view that good practice should not be legislated for...UHCC urges caution about the introduction of section 7(5) noting that the possibility for significant litigation around the meaning and interpretation of this section as proposed."
Upper Hutt City Council

"Why is it necessary to have 'good practice' guidance up in Part 2 of a national statute (Section 7)? This does not serve any useful purpose in implementing the purpose and principles of a major piece of law, and should be deleted or placed in a more operational part of the Act (maybe Schedule 1)."
Tauranga City Council

[We] "question seriously the usefulness of redrafted Section 7. Most of that is unnecessary as statements of law…"
Tasman District Council

"Section 7(5) is of the greatest concern…Requiring the balance between public and private interests to be explicitly debated in section 32 assessments and plan change decisions, is inefficient, will promote litigation and delays and lengthen decision making…Council is also concerned about the potential weighting/hierarchy of S7 (5) in relation to the principles in S6."

"The Christchurch City Council does not support the proposed amendments to Section 7…the proposed matters are not substantive resource management considerations, rather they are directed towards improving practice…"
Christchurch City Council

"Council doesn't support the inclusion of process methods in section 7. This is totally out of keeping with the strategic nature of Part II and delves into the minutiae rather than being a section of higher level principles."
Southland District Council

"The proposed new section 7 direction…is not considered to be a matter that warrants legislative decree but is rather a matter of good practice."
Taranaki Regional Council

"The rationale for the proposed Section 7 on methods is based on information which has largely been gathered from first generation plans. [Changes may] "create the potential for lengthy judicial review… The proposed section 7(5) may inadvertently make it more difficult for Councils to exercise section 30 functions under the RMA".
Greater Wellington Regional Council

"Proposed section 7 is unnecessary and unenforceable".
Otago Regional Council

"The s7(2) principles are rather peculiar which, while appearing to legislate for good practice, may give rise to potentially perverse legal challenges on the preparation, form and content of proposed policy statements and plans."
Hawkes Bay Regional Council

"…the necessity of this new section is questioned. If the section is deemed to be necessary, Part 3 – Duties and Restrictions under this Act would be a more appropriate location for the new section….Environment Southland is concerned with proposed section 7(5) [regarding private land]."
Environment Southland

"…the Ministry needs to carefully consider the implications of including them in a new section 7. Some of the section 7 methods essentially repeat other sections of the Act and may be unnecessary. Council has a particular concern with respect to section 7(5) [regarding private interests]."
Matamata-Piako District Council

"The Council considers that the proposed new section 7…is not a matter that warrants legislative force. These are matters of good practice and not for statutes nor ultimately, judicial ruling…"
South Taranaki District Council

"It is difficult to see the value of these changes, particular as a Part II matter..."
Hutt City Council

"We do not consider the suggested new section 7 to be necessary or particularly useful and oppose its inclusion….The explicit reference to the balancing of public and private interests…would give rise to unnecessary litigation. We also suggest that this matter does not provide useful guidance to decision makers…Alternatively this matter could be regarded as in effect changing the definition of sustainable management which we consider to be undesirable."
Local Government New Zealand

COMMENT BY AUTHOR

Legislating for good practice within the *Local Government Act 2002* was dismissed from consideration in the July 2013 Cabinet Paper '*Better Local Government: Opportunities to Improve efficiency'* which stated:

"These are largely practice-related issues, which are best dealt with through non-legislative approaches, including guidance and training. There are also risks that significant changes to this part of the legislation could increase confusion and concerns about the risk of legal challenge, and necessitate costly changes to council processes."

The proposed inclusion of Section 7 matters in the RMA appears incompatible with the above advice. Some Councils have raised strong objection to its inclusion, with a greater number considering the section unnecessary and/or inappropriately located with the Principles section of the Act.

Geoffrey Palmer in the report '*Protecting New Zealand's Environment*' also identifies that the concept of private property rights is fundamentally inconsistent with the purpose of sustainable management of resources, and that this concept was rejected as a suitable principle for inclusion into the Act in 1991.

Single and Joint Management Plan with National Template

"PNCC strongly opposes the proposals for a single resource management plan...they will not achieve any substantial gains other than for Auckland and possibly Wellington".
Parmerston North District Council

"UHCC suggests these **costs will be significant**, the suggested timeframe for change is in UHCC's view **unattainabl**e, and that there may be significant costs in on-going implementation and 'bedding in'…

The vast majority of people in Upper Hutt who use the resource management system use but one plan, being the District Plan. They can presently find all the provisions they need in the one location. Very few resource consent applications require regional consents."
Upper Hutt Council

"Many areas of New Zealand have different issues, environments and community values to other areas, and standardising all or some aspects of plans, could give rise to issues surrounding the efficient management of national, regional and local diversity. For example, character and amenity values can vary markedly between communities and their preferred or accepted level of housing density can vary accordingly…"

"Council has reservations about a single resource management plan using a national template, due to the potential under a generic template for the loss of ability to plan for local issues…[especially] without knowing more detail on how it will work and the cost associated with the 'merger' of the plans, and where these costs would lie. This would be an **expensive** process for councils…It seems that the joint plan proposal would be extremely costly relative to the benefits, and unless rolled out to coincide with required full plan review timeframes, the proposal would be **uneconomic.**"

"Council has concerns about the 'Independent hearings panel' because it appears that this process would override local community visions and potentially cost the Council more than the status quo to administer…"

"The Council…does not support the proposals to undermine community involvement through reducing appeal rights…"
Kapiti Coast District Council

"The timeframe of five years could well be tight [for new plans under the national template]…the timeframes indicated are **optimistic** given the full consultation, hearing and appeal process that is undertaken in Schedule One…"
Waikato District Council[103]

Changes to reflect changes in the principles and a desire to have a single plan…would require many councils to enter yet another phase of the **policy uncertainty** that accompanies plan development; when they have just completed one… There is the potential for these hard-won gains in time, cost and providing planning certainty to be lost through these proposals...

[103] Waikato District Council Agenda report for Council Meeting 26 March 2013
http://www.waikatodc.govt.nz/CMSFiles/69/69c1d306-9747-45f1-8f4a-7b566795767f.pdf

To create one plan per Council would be a costly exercise… Hyperlinks between council plans would deliver what people need, in the medium that most people use, and be far more useful and effective than **force-fitting**, three disparate documents together…

It is not at all clear … the nature and extent to which there is any benefit from having a single-plan-per-district…It is not appropriate to force a template, as different councils face different issues…A plan with only one set of rules runs the risk of ignoring differences between regional and district plans….Trying to combine…into a seamless plan will be a difficult exercise…Bay of Plenty Regional Council thus does not believe the proposal is a useful or viable option…"
Bay of Plenty Regional Council

"The 'single plan' approach outlined in the Discussion Document is not supported. This seems to be a technical exercise which draws together regional and district provisions with no regard as to how these fit together….Future Proof is also concerned that the regional nature of regional policy statements and regional plans would be lost, if they were split up on a district by district basis. This appears to be a complicated exercise for **minimal gain**. It will be a very **time consuming** task for local authorities and there will be inevitable conflicts between existing policies and rules and the new national template…"

[Earlier attempt to create a national template under the Town and Country Planning Act 1953 (1960 Regulations) was abandoned because of] "communities' wish to determine their own outcomes at either regional or local level".
Future Proof

"A 'one size fits all solution' does not meet all circumstances and may create **unnecessary costs** for councils and developers in that area. **Local diversity is important** and should reflect differing local needs and priorities."

"The suggestion that there should be a single large plan, but to then leave two different entities (regional & district council's) to administer that plan would not, in my opinion, be user friendly for the public and it is questionable as to whether there is any benefit at all".
Masterton District Council[104]

"A 'one size fits all' approach will not work and would **disenfranchise communities**".
Auckland Council

"It does not follow that reducing the number of RMA plan documents will reduce complexity, unless the fundamental purpose and principles of the RMA is also simplified and/or better articulated; the proposals outlined in the discussion paper do not indicate any meaningful move to do that; either in the Part 2 area or in the Schedule 1 process, in this Council's opinion.

TCC agrees that standardisation of definitions and some plan making steps would bring consistency in plan drafting but it does not get to the fundamental drivers of RMA plan making costs; in research, analysis/ evaluation, reporting, decision making and litigation".

[104] Masterton District Council Agenda for Council Meeting of 10 April 2013
http://www.mstn.govt.nz/council/meetings/2013/April/048_13.pdf

Placing plans together in one folder or on the internet in an integrated way for access to customers will not avoid duplication or make the process of understanding planning provisions any easier for customers (users)…

The proposed 5 year time frame should be reviewed… A process to 'merge' such documents into a meaningful, integrated sustainable management document could be done, but after a national template is complete, not run concurrently. Advice from officials is that the project to draft a national plan with standardised definitions will take approximately 2-3 years. It is more efficient and cost effective that single plans should occur only after such a template is formulated."
Tauranga City Council

"…there is nothing to be gained [from a single management plan] when it is realised that nationally 2% of consents require joint process… "
Stratford District Council[105]

"Having fewer and better resource management plans seems to be a solution based on some very **brave assumptions** around how plans interrelate…We doubt that one national template can account for the range of matters where regional plans work alongside district plans…

it seems to us that collated plans would be **sub-optimal**. This may be viewed by some as a back door method towards promoting local authority amalgamation. Either way, there are significant cost implications, especially within the expected five year time frame".
Tasman District Council

"The Productivity Commission identified problems associated with aiming for consistency, in situations where the differences warrant different treatment…

We support the integration of plans but consider the five year time frame too short. We are committed to our second generation plan review process and are only likely to complete that process in the next 2-3 years. To send plans back to the drawing board and attempt to engage the community on another review in such a short time frame is simply a **waste** of resources and money…

"…The proposed [plan change] process would appear to be **cumbersome and costly** compared to the current approach. It also appears to run counter to the direction proposed by the Local Government Efficiency Taskforce to reassert the role of representative democracy in local governance."
Hurunui District Council

"We strongly oppose the compulsory consolidation of regional and district plans within 5 years…It does not follow that reducing the number of such documents will reduce complexity…Much of the complexity arises from obscure terminology in the Act and lack of case law to clarify the intent…"
Horowhenua District Council

"Selwyn District Council supports the objective of fewer resource management plans in principle, however we have reservations about the requirement of a 'one plan' per district given Council's limited resourcing for plan making. As a purely technical exercise the 'one plan' outlined in the discussion document within a template structure will be a **very costly exercise** for Council.

[105] Verbal comment made by Director of Community and Environmental Services reported in minutes of Policy and Services Committee Meeting of 26 March 2013

Interestingly, less than 1% of the consents issued by Council would have required additional resource consents from the regional Council…"
Selwyn District Council[106]

"TCDC believes that the benefits of a single resource management plan are overstated. The large majority of applications (around 95%) use only one plan...There will be a significant amount of repetition if every district's plan includes regional provisions, as well as its own local objectives, policies and rules".

"TCDC supports a national template that sets a common structure and standard terms and definitions….More than one template may be needed, as Auckland will need a more complex plan than TCDC, or other rural councils. The template also needs to be simple and flexible enough to allow districts to deal with their own resource management issues. For example, there is no point requiring a small, declining population district to 'plan for growth' and subdivision. In fact this could cripple a council with infrastructure costs that it can't get back from development. Kaipara District Council's Mangawhai sewerage scheme is an example…The review group should be careful that changes proposed to deal with Auckland and Christchurch issues do not have **unintended bureaucratic consequences** for smaller local authorities, and local authorities with a declining and/or aging population".
Thames-Coromandel District Council

"…Guidelines should be clear on the limitations of a 'one size fits all approach' as there are often regional variations (either in environmental characteristics and community preferences) that mean a consistent national approach may not be appropriate…[or] not possible **without lowering present environmental standards** in sensitive areas [such as specific erosion issues in the East Coast region triggered by production forestry]".

"Council opposes the process that requires plan reviews ahead of usual timeframes…For the Council and the local community there would be little benefit in early re-consultation and relitigation of many of the current plan provisions…For all Councils it will be many years before the government's aim of a simplified planning framework are realised and the framework will become more complicated in the interim."

"Council requests clarity and limits to any national template and that it be a guidance document rather than obligatory…Council is concerned if the template would effectively require plans that are not consistent with the template to be rewritten…In reality, most terms and definitions are already well established. Any standardization must ensure that these are sensible and do not result in any relitergation. Potential changes to definitions may also result in the requirement to change related plan provisions."
Gisborne District Council

"It is difficult to see how imposing a single plan with templates for zones would be efficient and effective when each city or district has different historical patterns of development and face different challenges, including infrastructure constraints. This **spoon-feeding** approach also reduces public participation and the ability for the district plan to meaningfully recognise differences which a community desires…

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[106] Selwyn District Council Agenda Report for Council Meeting 10 April 2013
http://www.selwyn.govt.nz/__data/assets/pdf_file/0017/105551/Full-agenda-10-April-2013-web.pdf

One of the main concerns with a single resource management plan and national template is the additional cost that this will impose for the DCC and its ratepayers. [It] has the potential risk of a **waste of time and resources** (approximately $4.5 million) committed to the 2GP [second generation district plan]…with potential for a **procedural mess** for plan administration and update, consent processing and **uncertainty** for the community."

"…The community can not be forced to be involved in plan development. The idea that the proposed reforms will result in public participation being achieved fully at the plan development phase rather than consent by consent is **flawed**. It is incredibly difficult to get the general public interested in plan development due to the level of complexity and detail presented, and the time commitment. People are generally only interested when a development is proposed for their neighbourhood or neighbouring site[107]. It is only at this stage that most people can visualise or deal with the issues and choices that need to be made. The proposed reforms will not achieve greater public involvement in plan development but are likely to result in **greater frustration** when development occurs that concerns individuals".
Dunedin City Council

"HCC supports the concept of unitary [joint] plans, provided that these are prepared as a fully integrated document rather than merely a technical exercise, and provided there is sufficient ability for metropolitan councils to address and respond to complex local issues. HCC also submits that further work should be undertaken on the likely costs of preparing the unitary plans, the likely savings in terms of efficiencies for end users, and the difficulties in effective administration of unitary plans, before it is progressed further".

"…the [national] template needs to provide for varying local contexts…The **complexity** of fitting existing provisions into a new template with standardised definitions cannot be underestimated. This would be a complex and **time consuming**. HCC submits that the proposed five-year timeframe, which would include developing the national template and the implementation of that by councils, is insufficient and more time should be allowed.

…The currently proposed 'unitary plan' approach appears to be a technical exercise which would merely pull together regional and district provisions without regard for how these provisions would work together…. "
Hamilton City Council

"The proposal that there be template plans suggests a lack of or simplistic understanding by central government of the role of plans. Template plans could have the opposite effect to that intended by creating further **confusion** for the public and they would need to have significant transitional provisions to bring a fair and smooth transition to the new plan…

Aggregating multiple plans into one document may make things harder not easier for the public. That is if the document becomes **large and difficult** to navigate around…."
Marlborough District Council

[107] Background reports for the Better Local Government Programme produced for the Department of Internal Affairs also indicate that only a segment of communities engage in formal consultation activities. It is also far harder to explain unfamiliar planning concepts to the general public during the plan making stage, than explain a specific development proposed at the resource consent stage.

"Waikato Regional Council has already…embraced the single plan concept. It was not undertaken lightly as the development of the [current regional] plan was administratively complex and costly…

The district scale single plan proposal would require the Waikato Regional plan of 689 pages to be reproduced eleven times and added to the district plans of the region. This in itself would seem to be a **mere packaging exercise** and would not add anything to the usability of the document. Firstly it would be more **cumbersome** and secondly, would not add anything materially to that which is currently available on line".

"In the Waikato case, if the Regional Policy Statement is also to be added to the each district's single plan an additional 240 pages would be required to each district's plan, taking the total number of pages to address regional matters in each of the 11 district plans in the Waikato region to **over 900 pages**. This is in addition to the original size of each district plan and some of those are substantial. This is an incredible and **unnecessary duplication** of effort and resources which could be more profitably spent…"

"…Communities are nearing the end of a major exercise and significant investment to update their regional and district plans to second generation (2G) standard. These 2G plans are only now coming into effect and are aligned with the relevant Regional Policy Statement. In effect the proposed reform will require them to start again.

It is likely that there will be considerable community reluctance to undertake a further district planning exercise… To have this investment overturned by the requirement to start again using a national template would be counter to the New Zealand government's stated aim of keeping rates down".

"…The [district] scale of a [joint] single plan will not achieve good outcomes and will not happen as the transaction costs are prohibitive without additional incentives…"
Waikato Regional Council

"The benefits of the stapled together 'one folder' option are questionable and seemingly not particularly efficient…there is a **significant cost** to progress from the current situation to an integrated plan".
Opotiki District Council

"**Little benefit and significant cost** is anticipated from combining our plan with the Regional Council's…[Our district] sits across four Regional Council boundaries….[The National template] could have a significant effect on our Long Term Plan and rates".

"…significant costs could be placed on the community if a new resource management plan is required…Some of the timeframes set out are **unrealistic** – such as the development of a new single plan in 5 years. It is going to take considerable time to develop the new plan template…"

"…we see some significant issues [in the creation of a single plan]…this is essentially a technical exercise of document management…This would mean that someone wanted to lodge an application with Taupo town would need to look at a single plan with over **900 pages**, which also includes irrelevant regional rules for 11 other Districts and also regional rules which may or may not apply to their situation. TDC struggles to see how this simplifies the process for an applicant, given that the vast majority of activities within the Taupo District would only be affected by the District Plan rules."

"Taupo District Plan was made operative in 2007 after 7 years and a significant financial cost to the community to resolve appeals (largely out of court). Although we can see the benefits of moving to standardised terms and conditions, does this mean that we face relitigation of the District Plan once again? …This is a significant investment and would counter the Governments stated aim of minimising rate Increases."

"…significant costs involved with developing a fully integrated [joint] plan…the consolidation of planning documents that might work in a metropolitan centre like Auckland, can actually be **inefficient and counter productive** for smaller provincial areas…"
Taupo District Council

"The idea that each district should have one plan containing all the planning provisions for an area seems attractive but in practice may add **complication**. The average district plan is a weighty document now. If the relevant provisions of the Regional Plan were to be included it could be **overwhelming**…This proposal may be addressing a problem that is already being solved."
Napier City Council

"[The National template] appears to be another example of a top down approach…It is important to retain the ability for plans to respond variably to the issues which are relevant to that particular region…the risk of not allowing this is the same outcomes across the country without areas having their own identity and without recognition of the specific issues affecting each area."

"…it is probably unrealistic to think that all issues which could result in disputes or differences between Councils [particularly District and Regional Councils] could be anticipated and agreed in advance. In practice there will be limits on how far single plans would add value…

Reconciliation of regional and district issues, objectives and policies to the point of a draft joint policy statement will be **time consuming** and bring **significant upfront costs**. It may be that such a high degree of integration is not justified in terms of the benefits in relation to the costs…

The assumption is also being made that an independent decision-maker 'gets it right every time'. The local experience/ knowledge of Council can add value to a decision and result in a potentially better outcome…

[The reduced scope for appeals offered for joint plan changes using independent commissioners] "means that in practice there would be almost no right of appeal to the Environment Court on plan provisions[108], with appeals likely only to the High Court on points of law. This would be a huge change and reduction in the current role of the Environment Court, and any such proposal needs to be more widely debated."
Christchurch City Council

"…Developing new documents in the proposed template…will require significant resources from all Council's within a relatively compressed timeframe….The amount of work required to produce a single Plan, even for a unitary authority, will be significant…Nelson City Council requests that financial assistance is given from Central Government…

[108] This issue is also raised by Nelson City Council. Both Council's point out that the Council would not have the ability to deviate from recommendations of independent commissioner's, due to their lack of involvement in the submission and hearing process. Hence Council's ability to influence outcomes is restricted to the pre-notification stage and there would be effectively no right for submitters to appeal on matters of merit.

We do have some concern at the reduction in involvement of the community and local Councils in Plan development. The emphasis is on involvement at the pre-notification stages but is limited from there on. Also the use of nationally directed Plan template, including some content and guidance, can reduce the ability to include local decisions on what is appropriate in particular communities…

We consider that a longer time frame [than the proposed 5 years] would be more realistic to allow for the guidance/templates to be developed and new practices and case law to be developed…." [A 10 year timeframe is suggested].

[The proposed process for joint plans] "could easily result in a **very inefficient process and inferior** outcomes".
Nelson City Council

"The full integration of plans will take some time and should be done well rather than **rushed and done poorly**…There are few homogenous areas where there isn't something site specific to take into account…"
Southland District Council

[Although we agree with the intent of the single resource plan] "making such changes, especially having just spent significant money on a review of the District Plan, is not considered to be efficient or a high priority…

It is questionable as to whether having separate District and Regional Plans is an issue….Enlarging the size of the document by incorporating the provisions of the One Plan [the Regional Councils Regional Plan and Policy Statement] will simply create a **huge unwieldy document**, and for your average lay person, this may well act as more of a **deterrent**….Although the overall idea of providing all the information in one place has merit on the surface, RDS does not consider that in practice this will achieve its desired goal."

"RDC strongly agrees with the concerns raised by LGNZ … especially in relation to the difficulty in developing a [national] template, the timeframes proposed both to develop the template and then translate plans into the template, and the associated costs to Councils."
Ruapehu District Council

"Considerable effort and resourcing will be required to achieve this [single resource plan]. The one plan also has the potential to contain a greater number of pages than that of current district plans which may go against ease of use for customers…

While the concept is supported, how this is to be undertaken practically must be considered and communicated clearly….The idea of standardised definitions is supported, however standardised zoning is not…" [Rotorua District Council is also covered by multiple regional councils]"
Rotorua District Council

[The national template] "is sought to apply a national direction to District Plans, however, the direction could mean that local communities are fully directed by a national agenda. Applying a national agenda for specific regions and localities could mean that **local values are largely ignored** and resource management outcomes which may benefit national infrastructure or national development activities may have a detrimental effect on the local community where they are located. This may mean that local communities are unable to meet their own needs and limit economic activity locally. This is not considered to be consistent with Section 5 of the Act….

[This is creating] **"One plan to rule them all"**

"It is unclear how a single resource management plan using a national template would serve local communities… a standards template may result in little consideration being given to the key local issues….the national approach to resource management undermines the purpose of the Act…

There are instances where regional planning regimes do not match local priorities…how does a region practically manage the differing and conflicting issues across all districts in the region into one document."
Kaikoura District Council

"The discussion document does not address the **complexity and costs of transition** from the current approach to plan making to the proposed single plan/collaboration plan approach."

"In practice, that national plan template proposal would require all Councils in New Zealand to re-write existing plans over a 5 year period to achieve a standard plan structure including nationally consistent provisions…Significant plan development costs would be imposed on the local government sector (and the community) which would effectively prioritise the allocation of resources to the standardisation of plans ahead of substantive reviews of planning provisions to improve planning outcomes, or to address emerging issues [that is, could be counter-productive in terms of achieving the purpose of the Act].

If central government decides to proceed with requiring 'template plans' then the government should only 'start the five year clock' once the new national planning template has been finalised. Central government should have an assistance package to resource Councils through this process".

"For metropolitan councils such as Wellington, it is unlikely that this [joint plan] process would be used…"
Wellington City Council

"A consistent, combined plan template could have merits. However, it is considered that this proposal does not adequately address the practicalities and costs to introducing such an approach….this has implications on council's service delivery responsibilities to its community….

"Requiring a single resource management plan is likely to be complicated…it is also important to recognise competing political interests and priorities between councils…it is more practically suited to a unitary authority structure."

[The suggested submission and hearing process for joint plans] "could have a significant impact on how ordinary members of the community were able to engage and participate in plan development and hearing processes. A move to a 'simplified' hearing and appeal environment structure could have the impact of formalising local hearings and preventing, dissuading even **undermining participation of local community members** in their local process of plan development…"
Porirua City Council

"The concept of a single resource management plan per district has some merit but would need careful consideration to ensure it would in fact be cost-effective and workable for all councils and the community….Possible counter proposals by some that there should be one regional resource management plan (combining regional and district functions) to be prepared by the regional council in every region should be opposed as it would in effect supplant local democracy".

"There is a hierarchy of regional and district plans and regional and district councils have quite different functions and responsibilities…The template would need to be sufficiently broad to accommodate the variability of issues, needs and value of local communities…Plans have to be owned by the local community if they are to be effective. Forcing a one regional plan model on local communities will lead to a heated, acrimonious and ultimately **pointless** process."
Taranaki Regional Council

"We have concerns that any national template that requires a number of plans to be incorporated into one standardised template will be overly **complex and costly**, with little value.

GWRC recognises that the development of a national template may provide better 'ease of use' for large national companies seeking resource consents across multiple jurisdictions; however it is unclear whether the development of a national template would have any benefits to the community or to smaller developers who make up the majority of our consent applications. Further the benefits of a national template for large national companies which have experience in interpreting regional and local plans, are considered to be negligible compared to the time delays and cost implications in developing the template…. [The 5 year] "timeframe is **unrealistic** without changes to the Schedule 1 process".

"The expected outcomes of the joint plan as described in the discussion document, **lack substance** and it is unclear what, if any benefits would be gained from this approach. We consider it highly unlikely that any groupings of local councils would voluntarily choose to combine to prepare a joint integrated plan with the regional council, because of **the cost, the complexity and the lack of any real benefit…"**
Greater Wellington Regional Council

"…The proposal to create a single plan using a national template or by 'stapling together' the regional policy statement, regional plan and district plan that apply in to a territorial authority seems unlikely to achieve the aim of making it easier for a plan user to identify all the provisions that apply to a particular property…

This would, in practice, result in **increased costs and resource use** if paper plans were to created...It is unclear what would be expected of councils that are located across the boundary of two regions."

"In the Manawatu-Wanganui Region, Horizons and all of our constituent districts have either completed or are well underway with the second generation plan processes. It is unlikely that any local authority in this situation would have an appetite to embark on any further plan review process unless the benefits to ratepayers was shown to be considerably greater than the costs….we consider it would be appropriate to incorporate a point at which can be recognised that agreement cannot be reached on every issue…"
Environment Southland

"ORC accepts the basic principle of single resource management plans, but has concerns about the potential open endedness of this proposal. This can already be undertaken through existing RMA provisions [as can the joint plan] and no changes to the RMA are necessary…ORC considers that future regional policy statement and second generation district plans will avoid duplication and inconsistency.

ORC considers that the merging of plans won't make it easier to navigate and understand, but make it more it more **confusing** and difficult to understand. Further the suggestion that within this national template plan, Government may propose standardised rules is of **great concern**. The transitional provisions for developing single plans will be complicated and potentially expensive for Councils."
Otago Regional Council

"…Staff believe there are alternative ways of improving accessibility to planning documents that would not result in the costs (both in time and money) that preparing single resource management plans (and keeping them up to date) would incur" [eg. internet portal]…

A single plan for a single district unit would be problematic for achieving integrated catchment management planning….

Breaking those region-wide provisions down to smaller 'district' sized building blocks to fit the single plan would certainly result in increased duplication of content…

…The proposal for a 'one-stop-shop' plan document only covers some RMA planning instruments. There are numerous other plans, regulations, standards and bylaws etc administered by councils and other agencies which can be relevant to the protection, use or development of natural and physical resources. The most obvious omission from the proposal for an 'assembled' plan are National Environmental Standards and s360 Regulations.

[five years] "is fairly optimistic and the effort to achieve this is not to be **underestimated**" [and would involve more than just consolidated existing documents].

"The proposal as currently outlined for a jointly prepared planning document does not appear to create a solid case where the benefits of this effort would outweigh the costs of the status quo approach….governance issues and procedural issues may prove too **unwieldy** for local authorities to opt in and follow the front-end loaded collaborative plan-making process…"
Hawkes Bay Regional Council

"Whilst Council is supportive of the intent of the standardisation of definitions, terms, zoning and rules across the country, this should be undertaken with caution. The Southland Region is a different situation to the Auckland Region and what works in one will not necessarily work in the other. Further, there will be an extensive cost to councils to incorporate standardised terms, definitions, zoning and rules into planning documents. They should only be required to be incorporated into resource management plans when they are under review.

Environment Southland is also concerned that standardised zoning and rules may become more complex than the current system due to the sheer number of zones that would be required…"

…will combining regional plans into district plans really make it easier for the user?...Incorporating all regional plans into one district plan will create a very large plan and potentially make this more **confusing."**

"…true collaborative processes are resource intensive…Consideration needs to be given to allow councils to progress plan development if no consensus can be reached."
Environment Southland

"The differential roles of the RPS/RP [regional policy statement and regional plan]and District Plans have not been fully appreciated in the discussion document. Infrastructure is not covered by the discussion document and the alignment provided by regional planning tools may be lost."
Matamata-Piako District Council

"The consolidation of the three or more planning instruments into one document will not serve to streamline and simply the planning system; it will have the opposite effect."
Central Otago District Council

"The **flaw** in the proposal for fewer resource management plan is that…[it] does not understand the user of those resource management plans…most of the irregular users who this reform is aimed at will still likely be **confused** by the single integrated plan proposal…

An integrated plan [for our region]…would be **extremely bulky and complicated** as different zones and geographic areas required specific localised planning frameworks…

Greater thought needs to be given to the purpose and scope of these single resource management plans, and how these plans will be practically implemented at a grass roots level…The proposal to have a single plan established within five years is in WDCs opinion **unachievable**…"

"WDC is at least one third through its second generation District Plan Review. If the Bill passes as proposed than a significant amount of work will have be repeated at the cost of ratepayers with **little or no public benefit**. IN WDCs opinion national consistency should not come at a cost to the provinces."

"A proposed template is a good idea, however WDC can foresee that there will be inherent difficulties in finding a template that works across the nation…A single resource management plan also does not necessarily encourage user buy-in or improve the understanding or usability of information."
Wanganui District Council

"…the proposed single plan approach would not provide any benefits….the other 98% of users [where regional provisions do not apply] would have to deal with a much larger and more **complicated** plan, making it more difficult for them to find and focus on their relevant provisions….A much simpler approach would be to create web portals or printed material to provide direction on plan use…which would be far more useful than giving them a **1000-page** combined document.

There would also be **significant cost** in even the relatively simple process of combining existing plans into one and reframing them to match a national template. For our Council, based on past experience with plan changes, this could cost $200,000+, which equates to a one percent increase in rates (or, in a rates capped environment, a $200,000+ reduction in other services)."
Clutha District Council

"…The Ministry's response at a workshop session merely suggested a 'staple together' approach, which does nothing to improve the interrelationships between various district and regional planning documents... in the last five years, virtually no one has asked to view a regional planning document…therefore it seems like an exercise in **window dressing** to achieve an outcome that very few people are asking for….This would result in **a cumbersome and overly complicated regime**."
Waitaki District Council

"MDC strongly opposes this proposal for the following reasons:

a) The overall quality of planning and resource management outcomes will reduce because of diminished recognition and acknowledgement of local issues;…

c) Single resource management plans will not achieve any substantial gains outside of the major metropolitan areas;…

f) Many of the issues identified in the discussion document are being addressed by councils as part of the development of second generation RMA plans;

g) Templates will not be sufficient to recognise the different urban and rural environments in large and diverse regions such as the Manawatu-Wanganui;…

i) The proposal isn't that different to what already exists…

k) One website with all available RMA plans would achieve the same outcome;

l) Most plan users do not require…[all] documents to be in one place;

m) Five years is an **unreasonable timeframe**;

n) The logistics and funding will prove problematic…;

p) …MDC note that the proposal states approval will continue to be sought from both regional and district councils and question therefore how this will result in any efficiency."

"This idea would need careful consideration to ensure it would in fact be cost-effective and workable for all councils and the community… Customer service provision to deal with Plan enquiries would be complicated, too….The fully integrated plan …is perhaps the ideal long-term model but this is likely to involve **significant costs….**

Plans have to be owned by the local community if they are to be effective. Forcing a one regional plan model on local communities will lead to a **heated, acrimonious and resource sapping process…**

We will get better results if we follow an evolutionary path rather than legislate for a particular model… If the correct drivers are in place [financial assistance from central government, additional resourcing of Environment Court and voluntary use of independent hearing panels]…we will see a move towards single and joint plans within a few years…

The Council firmly believes that the Government's role on this issue is to support not **supplant local decision-making**….The template would however, need to be well crafted to accommodate the variability of issues, needs and values of local communities. Local government must be involved in developing the templates and definitions etc."
South Taranaki District Council

"This council conditionally supports the concept of a national template, provided that the template addresses 'technical matters' only and does not include subjective matters [such as standardised zoning] that are particular to the local community

Due to the huge variances in district plans across the country it is doubted that the 'template' will fit to some planning approaches [such as the Council's effects based approach]…There is limited benefit of a single plan…when the provisions are still implemented by separate authorities…"
New Pymouth District Council

"There is the potential for standardised definitions, rules and zones to have a direct impact on the development form that would be undertaken within the local community. These changes in development form would essentially be directed from central government, thereby reducing the ability for the community to be involved with how development will be undertaken in their region…

There is the potential that many councils are investing significant amounts of money and time into the development of their 2nd generation plans or rolling reviews, which could be **wasted** depending on the final form and content of the national template.

The conversion of the current District Plan into a format that is consistent with the national template will impose **significant costs** on the Council and (by default) the local community. The process of converting the District Plan format would inhibit the ability for Council to continue to undertake its rolling review of the District Plan…the five year period for implementation should only start when the new national planning template has been finalised. "

"…in reality, it is unlikely that the various councils in the region would go through the process of developing a joint plan due to the costs and expenses associated with this exercise, particularly given that each council already has a plan in place...[However joint efforts between Councils]…would overtime achieve similar outcomes…without having to go to the expense and time of developing a new region wide RMA plan."
Hutt City Council

"Council supports the proposal in principle but would suggest that further incentives and support would be necessary to make the process viable and outcomes representative of all interests…considerable time efforts and costs would be associated with the [joint] plan preparation…plan integration and alignment would create **significant up front costs…"**
Far North District Council

"….We have very real concerns about the concept of the 'single resource management plan' as conceived in the discussion document. We do not think it is workable as conceptualised and the practical implementation will require significant resource by councils…

While we can support the objective of frontloading plans and providing for greater certainty – this does come with a cost – to the community and to ratepayers. It also assumes a great deal of knowledge is available about the effects of particular activities."

"As a purely technical exercise the 'joint plan'…will be a very costly exercise for councils and we, argue, will not be money well spent…the detail needs to be fully considered and not unduly **rushed**…the ideal model is likely to be a fully integrated plan (i.e. more than the technical exercise proposed in this discussion document)…We do not think local government should have to meet these costs…

We are unclear exactly what the driver is for the technical single plan. We note that the proportion of consents requiring consent under both regional and district provisions is minimal so the technical single plan is unlikely to provide significant benefits in this area. It will not address any issues of

duplication between regional and district provisions…There is no recognition of the different role of the RPS (regional policy statement), regional plan rules and district plan rules…

The template document and the standard definitions have been mooted before and they have been opposed because of the cost involved to the sector….The template is going to be **extremely difficult** to develop…"
Local Government New Zealand

COMMENT BY AUTHOR

The majority of Councils have raised strong concerns about the single and joint proposed plans. In general, most Councils see the single plan as an expensive technical exercise of little real benefit.

A large proportion of Councils support the concept of a joint fully integrated plan, but however see a number of obstacles to be overcome before this becomes a worthwhile option. The preferred option for several councils appears to be:

1. A slower paced evolutionary change to a joint integrated plan;
2. The option for Councils not to adopt a national template layout or standardised definitions until their current plan is due for review;
3. A national template which is developed in genuine partnership with local government;
4. No requirement to adjust to this template, until it has been finalised;
5. National guidance provided about the content of joint plans, but which does not dictate local content;
6. Flexibility to allow for variation in policies and rules between districts and regions;
7. Greater involvement of Council(s) in the final decision making, including the optional use of independent hearing panels;
8. Reduced scope for appeals; and
9. Financial assistance provided to Local Government.

Several comments from Local Government indicate concern that the Central Government has a hidden agenda which is being kept secret from this sector and the general public. This impression is best created by the comment from Kaikoura District Council that the single plan would be the *"one plan to rule them all"*.

Further consideration needs to be given to comments that proposed changes will not eliminate confusion and complexity with existing resource management plans, and could actually increase it. I consider it doubtful that any proposal could be devised which eliminated confusion and complexity, particularly as the general public often have a poor understanding of resource management activities and processes. It is no surprise that people who regularly submit resource consents (such as private planning consultants) typically have a better opinion of the system than the lay public.

Similar to the taxation system (another unpopular but necessary regulatory function) there is a natural tension between the need to communicate with the public in plain English and the need to write provisions which provide an acceptable level of certainty and are sufficiently robust to withstand challenge. This is apparent in recent attempts to streamline and simply the planning system, which appears to have increased certainty for applicants, at the cost of creating a more complicated system for Councils to administer.

10 Working Days for "Simple' Consents

"A separate 10 day timeframe for 'straight-forward' resource consents will further **complicate** administration and tracking of applications for **little benefit**...

The 10 day timeframe will also affect the workflow (peaks and lows) of consent teams making it very difficult to accurately predict and budget for resource requirements".
Parmerston North District Council

"UHCC is therefore opposed to a situation that will simply add further **complexity** and additional administration function, taking away from its core function of exercising its RMA responsibilities. It may also require a boost in consenting staff to achieve such targets, **increasing consenting costs**, running counter to the Governments intent on fees…"
Upper Hutt City Council

"The Council does not support this proposal. It will be very **costly** for Councils to resource i.e. maintain the ability to process consents within 10 days".
Kapiti Coast District Council

The "Council will still require the same information, and the written consent of affected parties…to have a pre-application meeting about a boundary setback would seem to be **overkill.** This has the potential to force Councils to employ more staff/consultants…It assumes that all Councils have teams of staff on hand to provide all the answers in a short space of time and to do nothing else but write decisions."
Masterton District Council

"The Council does not support a 10 working day consenting time frame… the actual time in obtaining the resource consent will be no faster because additional requirements of the 10 day consent are required to be achieved before the clock starts ticking i.e. preapplication meeting and written approvals…In terms of cost recovery an additional fixed charge will need to be added for preapplication meetings.

The 10 day timeframe will result in those applications jumping the queue and being processed before the applications that have a 20 day time frame…. ".
Hurunui District Council.

"A lot of pressure and responsibility would come on the council officer at the pre-application meeting to pre-assess the whole application without visiting the site or having all the information. The requirements for applications to be accepted would need to be a lot tougher".
Thames-Coromandel District Council

"The range of activities that may be subject to a 10 day consent could be quite extensive. With existing resourcing our Council would struggle to achieve a reduced timeframe...

It now appears that to meet some of the quality criteria this could actually involve significant input by a planning officer and potentially a number of other council officers prior to receiving an application. In effect it seems to be shifting the initial assessment we undertake across the organisation in the first 10 days, to then occur prior to the lodgement of the consent. If this was to occur on a large scale, it is difficult to see how this could be more efficient that operating within the system the council has in place once a consent has been received…It also raises the question about cost recovery for all officers that have provided input prior to the lodgement of the consent…

Furthermore, the Gibourne District is a geographically large area that can require considerable travelling time for site visits…Trying to achieve a 10 day timeframe may not provide the opportunity to group site visits together meaning the process is less efficient and more expensive…Observations form Council planning officers note that the 20 day timeframe is well known and that it is not often that applicant's state a need for a shorter timeframe…"
Gisborne District Council

"An additional administrative layer of a 10 day consent will add **complexity** and impact negatively on our ability to manage the variable work load of consents staff. The change is not expected to improve performance and will result in **additional cost**…."
Dunedin City Council

"HCC is concerned that this would be difficult to administer as the same assessment process would be required for a 10 day consent as for a 20 day consent… and it is not clear that it would result in any efficiencies. The issue would be how to define what activities would fit into this definition. This would create an additional layer of administration and decision-making for council planners...There is also a potential **reduction in the quality of outcomes**…."
Hamilton City Council

"If the application and notification processes are simplified it will be possible to issue minor consents within ten days… Councils would have to provide more resources to their consents processing teams to be able to meet the exemption and ten day consenting requirements. This would **increase costs** to applicants….

The proposed changes to the consent processes, especially the exemptions and ten-day consents are likely to be reliant on pre-application meetings. Councils must charge potential applicants for such meetings. Even minor applications would need them so that the applicant makes sure that they include all matters necessary in their application so they may fit the exemption or ten-day criteria. This will increase the costs to the applicant of their consents."
Marlborough District Council

"Waikato Regional Council does not consider that an additional 10 working days is generally of any real concern for the vast majority of applicants for minor consents and note that an inevitable consequence of some applications being 'fast tracked' is that other, 'larger' and potentially more important, applications will take longer to process. Waikato Regional Council considers that outcome to be **inappropriate** and contrary to equity considerations…there is **no demonstrated need** for central government to institute such a provision…"
Waikato Regional Council

"…Very often applications seem very simple and straightforward but end up with complications and once you have established an expectation with the customer it is very difficult to change that expectation…We consider it will be difficult to clearly legislate…"
Opotiki District Council

"We question the notion that an additional 10 days will make such a difference to an applicant. In many cases drafting plans, preparing applications, seeking written approvals [done prior to consent lodgement] and further information is what takes time. So reducing the time the application is lodged with the Council by 10 days is unlikely to affect the overall timeframe of the project.

This proposal is also likely to **cost the community for very little benefit** (an extra 10 days) for individual developments. In many cases simple consents are already processed well below the 20 working day requirements…In contrast, councils will need to employee more staff to ensure that tighter timeframes are met. Applicants may also end up paying a premium for a faster service which in reality makes little difference to their overall project…"
Taupo District Council

"This shift to a 10 day turnaround will likely produce a different [work] flow and need to react to more frequent peaks [in demand]. This may lead to one of three outcomes:

- Increasing the consent staff numbers at added cost,
- Greater use of consultants to handle peak load at added cost,
- Diverting other planning staff from other important tasks and giving the processing of non-notified applications top priority.

Alternative the effect could be for local authorities not to accept any application until it is fully ready to be approved. The ten day turnaround would be achieved by extending the pre-application process with **no actual improvement for the applicant**…It will look better and more efficient [in terms of generating statistics on performance] but the total time will be unchanged, or indeed extended."
Napier City Council

"CCC's view is that specifying straightforward applications should be left to individual Councils as it is considered it would be too complex to do at this moment through regulations, given the regional variation of plans and complexity across the country"
Christchurch City Council

"There are likely to be capacity implications for some councils in terms of staffing resources… Prioritising such applications could place further pressures on those consents being processed within 20 days being delayed (and potentially at a cost to council).

The 'pre-checking' of such applications against quality criteria is likely to place pressures on some councils and costs would need to be recovered…Need to ensure the quality of decision making is not compromised".
Southland District Council

"By prioritising certain consents, other jobs will take second place. And this raises the question, what is more important? A resource consent application for a yard encroachment; or advice to someone who wants to start a new business. (Potential for significant economic development/jobs versus minor works on a property?)

The other issue is cost. Reducing the timeframes will result in a greater number of applications being outsourced…consents costs to applications increase where we use consultants to process applications. There is also very limited ability for site visits due to distances."
Ruapehu District Council

[Our Council] "does not support creating a **more complicated system** by recalculating the number of working days in the RMA. The proposed approach requires a fair amount of time to decide/categorise what type of consent and what timeframes it would fall under. This time could be better spent processing the consents…The approach proposed…would require time and resources to change the way in which councils work…The approach proposed… would also mean that for Rotorua

most consents would have to be completed in 10 working days. To achieve this and maintain quality of decisions a greater number of staff would likely be required".
Rotorua District Council

"The reduction in timeframes does not recognise that in some instances there are issue that arise through the process that are not anticipated at the outset. Further, by **rushing** through simple consents, the chance of making mistakes and not fully considering the proposal is a risk. It is not considered this proposal would reduce costs for the applicant, as the same time would be required to process the consent. The proposal does not suggest reducing time spent to process the consent, just reducing the timeframe available to the consent authority.

The proposal may also **raise costs for the applicant**, as some smaller consent authorities may not have staff or resources to meet the shorter timeframes. This would require paying an outside consultant to process the application, which may come at a higher cost to the applicant if the consent authority seek to recover all these costs".
Kaikoura District Council

"While the 10 working-day timeframe may appear to be a solution to reducing processing times and costs to applicants, **it is unlikely to make a meaningful difference**, relative to the costs/difficulties of establishing new processing systems.

…The proposal as described has the effect of shifting Council input to before lodgement, ie the pre-application stage…The time spent by the processing planner and technical advisors pre-lodgement needs to be cost recoverable…The increased staff resource necessary to manage the 10 day timeframes would lead to increased costs for the applicant…[Council's existing fast-track service] is rarely used by applicants, possibly due to the additional application cost involved."
Wellington City Council

"If the economy recovers to this level again [2006-2007], council's ability to meet these timeframes given reduced budgets and staff numbers will be **unfeasible** and will result in significant increases to hourly rates; a cost that would be passed on to applicants.

The proposal will have the effect of front loading the processing of applications and will require considerably more work pre-application…This proposal would make pre-application charging essential for councils. PCC also believes that the pre-application work required by this process would be no different in terms of time and cost from work required under the current 20 working day timeframe…

There will also be significant upfront cost on councils to implement this proposal including substantial rebuilds of existing council resource consent IT systems…It is recommended that MfE work with councils before this proposal is progressed further to determine whether it is feasible. The proposal will be **impossible** if within the 10-working-day timeframe councils are required to make the notification decision, undertake a site visit and other processes necessary in making informed decisions…The risk of judicial review from this process must also be recognised."
Porirua City Council

"Our Council already processes around 50% of consent applications within 10 working days…However, we do have concerns about the principle of requiring ever-shorter processing times without simplifying the process involved. [Statutory processes take far longer to carry out for simple applications than reaching the decision].
Clutha District Council

"The criteria [for 10 day consents and approved exemptions] will be open to different interpretations and therefore dispute. Invariably the drafters will get it wrong and there will be **added costs** in arguing specific cases or amending the regulations. It will end up punishing those who want to get things done. There will also be costs incurred in changing plans and consents systems and databases to reflect national directives."
Taranaki Regional Council

"Quality of applications would have to be significantly improved to progress through this process – would it really be a cost and time saving for applicants when all is considered?! "
Hawkes Bay Regional Council

"This proposal could potentially create major resourcing issues within councils…"
Environment Southland

"…There are likely to be capacity implications for some councils (including ours) for resource consenting within 10 days…."
Matamata-Piako District Council

"The Council considers that there are practical problems with respect to prescribing a 10 working day process…Consent authority may have to respond…by retaining additional staff resources…this would increase costs…such an outcome would be **counterproductive** and would simply increase costs on the system."
Central Otago District Council

"This area of proposed reforms specifically lacks any evidence for the need to change and demonstrates a clear lack of understanding of the practicalities and day to day functioning of consent authorities by government…[The proposal provides no ability] for a consenting authority to effectively exercise its discretion in determining whether a proposal is appropriate or not…The 10 working day consent would put additional strain on the planning staff to execute another statutory timeframe which would have to be prioritised over more challenging or technically difficult work because of the apparent urgency in making a decision

…Staff turnover will begin to increase which in turn increases the cost of recruitment and loss of valuable institutional knowledge…This does not and will not address the issue that most consenting authorities have with applications received; which is the poor quality of those applications…

The biggest concern WDC has is that any changes in the statutory timeframe for resource consents will put additional pressure on staff and on Council's ability to execute its core services, not to mention on potentially adversely affecting good environmental outcomes."
Wanganui District Council

"a hierarchy of consent types will simply confuse and compliance an already straight forward consenting system…

why should some consents be 'bumped up' the order just because they are more straight forward?...faster consent timeframes will need to be resourced appropriately therefore should also attract a premium fee to help recover this cost…there would appear to be more onus on the application to provide more information, therefore negating any gains that a faster consent process is seeking to achieve."
Waitaki District Council

"MDC is aware that there is likely to be staff capacity implications for some councils…"
Manawatu District Council

"There are a number of issues with these proposals [10 day consents and approved breaches] that in the Council's view need re-examination as to their need, practicality and workability across the board…There will also be added costs incurred in changing plans and consents systems and databases to reflect national directives…

The question remains where is the problem? … It is not at all clear that the regulatory response being proposed for more efficient consent processing via national level regulation is justified in terms of cost or time, compared to what exists now at Regional and District planning authority levels."
South Taranaki District Council

"Need to ensure that reporting requirements of the Act are also streamlined so simple sign off is achievable [that is reduced requirements for notification and planning assessment]. Councils will need to be adequately resourced to respond to this."
New Plymouth District Council

[The existing 20 working day requirement] "is more equitable and achievable...experience has shown that without a significant increase in staff a lower target would be very difficult to achieve. The cost of staff would have to flow through to the cost of the consents.

In terms of thinking that Council's can achieve 10 working day consents simply because 95% of applications were within time potentially is short sighted…

The applicants who are most concerned about timeframes are …larger scale developers… Our monitoring of these [typical residential] consents show that frequently the project is not even commenced for several months. Further to this our experience of offering fast track consents (admittedly at a higher fee) is that very few non notified consent applicants take this up, the demand is simply not there."
Hutt City Council

"Council does not support this proposal as it would be costly for Council to maintain the ability to process within 10 days…we would question whether 10 days is actually achievable [for a large and diverse district like the Far North]…A faster processing time would require changes to the legislation to provide for a simplified decision requirement…**What appears and sounds simple often is not**."
Far North District Council

"The concerns raised do not reflect the current record for consent performance…ORC is concerned that the proposed changes add yet another timeframe for consent processing. This increases **complexity** in the administration of plans and invites arguments about consent types. [Timeframes could also be affected by changes to NZ Post delivery times]."

"The proposal for pre-application meetings for consents with a 10 day time limit consent is inappropriate as these activities by nature will be minor. Pre-application meetings will add to the cost of obtaining the consent".
Otago Regional Council

“We note that many councils process, on average, applications for resource consent well below 20 days…We are advised that most ‘simple’ applications are processed well within this timeframe already.

There will be capacity implications for some councils…We question the notion that an additional 10 days will make such a difference to an applicant. In practice we are advised that very few proposals are on such a tight time frame for consent that 10 vs 20 days is significant, and where timing is critical council staff will generally work with the applicant to process the application as quickly as possible…

We also question the principle that some applications should be able to go ahead in the queue (over the standard 20 day). We also note that some councils already offer a “fast track” (five days) for a higher application fee…”
Local Government New Zealand

COMMENT BY AUTHOR

A significant proportion of Councils have raised serious concerns about the proposed 10 day "simple" consents. The proposal is seen by several Councils as providing only a marginal benefit (if any) for significant cost. Whilst it could improve statistical measures of performance, it appears to achieve little benefit in real terms (such as total time taken to gain approval when including pre-lodgement requirements and total costs to all parties from consent processing).

The above proposal appears overly complicated and costly, particularly in the absence of any strong justification for its introduction. No evidence has provided of widespread delays in consent processing, several Councils refer to the existing processing of applications that they consider to be simple, under 20 working days and a small number of Councils offering a fast track service for a higher fee, report little uptake.

The proposal as put forward has the potential to transfer time requirements from post lodgement to pre lodgement of consents, lead to higher consent fees and greater administrative burden. Several Councils put forward the suggestion of reducing processing requirements for certain types of applications. For this option, the reduction in time taken to determine consents (up to 10 days) would need to be balanced against higher risks of making an error in judgement.

Several English Councils are believed to charge for pre-application meetings to cover staff costs and concerns have been raised, that this can create the impression of applicants purchasing approvals or the predetermination of applications, prior to the submission of all relevant information.

It is not considered practical to rely on a willingness of applicants to enter into pre-application meetings. My experience in Wales was that applicants most willing to attend formal pre-application meetings, fell into the following groups:

1. Application lodged by a higher quality planning consultant.
2. Application was expected to encounter problems during the assessment process.
3. Applicant/consultant had previous experience of consent refusal.

Further issues with pre-application meetings can be:

- the need to introduce arrangements to deal with a greater volume of requests for pre-lodgement advice;
- lack of guidance on whether such information should be made available to the public through information requests;
- complications arising from new information obtained through the assessment process which alters the Council's initial position at the pre-application meeting;
- there is little benefit in such a meeting, if it seen as purely a formality by the applicant;
- pre-application meetings are of greatest benefit before the applicant has finalised their development plans, rather than immediately prior to lodgement; and
- the ability of Council officers to juggle requests for pre-application meetings and pre-lodgement advice with lodged applications (pre-application advice can be a low priority if staff have high workloads).

A few Councils raise the issue of the poor quality of applications received, which results in these applications taking longer to process. My own experience was that a poorly prepared 'simple' application could be far more time consuming to process, than a well-prepared application for a large-scale development. It is anticipated that the majority of poorly prepared applications are for small-scale development.

Options that may be worth exploring to achieve the Government aims of improving the speed of consents are:

1. Offering of financial incentives to Councils to improve speed of decision making, such as the English Performance Delivery Grant.
2. Encouraging more Councils to introduce fast-track consenting options, which have higher application fees; and
3. Introducing an accreditation scheme for planning consultants, whereby the option of fast-track consents is only available to consultants certified as submitting quality applications, similar to the Queensland RiskSMART system[109].

Notwithstanding, no compelling evidence has been presented of the need to improve consenting speed and priority should lie on getting the decision right, rather than making a decision quickly.

[109] RiskSMART Applications must be prepared, lodged, and certified by a Council accredited RiskSMART consultant. In return, Council guarantees that the application will be decided quickly. http://www.brisbane.qld.gov.au/planning-building/applying-and-post-approval/fast-tracked-applications-risksmart/index.htm

Approved Exemption to Minor Breach

"…proposal is fundamentally **flawed**. It shows a basic lack of understanding of the planning process…Once the new tolerance becomes known and accepted amongst the development community a further degree of tolerance will be expected…"
Parmerston North District Council

"If an activity exceeds the permitted standard for anything, it exceeds what is accepted for the environment by the community who own the plan, whether it is minor or otherwise…"
Masterton District Council

"The common practice with threshold standards in plans is that the minimum specified can quickly become the maximum designed to and that such a waiver may also come to be regarded as the de facto standard to which developments are designed…The cumulative effects, over time, of individual exemptions need to be considered further.

This new consent type could also lead to ongoing and protracted discussions between applicants and councils, in much the same way as notification decisions have become a contentious issue…"
Tauranga City Council

"The proposal for an approved exemption has merit, but more importantly we consider that smarter resource consent processes and smarter plan rule drafting…is a better process to follow..."
Selwyn District Council

"An approved exemption may be an efficient means of addressing minor technical breaches, but depending on how it is implemented it has the potential to generate some further **problems**. It is likely to create an expectation that in effect moves the anticipated permitted level…A formal approval process for a minor technical breach will require a document process. A one day timeframe to assess such a decision amongst the other tasks of the relevant council officer may not always be manageable or necessary…"
Gisborne District Council

"Overall the change appears to be very difficult to draft, **difficult to apply** consistently across a range of situations, may expose councils to extra risk, cost, and loss of good will, lose its perceived benefits over time as it is embedded, has the effect of being a new permitted activity rule, people will lose some existing rights, and the **benefits are likely to be less than the cost**".
Dunedin City Council

"HCC submits that an approved exemption process would put the Council planner at great risk of judicial review in determining what would fit into the 'very minor' category…[and] the one working day timeframe which is **unrealistic and extremely risky** for councils. The proposal would result in a 're-setting' of permitted activity statuses … HCC has experienced a number of situations where a seemingly minor breach of a standard has in fact been of major concern to neighbouring property owners…"
Hamilton City Council

"This will be very difficult to administer in the time proposed in the discussion document. Before it can be determined that an exemption may be given, an assessment must be made by Council that…This will be **impossible** to achieve in one day.

Council would have no time to circulate the application in house…It has the potential for significant **errors** to be made… It is likely to open decisions up to challenge by third parties who consider their rights or interests have been adversely affected."
Marlborough District Council

"…. Often what seems 'very minor' to the applicant can be very significant to a neighbour…It is important to provide councils with the ability to recover costs.

While the issues may be very minor they will still require some level of assessment to make this determination... If there are a number of criteria proposed, then a recorded assessment and a site visit are likely to be needed to determine whether the criteria are all met. If an assessment is required against criteria then a one day turnaround will not be practicable to administer".
Taupo District Council

"While the Council supports the principle of dealing with minor rule breaches as quickly as possible, it questions the need for a separate process to achieve this if a 10 working day timeframe for straight forward applications is introduced. The examples given still appear to have a level of complexity involved….The Council therefore considers the range of standards and the extent of acceptable breaches eligible for exemption would need to be left to individual Councils to determine in their district plans, rather than be included in the Resource Management Act or Regulations.

The time frame of one day suggested in Table 1 for such a new 'exemption' process is considered by the Council to be too short…"
Christchurch City Council

[This proposal would] "in effect [be] setting a new minimum standard. What the threshold is needs to be very well defined and must be held to. The process of sorting consents in timeframes categories may take longer than the time required to process the consent for some 'minor' consents….It would mean unnecessary and in some cases unreasonable pressure on consent planners…" [The suggested timeframe would make it difficult to do a site visit].
Rotorua District Council

"The approved exemption also raised concern as to whether it will have the effect of promoting/encouraging unlawful activity…The one day working processing period is not possible to achieve and is **not appropriate**."
Wellington City Council

"PCC questions that if an activity is of such a minor nature and is deemed to be acceptable, why not make them permitted activities rather than putting them through an exemption process. PCC considers a 1 working-day approved exemption process to be **impractical and unrealistic**"
Porirua City Council

"Considered unlikely to really work for regional council consents…[could lead] to a potential 'goldrush' of many technical breaches in close proximity to the original, therefore leading to cumulative impacts….Staff…unsure how it would work in practice – likely to be **incredibly difficult** and time consuming to draft regs/RMA defining instances when exemptions are appropriate."
Hawkes Bay Regional Council

"A permitted activity should be clear and not open to exemptions…The 1-working day timeframe…is opposed."
Environment Southland

"A one day turnaround for 'approved exemptions' relies on there being staff with appropriate delegations to approve these, which is not always possible for a smaller council. Approved exemptions expose councils to potentially affected neighbours and judicial review proceedings if the effects can be proved to be minor."
Waitaki District Council

"MDC does not support this proposal..."
Manawatu District Council

"1 [working] day would be impossible given our workloads...

Given the increasingly litigious response to non-notification decisions councils may be risk averse and reluctant to place many consents in this category…This could also result in local authorities tightening rules back to allow for the minor exemption. Council's should be able to charge for their time processing minor exemptions…"
Hutt City Council

"It is important to consider that it is often the minor side yard or height breaches that create the greatest controversy between neighbours…without limiting the appeal rights this could potentially lead to increased litigation and **costs to councils** defending their judgement."
Far North District Council

"The approved exemption process is strongly opposed. This proposal adds yet another consent category to an already complicated process…The proposed changes will increase cumulative effects, **undermine plan integrity** and significantly alter and confuse the permitted baseline…Further the one day working timeframe is completely **unrealistic.**"
Otago Regional Council

"A number of councils already include rules in their district plans which essentially provide for this. [where accompanied by written approval by adjoining neighbours]….If an assessment is required against criteria than a one day turnaround will not be practicable to administer…LGNZ position…retain this as a matter of discretion for local authorities."
Local Government New Zealand

COMMENT BY AUTHOR

The proposal for approved exemptions is considered to provide an inferior solution and further consideration needs to be given as to the need for this new process, how it will be administrated and what benefits would it achieve.

The best solution would be for Councils to review permitted standards to ensure that resource consents are not unnecessarily being required (which is already expected to occur).

If the Government considered that a significant proportion of Councils were unnecessarily requiring resource consent for development likely to have less than a minor effect, a better solution is likely to be a New Zealand version of the England and Welsh *General Permitted Development Order 1995*, where the national government specify that particular types of small-scale development are permitted without consent in all locations (unless Councils have specifically removed these rights). This would eliminate the need for any consent and would not increase the legal liabilities of Council.

As a few Councils point out, breaches of permitted standards can cause great tension between neighbours and the assessment of applications may be far from simple. Whilst such applications do not affect the general public, homeowners tend to be very protective of their greatest financial asset, their home.

A process for allowing minor breaches in very short timeframes is likely to lead to pressure to repeat this exemption process, so that the level of acceptable minor breach increases over time. It does not seem to address an underlying fundamental issue, that several landowners consider the need to obtain resource consents, to be an unreasonable imposition on their private property rights.

Fixed Fees and Fee Estimates

"…the costs of processing an application are affected by the following uncertainties:

a) The quality of the application;
b) The nature and number of submissions received;
c) Issues raised during the processing of the application
d) The range of technical reports required
e) Matters raised by decision-makers; and
f) It may result in cross-subsidisation of costs between cheaper and more expensive applications."

Parmerston North District Council

"Any fixed or capped charges that do not provide for cost recovery will require a subsidy from the ratepayer, and fixed fees would inevitably result in **cross-subsidisation** between cheaper ('straight forward') and more expensive ('more complex') resource consents in return for providing greater certainty."

"How many hours it will take to process an application is not usually known at the date of lodgement because a range of factors could affect the period of assessment (e.g. the applicant may change their proposal, neighbour's consent may be withdrawn, a waahi tapu site could be discovered etc)."
Kapiti Coast District Council

"Poorly prepared applications take longer to process, so a standard charge would result in well-prepared applications subsidising them … Overall the scale of additional charges is unpredictable due to a wide range of factors, many of which are out of the Council's control…The provision requiring an advance estimate of these costs is thus **impracticable**. It is likely to simple result in Council's over-estimating all additional costs on a precautionary basis."
Bay of Plenty Regional Council

"Assuming that fixed fees were based on some kind of average cost calculation customers with simple applications would be penalised whilst the processing or more complex cases would be subsided by ratepayers. It is also not clear that there is a significant problem with existing fee structure. In 2012 Auckland Council received only 79 fee objections…out of the 11,000 applications processed…upfront estimates are provided on request (less than five percent of the applications processed."
Auckland Council

"Fixed charges will mean some applicants will pay more and some will pay less than the actual cost of their resource consent. Mandatory, estimates of charges where a fixed charge is not required is not seen to be necessary."
Gisborne District Council

"…If an estimate was to become a compulsory legislative requirement it is expected to **add cost** to each application…"

"Going to a fixed fee will mean a degree of cross subsidisation even for the smallest of applications…This is a decision that should be left to councils and the community…"
Dunedin City Council

"…an estimate of consent costs can only ever be an estimate, and its accuracy is very dependent upon a large number of complex factors, including whether an application is notified, the range of issues, and the submissions received. It is an extremely complex matter…"
Hamilton City Council

"The requirement to provide an estimate of processing costs will be difficult as Councils have no control over third party involvement and at the time of the estimate Council will have to rely on what information has been supplied by the applicant. If the applicant does not accurately identify third party interests, is the ratepayer expected to bear these costs at a time when central government is reducing Council's ability to increase rates? There will be a high level of inaccuracy in the 'estimates' as Councils will not want to try to estimate what costs the third party involvement may cause until that is known (which is much later in the process). This means that applicants will not in fact get the greater certainty aimed for."
Marlborough District Council

…"the Waikato Regional Council does not support further constraints on flexibility around the ways and means of recovering its actual and reasonable costs incurred in processing resource consents…The provision requiring an advance estimate of these costs is completely **unworkable and impracticable.** It is likely to simply result in Council's vastly over-estimating all additional costs on a pre-cautionary basis."
Waikato Regional Council

"Council does not support that our charges are unreasonable…they reflect actual staff time and if necessary expert advice…it is impossible to give accurate estimates without a full understanding of the complexity of the application, which often isn't known at lodgement….Capping fees by type of consent removes one of the incentives for applications to produce quality applications…"
Opotiki District Council

"TDC suggests that fixed charges do give more certainty, however they give **less transparency**. There is the risk that council's set this fixed charge above the average cost to ensure that they cover their costs (rather than them having to be met by the community), and therefore those consents that come in under the fixed charge will actually be charged more than they would under the current system.

Less well prepared applications take longer to process and a set or standard charge would result in them being subsidised at the cost of the well prepared applications. Likewise, some 'simple' applications become less than straightforward and it is not always possible to identify these when they are lodged."
Taupo District Council

"The likely outcome of requiring fixed fees may be to increase the standard fees to allow for contingencies, and where there are no complications refunding part of the fee at the end."
Napier City Council

"Fixed fees result in well prepared, or simpler application, which is quick to process, subsiding poor prepared, or more complex ones which take longer to process. Also providing estimates adds in more process time, thereby raising the costs involved. Any costs not covered by the fixed fee would need to be paid by the general ratepayer…The resource consent system should be predominantly user pays…"
Nelson City Council

"This proposal appears to rely heavily on the presumption of perfectly prepared straight-forward applications – not something that happens in the real world!...Estimating costs for a number of applications will be almost **impossible**… If this were to proceed, rather than… trying to help people through the process, we would need to reject the majority of applications we receive because they are deficient [at the time of lodgement]…"
Southland District Council

"Council does not support a fixed cost as additional time spent on applications above the fixed cost fee would be subsidised by the ratepayer. Given that this is not appropriate, the likely response would be that the fixed cost would need to be set higher to subsidise those applications that take longer to process."
Wellington City Council

"PCC is of the view that the number of situations where fees could practically be fixed are limited…

The proposed requirement for councils to estimate the additional charges to an applicant in advance of an application being process would add **unnecessary time and cost** to the process and would divert staff away from the processing of consents. The accuracy of any such estimate, early in the process is also highly questionable….Not all councils have the financial or accounting systems necessary to deal with an estimate based system. Developing such a system would come at a significant cost to councils…Not all councils will have the capability to afford this. **This proposal is considered to be impractical and costly."**
Porirua City Council

"The proposal to require councils to set fixed charges for certain types of resource consents also need to be treated with caution. Fixed charges may not reflect the variety of conditions or circumstances at different sites…If fair and reasonable charges cannot be applied on a case-by-case basis, ratepayers may end up subsidising the activities of applicants or applicants may be charged more than is necessary…We have had objections [to fees] under section 357 of the RMA on costs."
Taranaki Regional Council

"Fixed or capped charges may result in well prepared applicants subsidising less prepared applicants…

It is likely if a mandatory requirement to prepare estimates is incorporated into the Act it will result in additional charges for the extra time spent preparing the estimate. However, Environment Southland questions whether this is actually required given there is the ability to request estimates already under the Act. It should be noted that Environment Southland receives very few of these requests."
Environment Southland

"…this should be a decision for the Council not Central Government…We consider the split between user fees and ratepayer funded planning activities is ultimately a policy decision for Council."
Matamata-Piako District Council

"The outcome of such an approach [use of fixed charges] may be either to overcharge applicants (to ensure that sufficient funds are levied to meet the cost of the resource consent process) or the processing costs would be subsidised by the ratepayer. The Council favours the existing approach of recovering fair and reasonable actual costs from applicants instead."
Central Otago District Council

"…our Council has concerns about the **extra complexity** that is proposed...If we were required to shift to full memorandum accounting there would be significant extra time and cost in the monitoring and reporting involved, which would have to be passed on in the form of increased fees. As with the point above, this further increases the proportion of consent fees due to the process and **bureaucracy** rather than the substantive decision…"
Clutha District Council

"…by mandating a council to provide an estimate for each application is simply an exercise in '**guestimating'** and is unlikely to be helpful to applicants."
Waitaki District Council

"MDC does not support this proposal…How much of a problem is this now?..."
Manawatu District Council

"The Council opposes the proposal to require councils to set fixed charges for certain types of resource consents. Fixed charges may not reflect the variety of conditions or circumstances at different sites. They may be set too high or too low. If fair and reasonable charges cannot be applied on a case-by-case basis, ratepayers may end up subsidising the activities of applicants or applicants may be charged more than is necessary. More certainty provided by fixed charges may mean more cost because Council's will want to avoid ratepayers subsidising consent applicants…."
South Taranaki District Council

"Provision needs to be made for the recovery of costs arising from matters outside the consent authorities control…."
New Plymouth District Council

"In recent years only 2 requests for an estimate of fees has been received and making this mandatory would add a step to the consenting process that is generally not required…[and] would still have to contend with the unpredictable nature of the consent process.

In the past three years 2 objections to fees have been received… Turning the proposed approach into consistent practice sounds highly problematic and councils may be encouraged to set higher fixed charges …Setting a fixed fee based on an activity status, zone or level of compliance ignores the variability of proposals that can fall under any particular category.

"Mandatory provision of estimates would lead to additional work that is of little benefit in the vast majority of applications…"
Hutt City Council

"Council does not support legislative interference in the fee setting".
Far North District Council

"Fixed costs are not supported as it involves inequity between parties. Applications for similar locations could well have markedly different locations and levels of complexity…Fixed costs will be set at the higher end of actual costs of processing consent types therefore some applications will pay more than they do paying actual costs."
Otago Regional Council

"The accuracy of estimates that must be made before processing of consents is questionable and therefore of little practical value and will further divert staff time away from processing resource consents…The Act already provides for an applicant to request a fee estimate...Councils need to be able to recover costs…"
Local Government New Zealand

COMMENT BY AUTHOR

The question posed by Councils as to what is the need for fixed fees and fee estimates remains unanswered. Councils have pointed out that there are existing provisions for obtaining fee estimates and existing schedules of fee charges. Furthermore, a few councils point out how few challenges of fees or requests for fee estimates they have received. The proposal begs the question, are all councils being penalised for what may be isolated examples of poor practice?

Memorandum Accounts and Accountability Measures

"If this proposal [for memorandum accounts] was to become law, then it would tie Council's up in a **ridiculous amount of time**. It will simply add another layer of **bureaucracy**…Whilst this proposal [for approving accountability measures] may provide some useful results, it will also be another layer of **time consuming paper work**."
Masterton District Council

"We do wonder, however, whether the measure is needed".
Auckland Council

"We think this is a case of the '**pot calling the kettle black'** when central government agencies such as LINZ, Ministry of Justice, Department of Conservation, Ministry of Business Invocation and Enterprise, EPA and MPI, all have charging regimes that impact on people using land and resources and yet are under much less scrutiny than is placed on local government. This lack of legislative symmetry is **unjust**."
Tasman District Council

"The Council does not support memorandum accounts for resource consent activities because it adds another reporting mechanism which needs to be resourced in staff time and money".
Hurunui District Council

[Memorandum accounts for resource consent activities] "will be an additional statutory requirement this is not considered to add any material benefit to people seeking resource consent from the DCC. It is anticipated to result in **additional compliance cost**…The DCC has tried in the past to benchmark resource consent team processing costs…We are not aware of this working in any meaningful way…"
Dunedin City Council

"HCC has no particular concerns with this proposal [for memorandum accounts] but notes that this would be an additional **administrative burden** upon councils which should be covered by additional resourcing".
Hamilton City Council

"…Considers that in practice this [memorandum accounts] is already carried out and there is no need for an additional layer of administration with its own associated **costs.**"
Nelson City Council

"If there is a concern that the consent processing costs are high so as to make a profit and cross subsidise other elements of Council then this is easily identified in the audits undertaken by Audit NZ…"
Southland District Council

"Concern remains that the cost and effort involved in preparing the proposed memorandum account is commensurate to the benefit."
Wellington City Council

"While PCC supports measures to increase transparency and accountability, this proposal would result in **significant costs** to councils and there is concern that the cost of this requirement would outweigh any benefit….It also needs to be acknowledged that it is unlikely councils would be able to respond to this proposal within present Long Term budgets."
Porirua City Council

"It is not clear where the Government thinks there is underperformance in the sector or where there are gaps in the considerable reporting that councils (or the Ministry) already undertake. Additional requirements for monitoring and reporting on service delivery will **add cost** that may be better spent on actual service delivery."
Taranaki Regional Council

'Unsure how much extra work this potentially creates."
Hawkes Bay Regional Council

"This extra reporting will impose an **additional cost** onto councils, who will fund this?..."
Environment Southland

"The suggested changes would lead to increased administration and **compliance costs**."
Matamata-Piako District Council

"…this will be another additional duty/**cost** imposed onto Council…there are controls and transparency already in place within the LGA."
Manawatu District Council

"Currently we don't charge enough to ensure full cost recovery of the resource consents function…Applicants will never feel as if they get value for money as they still resent the need to apply for resource consent in the first place."
Hutt City Council

"…ORC is concerned at the number of different mechanisms and associated requirements being developed to ensure this [performance monitoring] occurs. ORC is aware of a number of different proposals being developed being created in tandem…ORC requests that these mechanisms be simplified and streamlined…So many requirements have a large effect on staff resourcing, time, costs, and systems to collect, report, analyse and monitor…"
Otago Regional Council

"Support this concept but question whether it is necessary given existing reporting requirements under the Local Government Act 2002 (revenue and financing policy, funding impact statement)."
Local Government New Zealand

COMMENTS BY AUTHOR

The need for additional reporting has not been clearly demonstrated. It is doubtful that the general community is aware of existing monitoring and performance information. Perceptions of local government performance are not helped by regular criticism (sometimes unwarranted) of Councils in the press and in Government documents/press statements.

10 Year Land Supply

"[Land supply for urban expansion] should not have precedence over, or undermine other factors such as:

- The carrying capacity of a given area (region, district, subdivision or site);
- The productive potential of an area…
- The development potential of an area (region or district) regarding infill and apartment style development in existing urban environments; and
- The infrastructure provision of a potential growth area".

Kapiti Coast District Council

"Including a blanket principle which directs local authorities 'to make land available for urban expansion' could force councils into a position where they are having to service and therefore fund development that is out of sequence or in locations which are not optimal…This will have the effect of increasing the cost of providing and maintaining infrastructure for councils with a resultant rate rise in rates…There are sometimes very good reasons why land can't be opened up for urban expansion…"

"Most councils through strategic planning have well in excess of 10 years land supply."

"Future Proof submits that the proposed change to require a 10 year land supply should not be made in the RMA 1991 at this time, but should be considered alongside future work on achieving better alignment between the RMA, LGA and LTMA. This future work should also consider integration with any proposed national policy statement on urban development so that complex questions regarding land supply, affordability, efficient transportation systems, compact urban form and good quality urban design can also be considered."

[The concept that releasing more land will lead to housing becoming affordable is] "**overly simplistic** and could potentially lead to more problems than it will solve…The proposed approaches which are focused on opening up more land on the urban edge have the potential to **undermine** existing growth strategies such as Future Proof which have strong community support. Strategies like Future Proof seek to manage growth through policies such as identifying growth areas and allocating and staging development."

Future Proof

"The Masterton District has already looked at the need for both residential and industrial needs and has land zoned for that purpose that will last well in excess of 10 years."

Masterton District Council

"It is not demonstrated (other than some general and anecdotal evidence relating to Auckland) that councils around the country have produced such a land supply problem that it has to be addressed by a very prescriptive statutory change. This part of the discussion paper seems to be based on **rhetoric** rather than fact…

Opening up new urban land comes at a cost...Building sustainable new urban communities is far more complex than land supply, which is a small part of the overall development equation."

Tauranga City Council

"HCC would be concerned if this meant that a 10 year supply of zoned/serviced land would be required well in advance of it being needed, as this would have significant financial implications."

Hamilton City Council

"Currently 24 (34%) of New Zealand's territorial authorities are facing depopulation…Many territorial authorities will be in a similar position within the next 20 years. It does not seem sensible for these territorial authorities to be planning for growth…"
Waikato Regional Council

"Planning for future demand for residential land has always been a core planning function"[110].
Christchurch City Council

"Increasing urban expansion can place additional, often hidden, costs on both the owners and the wider community (e.g. transportation costs, traffic congestion and air pollution) – for example, research undertaken in Australia found that for every 1000 dwellings, the costs for infill and fringe (greenfield) developments are $309 million and $653 million respectively (in 2007 Australian dollars).
Wellington City Council

"…The current RMA provisions already provide for this. ORC notes that this is a significant change from the originally approved environmental bottom line focus of the RMA."
Otago Regional Council

"WDC does have a land availability issue…At present Wanganui has approximately 10 years of land supply suitable and available for housing."

"Furthermore, in WDCs opinion this puts undue pressure on the environment and decision makers to make decision on future growth that may not be consistent with the communities' vision or support for how growth occurs over its district…There should be provision for communities to express and set it owns limitations to growth."

This is "an area of strategic planning which is already catered for through many Council documents required be statute."
Wanganui District Council

"[Land supply]… should not be elevated within legislation when it is not a significant concern for the majority of districts. Targeted best practice guidance on how to manage growth/land supply would be a more appropriate mechanism to manage this issue….There is concern that the issues surrounding land supply have been overstated, particularly for provincial Councils…"
New Plymouth District Council

"…we are geographically confined and therefore have limited greenfield development opportunities. As such, it is important that some of the future housing needs of the Hutt Valley is met through higher density housing options and apartment style living…

In reality, the two regions that are currently struggling with meeting their residential needs are Christchurch and Auckland… the provision of land for ten years of future residential demand is an urban centre specific issue and is not a wider issue with the New Zealand planning framework."
Hutt City Council

[110] This point is reflected in several Council submissions, which identify existing strategies/plans for growth in their area.

"With regard to land supply, we commissioned some work[111] which shows that all respondents to the survey indicated that residential land is available in their respective territorial authority area – and in many cases, steps have been taken by a number of TAs [territorial authorities] to ensure sufficient residential land is available for the next 20 – 30 years."
Local Government New Zealand

COMMENT BY AUTHOR

Comments made by Local Government representatives indicate that for those Councils where population growth is occurring, plans have or being put into place to provide for this growth. Concern is raised that the importance proposed to be given to increasing land supply, will make it difficult for Council's to resist urban development in inappropriate locations and hence to implement strategic plans, which seek to channel growth into the most appropriate locations.

[111] Analysis of residential land availability by Territorial Authority, Resource and Environmental Management Consultants, 22 February 2013

Limiting Scope of Submissions and Appeals on Resource Consents

"Council has reservations about this proposal [for limiting the scope of participating in consent submissions and in appeals] as it would potentially reduce the ability for democratic involvement in the planning process. The proposal is very unclear and lacks detail on how it work in practice…"
Kapiti Coast District Council

"An unintended consequence of this provision will be a **significant increase in time** spent by Councils both in making notification decisions (due to the additional steps/criteria) and defending them against parties who are excluded or limited in participating in the process."
Bay of Plenty Regional Council

"…The proposal…will create additional **administrative burden** for councils…will likely lead to increased legal challenge and ignores the fact that there are already tools in place to ensure only relevant matters are considered……the proposal would not produce significant efficiencies within the consenting system."

"The proposal implies that public interest groups (those concerned about heritage or ecological values for example) will be unable to participate in the submission process. Effectively limiting submissions to those who are 'personally affected' suggests that the self-interest of property owners and nearby residents is the only legitimate basis for input into the consenting process…

The proposal would also potentially create an additional procedural burden for Councils in that they would be required to determine both the standing of submitters…and the validity of specific aspects of their submissions. Notification assessments would need to be more through (as would the resulting reports), potentially disproportionate to the scale and significance of the activity…

Auckland Council would be concerned if as a result of this proposal submitters were preventing from commenting on issues that are not part of the initial reason why consent was needed but which are, nevertheless, closely related [such as effects associated with an increase in the intensification of use of buildings or land]…In similar fashion…it is not clear that restricting appeal rights would address a significant problem."
Auckland Council

[The experience of the Council has been that few people lodge submissions or appeals for] "vexatious or irrelevant reasons…In most cases it is just as quick to let the person have their say rather than to debate whether or not they are allowed to say it. [Proposed change will also] add an extra step in the evaluation process."
Tasman District Council

"Further changes to the RMA Act to constrain the involvement of affected parties, might have an adverse effect on another's enjoyment of their property, which can currently be dealt with through the resource management consent process. The Council would prefer to retain the status-quo with respect to opportunities for third party participation, as it provides more certainty for all parties."
Selwyn District Council

"The RMA reform team should also be aware that some standards are thresholds, rather than limits. If an application does not meet an indicator [triggering the need for consent]…it can be a threshold requiring much wider assessment…Artificially limiting the scope **dumbs down** the planning process and can disenfranchise people.

Limiting the scope means some rules would need to be lengthier and a much more detailed assessment of effects required, to cover all relevant effects. The **unintended consequence** is a more convoluted plan and longer, costlier consent process."
Thames-Coromandel District Council

[Limiting the scope of participating in consent submissions and appeals] "will require a higher level of assessment of the application at the front end of the process…The planning process should not only rely on the applicant and council officer to identify such effects of an activity, as an affected party on occasion may know more about the environment of a specific area than the applicant or council officer."
Gisborne District Council

"Narrowing down the notification of an application to certain matters will be very **problematic.**..Using a new formal process to narrow the submission is additional **complexity** with no obvious net gain."
Dunedin City Council

"This proposal would limit appeals to only those reasons that the application was notified. This would effectively re-set 'Discretionary' consents to 'Restricted Discretionary'[112] and would place a high degree of risk on the council planner in pre-determining the issues that may be of relevance prior to notification…Issues can (and should be able to) arise as a result of information contained within submissions".
Hamilton City Council

"The changes proposed…will require a decision-maker to make an assessment as to whether each submission is within the criteria. This adds a further layer of decision-making in the notification process and is likely to encourage people to take judicial review of a Council decision that their submission cannot be accepted under the limited submission rules.

The whole notification process, especially with the changes proposed, takes time, **adds complexity and confusion** and creates opportunities for challenge whilst adding very little value to the system."
Marlborough District Council

"Decisions on notification are already complex, time-consuming and subject to a considerable body of constantly evolving case law. Even more robust notification decisions will be required by consent authorities as these will determine participation and scope by a party in the consent process.…

the intent of the provisions is essentially to narrow and/or **exclude participation**. A likely unintended consequence of this provision will be a significant increase in time spent by Councils both in making notification decisions (due to the additional steps/criteria) and defending them against disgruntled parties who are excluded or limited in participating in the process".
Waikato Regional Council

"We are concerned that even more robust notification decisions will be required by consent authorities as these will determine participation and scope by a party in the resource consent process. A decision would have to be tight to avoid challenge – notification decisions are already very time-consuming. There is a danger that the proposal pushes councils to become more risk adverse given the potential litigation by either applicants or parties that consider themselves to be affected.

[112] This issue is also raised by Christchurch City Council.

Submissions can be a useful process for identifying issues that the officer or advisor may not be aware of, such as how the local roading network actually works in practice. The proposed provisions would force councils to specify effects and inadvertently **exclude peopl**e from the process. The potential for litigation and challenge could increase."
Taupo District Council

"This appears to mainly translate into shorter time frames and simplified processes, which favours the applicant over the submitter…If this right [to submit] is curtailed it may produce a sense that the **general public/submitters interests are being subordinated to the interests of the developer**."

"The proposal to limit the scope of participation in consent submissions and appeals suggest that the applicants need for certainty is the paramount consideration…there are also dubious development proposals that can have a net disbenefit to the community".
Napier City Council

[Proposal] "limits the ability to consider cumulative effects, mitigating effects, and the ability of affected parties and the public to be involved in the full extent of a proposal…there would be many unforeseen consequences…" [The Council also refers to existing measures for dealing with vexatious submitters.]
Nelson City Council

"Limiting participation in resource management processes should be at the discretion of the consent authority. It is up to the consent authority to disregard submissions that are not material to the application…. "
Kaikoura District Council

"Submitters may identify legitimate effects that the consent authority may not have identified in their assessment. It also means that every notification decision would have to be far more detailed adding time and cost to the processing of these applications….PCC considers this to be **unnecessary**…"
Porirua City Council

"Would require in depth notification assessments in which staff identify why an application is being notified and also what the specific effects are that meet the notification tests in the Act – this could potentially **add significant time** and therefore cost to the processing of applications. May result in a lot of litigation in relation to what specific effects an activity may have….it could be very challenging to identify all specific effects that an activity may have prior to notification."
Hawkes Bay Regional Council

"Whilst councils and applicants do their best to identify all adverse effects of activities it is inevitable that on occasion submitters will identify adverse effects that had not previously been identified. The proposal will increase certainty for applicants however it will **decrease certainty for communities**. There is also the potential for increased litigation over how restrictions to submissions are determined."
Environment Southland

"In practice submissions which raise matters that are not related to the effects that give rise to the need for a resource consent are given limited weight or may be effectively discounted during the consent process. In these circumstances the Council questions the need to limit the scope of participation in consent submissions and in appeals.

Such an approach will place an additional burden on the consent authority to ensure that all effects that trigger rules are clearly identified during the public notification process. There is a danger that an omission may result in the notification process being compromised."
Central Otago District Council

"…A more robust understanding must be developed on the notification process…[WDC] has found the involvement of submitters beneficial in informing decision makers…on local surroundings and conditions and community issues that officers are not always aware because they are not 'local' to that community...decision makers will lack valuable information."
Wanganui District Council

"…this is simply unachievable for larger and more complex applications that require expert advice…there is simply not the necessary time to carry out such an assessment, let alone exhaustively capture all effects…The limiting of submission points is, in Council's opinion, not required under the current regime…"
Waitaki District Council

"MDC submits that this proposal is **unnecessary**…"
Manawatu District Council

"In some cases information comes out through submissions that widen the scope/nature of considerations…There is some concern that this will reduce Councils ability to manage cumulative effects as it will only focus on the initial 'effect' of the activity…it is important that all effects can be considered at any time [for discretionary and non-complying activities].

There are other opportunities to streamline Council hearings… while not unnecessarily restricting opportunities for good outcomes."
New Plymouth District Council

"Most submitters would not understand how to narrow the scope of their submission down to only the effects of the non-compliance and would likely take great offence at this or accuse Council of doing something underhanded. Also most submitters do not understand permitted baseline or activity status's and the relative impact of these. On this basis it is likely that they would just submit on the entire range of matters…[This proposal] is unnecessarily complicated in terms of limiting the submission process…The use of judicial reviews would likely increase if the ability to appeal was narrowed."
Hutt City Council

"…It is doubtful that this measure would speed up processing time. [Support is given for limited scope of appeals but not submissions]
Far North District Council

"It would create a major negative impediment to public participation and increase the potential for litigation over what is allowed and what is not allowed…By attempting to create certainty for applicants, it detrimentally affects certainty for the public….

The proposed provisions would force councils to specify effects, when there is the possibility that they cannot all be identified. This would have the unintended consequence of 'missing effects' and inadvertently **excluding people** from the process."
Otago Regional Council

"The consequences…are unlikely to justify the sort of intervention proposed. We are concerned that even more robust notification decisions will be required by consent authorities as these will determine participation and scope by a party in the resource consent process. A decision would have to be tight to avoid challenge - notification decisions are already very time-consuming.

There will be implications for plan drafting...We are concerned with the workability of this proposal and consider it has **not been well thought through**, particularly in relation to the various activity classifications [discretionary and non-complying]….We do not think the scale of the 'problem' justified this solution."
Local Government New Zealand

COMMENT BY AUTHOR

The cost of the proposed solution appears to exceed its benefits. It appears disproportionate to reconsider the drafting of plan rules, to limit the scope of submissions and appeals on the very small proportion of resource consents which are notified to adjacent landowners or the public.

I have personally witnessed cases whereby local residents have been able to demonstrate greater local knowledge and expertise on a specific site than professional consultants. Great care needs to be given to restricting the ability of the public to share relevant knowledge, particularly at the submission phase.

Limiting Scope for Conditions of Consent

"Every application should be considered on its merits and accordingly conditions will differ from case to case. To try and limit conditions will see consents approved where there they will have an undesirable effect on the environment because a condition cannot be imposed to mitigate the effect. This proposal would seem unnecessary".
Masterton District Council

"Auckland Council doubts the value of the proposal to effectively narrow the grounds on which consent conditions can be imposed…The proposed changes would probably not materially alter the existing situation…In 2012 only 47 [out of 6100] objections to conditions were received, representing less than 0.5 percent of all applications processed."
Auckland Council

"**Conditions are already limited** under the RMA, case law and plan provisions. This may be a perceived issue, but is not a real issue. Central government's artificial limiting of conditions beyond this would result in important environmental factors being missed, and the goal of the RMA not being met."
Thames-Coromandel District Council

"In HCC's experience it is often the detail of conditions which affect whether an application is appealed or not. An inability to negotiate the detail of these conditions would only serve to reduce the effectiveness and efficiency of the resource management process."
Hamilton City Council

"It is also important to consider that it is often the conditions that enable the granting of a resource consent and/or allow the effects to be mitigated so that no parties are considered to be effected. Increased rigidity may mean that applications that are approved on the basis of conditions are actually declined because the effects cannot be mitigated appropriately."
Taupo District Council

[Regarding limiting the scope of conditions] "adds a level of complexity that does not appear warranted…Limiting the scope of conditions could, in some cases, result in a less flexible approach in which the consent authority may be more inclined to decline a consent".
Nelson City Council

"This would work if a district plan could anticipate all scenarios for different classes of consents – [which is] not possible. However, it also has the potential to make a plan very prescriptive as opposed to effects based…There is uncertainty how certain conditions [including administrative conditions to require compliance with submitted details] would be captured e.g. iwi accidental discovery protocol condition; duration of consent condition; monitoring/compliance…"
Southland District Council

"The proposal requires that the District Plans set out all the scope for imposing conditions. This would require a lot of **crystal ball gazing** to ensure the scope of every possible application is captured in the District Plan".

"Another reason unfavourable conditions are imposed is the consent authority trying to impose mitigation of adverse effects for applications where the activity should be declined, but no planning framework supports declining the application. This could be avoided if the scope for declining resource consent was broadened for consent authorities"[113].
Kaikoura District Council

"PCC opposes this proposal and considers that as currently presented it will not eliminate poor practice as intended. The proposal could have unintended consequences. For example, where conditions are put forward by an applicant voluntarily, these may not be able to be included…."
Porirua City Council

"We are concerned this proposal has not been clearly thought through and overstates the case for change. Our legal advice is that the description of the existing RMA provisions and associated case law is inaccurate…there is a serious question as to whether the perceived problem actually exists…Discussions with councils indicate that it is common practice to seek agreement on conditions prior to issuing, a decision and objections to conditions under s357 are rare."

"…further RMA instruments to implement this are not required. Often conditions are required to assist with national reporting requirements, consent monitoring and information gathering for ongoing plan development. ORC would be concerned if restrictions prevented these types of conditions."
Otago Regional Council

"…difficult to understand why it is really needed…it would be undesirable for any changes to limit the ability of consent authorities to include conditions in consents which relate to off-setting proposals or environmental compensation proposals put forward by applicant."
Hawkes Bay Regional Council

"…it would appear that this proposal is trying to regulate bad practice and it is questioned whether legislative change is the most appropriate mechanism to rectify this. There may also be additional costs on Councils to change plans if consent condition requirements are too narrow."
Environment Southland

"….Council does not consider that it is necessary…"
Central Otago District Council

"WDC is concerned that the proposed changes have not been fully thought through and questions the evidence which has informed such proposed changes….Reforms or other actions would best be served by educating stake [consent] holders and customers about consent holder obligations and duties."
Wanganui District Council

"MDC question whether this is necessary."
Manawatu District Council

[113] The very low refusal rate for resource consents of 0.56% for 2010/11 should raise questions as to whether development with unacceptable impacts are being approved.

"Conditions need to be tailored to the application to mitigate the effects which might not be covered within a standard set of conditions. We have a set of conditions but they are only ever a suggested starting point…"
Hutt City Council

"…the outcome could be achieved more efficiently through encouraging good practice rather than regulatory change."
Far North District Council

COMMENT BY AUTHOR

The need for this proposal has not been sufficiently proven. The cost of the solution proposed seems disproportionate to its benefits.

Non-Notification of Consents

"The number of aggrieved neighbours who contacted elected members on why they weren't consulted far outweighs contact by developers concerned about the time and cost of the process…

The Council does note that recent changes to the RMA have already placed significant constraints on third party participation so further limits need to be considered carefully to ensure that parties reasonable rights to protect their enjoyment of their property are not taken away".
Hurunui District Council

"A district plan, subject to community input and political decisions, is the best place to specify non-notified activities, not a one-size-fits-all from central government".
Thames-Coromandel District Council

"The proposal would allow regulations to direct non-notification as a nationwide standard for some activity types. HCC opposes this provision as this would not allow consideration of the local context".
Hamilton City Council

"Regulation directing non-notification as a nationwide standard for some activity types carries with it the risk of denying potentially affected parties any input into resource consent applications seeking to breach those standards. The practical effect of this would be to cut communities and individuals out of being able to have input into applications which could potentially impact on them".
Christchurch City Council

[Proposal] "appears to take away the local decision making element from the community…"
Southland District Council

"Limiting what aspects of a notified application that submitters may submit on seems contrary to, and erodes, the general participatory objective that underpins the RMA. Council's understanding of the effects of the proposal and its relationship with relevant planning instruments is usefully informed by submitters…"
Wellington City Council

"…We consider decisions about notification provisions needs to be made by the local community…Many plan provisions already contain [provisions which limit the use of notification]."
Local Government New Zealand

"Standard non-notification clauses for certain activities are unworkable, particularly due to activities having different effects in different locations and zones".
Otago Regional Council

"We would be concerned if this proposal were to perpetuate the trend for activity-specific national instruments…We would prefer to see like activities/effects being treated equally, but again, we are not convinced that there is a properly defined 'problem'…."
Hawkes Bay Regional Council

"This decision…should remain as part of the plan development process."
Environment Southland

“The Council does not accept that a determination can be made at a national perspective of what activities should not be notified….”
Central Otago District Council

“It will be very difficult, if not impossible, to create an exhaustive list of developments that should be processed non-notified across the country without understanding the local resource management issues and the policy framework of respective district plans.”
Manawatu District Council

“The current provisions allow for this decision to be made by local communities and the proposal would undermine local decision making…there is no need for further invention…”
Far North District Council

COMMENT BY AUTHOR

A key point raised by Councils is the existing use of non-notification clauses in District Plans which limit notification for certain activities (particularly those with an activity status of Controlled and Restricted Discretionary), in addition to notification criteria contained within the Act itself. The need for additional non-notification provisions appears unnecessary and geared towards deliberately limiting the ability of submitters to slow down the approval of resource consents.

The proposed status of non-notified discretionary for exploratory drilling under the EEZ regulations (essentially on the grounds that the cost of notification exceeds the benefits derived from notification), and statutory prohibition of public notification of residential or mixed use development up to 27m in height within Special Housing Areas under the *Housing Accord and Special Housing Areas Act,* provide an indication that this provision could be used for large scale development of considerable interest to the general public.

Restrictions on the ability of the general public to comment on applications which are perceived to adversely affect them could lead to alternative methods of expressing opinions, such as public protests.

Notwithstanding, it is acknowledged that a key motivator for many submitters is self-interest, such as concern on effects on property value and possibility of damage during construction. The English/Welsh model of notifying all planning applications (equivalent of resource consents), but then allowing for the dismissal of concerns raised under delegated authority, has several advantages:

- No need for notification assessment;
- No signalling to notified persons that affects to them could be 'minor' or 'more than minor';
- Ability to consider local information/knowledge held by submitters;
- Ability to sort issues into different levels of seriousness;
- Ability to further investigate any serious issues raised by submitters; and
- Fast ability to dismiss concerns, where impacts are 'less than minor'.

Greater consideration is warranted as to whether public submissions could be better managed, so as to avoid the need to place further limitations on public participation in decision making.

Removal of Appeals by De Novo (Hearing Afresh)

"This may well hasten the processing of the very small number of cases that make it through to a court hearing [5% of all appeals]. However, it will come at the cost of significantly increased formality (and hence expense) and reduced accessibility of the great bulk of council hearings processes that are not appealed…Thus the proposal…would negatively impact on a great many more people than would benefit…"
Auckland Council

"To be able to provide real comment on the potential costs and benefits of this amendment, further information needs to be provided."
Hawkes Bay Regional Council

"it devalues the Environment Court which is a key component of the New Zealand Planning System.

The Council also notes that the implications of such an approach will be to increase costs at the initial hearing stage…very few applications for resource consent proceed to appeal…this proposal would increase the cost and complexity of decision making at a local level on a universal basis for no good reason."
South Taranaki District Council

"This is likely to reduce the cost and complexity of those applications that go on to appeal, but probably increase the cost and complexity of the initial hearing stage of all proposals"
NZIER

Reducing the Costs of EPA Processes

"Auckland Council does not support the proposal to either delete the draft decision stage or reduce the time available for public comment from 20 to 10 days. By their nature, proposals dealt with by the EPA are complex. The decisions and the multiplicity of conditions attached to the granting of consent reflect this complexity. For example, the Waterview SH20 draft decision comprised two volumes with a combined length in excess of 570 pages. Similarly, the Wiri prison draft decision amounted to more than 350 pages and was accompanied by 124 conditions."
Auckland Council

"For the EPA to process applications of significant public interest within a three to four month timeframe may be unreasonable given the scale and complexity of the applications. Short-circuiting major consent processes would reduce the rights of natural justice for communities".
Thames-Coromandel District Council

"PCC considers that reducing the limit on parties' comments on the draft decision from 20 days to 10 days may offer a very marginal benefit in terms of the timeframes but is likely to lead to **greater costs from poor condition drafting**. Allowing sufficient time for valuable input from authorities who will have to monitor and enforce these conditions is very important…PCC considers that 10 days is not sufficient time….[and] would result in unforeseen costs occurring in the implementation of the consent for very little benefit…"
Porirua City Council

"…particular amendments proposed are unlikely to have a significant impact on costs..."
Hawkes Bay Regional Council

"We do not support the proposal to reduce the time for comment on the draft decision from 20 working days to 10 working days given the complexity and length of these".
Local Government New Zealand

Natural Hazard Planning

"We are supportive of elevating the status of natural hazard planning… The ability to do so however is always constrained by the information available, the scale to which it can be applied, and the extent to which the consequence of using the information is accepted by the community. We have much experience in using flood hazard and earthquake risk information and more latterly sea level rise and coastal inundation information. Applying it in our plan making and resource consent and building consent responsibilities has not been without criticism and contest from affected landowners. [114]"
Tasman District Council

"The Council does not support the proposed broad brush approach to hazard management across New Zealand. The Council considers that this is one area where strong national leadership is required with corresponding funding to provide certainty to landowners of the effects of being identified in hazard prone area.

Leaving it to site specific geotechnical investigation or flood modelling at the time of building development gives rise to additional expense and delay…The challenge is how to manage a not unreasonable statutory expectation to manage hazard risk with the lack of reliable information and no capability to refine the data to a reliable scale…There needs to be national guidance on how specific requirements can be drawn from usually generalised and often hypothetical information. The Council considers it simplistic to amend section 106 as proposed without specific guidance on how it might be applied…"
Hurunui District Council

"TCDC generally supports clearer guidance from the government in terms of providing rules about natural hazards. Natural hazard provisions and consents are often subjected to appeals by parties that are more worried about property value than protecting current and future landowners, communities and ratepayers from the effects of natural hazards.

On the other hand, clearer national guidance or direction can impose considerable cost on applicants, particularly small-scale developers. For example, the requirement to earthquake strengthen buildings loads prohibitive costs (now estimated at some $750 million in Coromandel) onto small business owners in the Coromandel's small rural towns with old wooden buildings. Earthquake-related natural hazard rules should be based on risk zones, of which Coromandel is identified with a moderately low earthquake risk. National directions are good - but need extensive consultation with local councils, must reflect local natural hazard risk profiles, and must be adaptive to change as new information arises".
Thames-Coromandel District Council

"The Council supports [better natural hazard management]. However of more practical use would be more support in regard to the identification and mapping of natural hazards. There is a significant national resourcing issue…."
Gisborne District Council

[114] Strong objection to proposed plan changes to address hazard risk has also recently been raised by affected landowners within the districts of Upper Hutt and Kapiti Coast.

"TDC also recommends that national guidance should be provided on balancing the magnitude and likelihood of natural hazards. This would avoid individual councils and communities going through the, often litigious, process of determining what an acceptable level of risk might be".
Taupo District Council

"…There are no hazard free areas in New Zealand. The objective must therefore be to identify and manage the risk, not avoid them. All natural hazards can be taken into account in making development decisions but development will still have to be approved in areas with known hazards. Recognising natural hazards will produce a buyer beware situation, not eliminate the hazards."
Napier City Council

"…It is simplistic to assume that small changes to the planning system could effectively mitigate this sort of natural disaster [as experienced by Canterbury]."
[Nevertheless, the Council make clear that they support changes to s6 and 106 of the Act.]
Christchurch City Council

"There could be significant costs to developers to consider the wide variety of risks that can affect a site. Not only do they need to engage their own experts it is likely that the report would have to be peer reviewed as sufficient expertise is unlikely to be in Councils to adequately consider the conclusions". [We recommend the Government] "develop a national set of criteria that must be met for different types of hazard".
Southland District Council

"Clarity is sought as to what liability councils would face in the event of granting resource consents in areas where natural hazards exist. This is of particular concern in Rotorua as almost the entire district is subject to potential natural hazards".
Rotorua District Council

"Support the proposed approach but the priority should be on avoidance over mitigation…"
Local Government New Zealand

"…For these provisions to be effective, consideration on how best to resource the investigation of natural hazards for effective planning will be needed".
Horizon Regional Council[115]

"…ORC has concerns that these amendments do not go far enough in addressing deficiencies in the RMA and have an over emphasis on earthquake and liquefaction hazards, especially given the most common types of hazard are flooding and coastal inundation/erosion…[There is a need to] prioritise avoidance over mitigation..."
Otago Regional Council

"The Council consider it is vitally important that the issue of hazard management be kept in perspective. It is understood that the February 2011 earthquake in Canterbury was a 1:3500 year event…[The Council wishes to avoid] unnecessary building costs and impacts on productivity throughout the country. Liquefaction potential exists in many communities…"
Central Otago District Council

[115] Horizon Regional Council submission on the RMA Discussion Document

“The full value of the amendment would rely upon the provision of guidance from central government on hazard management, promoting consistency across councils, and more certainty for communities and the development industry. Further thought should be given to the provision of natural hazard research and data and how to best provide for this including additional resourcing.”
Far North District Council

COMMENT BY AUTHOR

Almost all Councils support greater natural hazard management. However, the big question is how should natural hazards be managed? Particularly in regards to the range of natural hazards in New Zealand, extent of land potentially affected, existing use rights, existing permitted baselines and development expectations.

The great difficulty faced by Councils around the country in planning for natural hazards is also well outlined in the reports:

1. *'Putting R(isk) in the RMA: Technical Advisory Group recommendations on the Resource Management Act 1991 and implications for natural hazards planning'* by GNS Science, August 2012
2. *'Management of Earthquake Risk by Canterbury Regional Council and Christchurch City Council: Obligations and Responses under the RMA'* by Enfocus, November 2011; and
3. '*Local Government planning practice and limitations to adaptation'*, Final Report, June 2010 by NIWA

The avoidance of natural hazards in many parts of the country may not be a realistic option and may require prohibitive expensive financial compensation to landowners. As no perfect or simple solution exists, trade-offs between different types of management strategies need to be communicated to the public.

One possibility may be an approach used in England and Wales, of Council's only allowing development in identified floodplains under strict criteria, where there has been an explicit recognition (and typically investigation) of flood risks by the applicant and an acceptance of these risks. That is, the Council can not be held liable for future damage from this hazard risk. Such an approach, is however likely, to be strongly resisted by affected landowners, predominantly on the grounds of effects on property value and insurance costs.

A few Councils have pointed out that the most common type of hazard in New Zealand is flood risk. Whilst flooding can be caused by natural events (storms/high then usual rainfall) in addition to changing environmental conditions (climate change/sea level rise), this hazard is relatively unique in that the probability of it occurring and the magnitude of damage can increase as a result of man-made activities (for example vegetation clearance and inadequate management of surface water). Serious flooding in the Fairfield District (within the Sydney Metropolitan Area) occurred in 1986, where a severe storm combined with inadequate stormwater management led to extensive flooding.

MAORI PARTICIPATION

"This seems to be another example where the Government is intending to make changes to the RMA and adding extra obligations on local authorities when the objective that iwi/Maori have is co-management. That is best delivered through the Treaty Settlement process, or through some other legislative amendment around the constitution of local government. Incremental changes to the RMA which are uncertain and un-costed are sub-optimal for all concerned…One would have thought that this would have been investigated more fully before coming up with throw-away suggestions such as in the report. Capacity and capability is a challenge for iwi/Maori…".
Tasman District Council

"Council supports the need to genuinely engage with iwi. However, the proposals are silent on who will fund engagement. This is the crux of the iwi engagement issue…Effective participation at the planning stage is expensive both in resources and cost". [They refer to some poor communication strategies between businesses and iwi who expect 'sign off' without real engagement].
Opotiki District Council

"We found, during the development of the Proposed One Plan, that some iwi and hapû could not or would not respond to our (repeated and varied) efforts to engage with them. We would like to see the potential for this to happen and its impact on plan development acknowledged…We encourage central government to work with iwi/Māori to identify what improvement would be most helpful to iwi/Māori, in particular those iwi and hapû that have not had the capacity or resources necessary for effective involvement. It is Horizon's perception that resourcing/capability issues will need to be addressed for any of the proposals for more effective and meaningful iwi/ Māori participation to be successful."
Horizon Regional Council

"…Proposed changes are pre-emptive and unnecessary. ORC opposes the transfer of resource management responsibilities."
Otago Regional Council

"…resourcing of iwi involvement in planning processes is an issue within Murihiku and needs to be taken into consideration…[although] Councils and iwi in Murihiku have a long history of working together…."
Environment Southland

"Council considers the existing arrangements in the RMA are sufficient. It should be a Council decision as what arrangements are used to engage with iwi."
Matamata-Piako District Council

"It would be unfair to iwi/Maori for the Government to make access to transfers [of responsibility] easier but without the resourcing necessary to carry out the required tasks. This needs to be considered by the Government."
South Taranaki District Council

"…There is a general concern about the capacity and capability of those iwi who have not settled [through the treaty process] to be able to respond to any plan development….a timeframe of 5 years to develop such a plan is not unrealistic.

There is a need to consider the costs to local authorities who will need to support the capacity of iwi/Māori to participate in the plan development process. The best way to do that is through reimbursement of costs incurred by iwi/Māori for time, research, expertise etc…"
New Plymouth District Council

"Council is also concerned about the resourcing implications for iwi/Maori as a result of the proposal. Consideration should be given by central government on how best to support iwi/Maori involvement in RMA processes…The RMA has no role in specifying what iwi/hapu plans should or should not contain, or how they should be structured…"
Far North District Council

COMMENT BY AUTHOR

Whilst virtually all Councils are supportive of encouraging greater Maori involvement in decision making, there is a lack of clarity as to what is meant by this. Intentions to speed up resource consent approvals and facilitate cost-efficient (but not necessarily environmentally sustainable) infrastructure, could be inconsistent with objectives for greater Maori participation.

Relatively few members of the general public of European or Maori origin appear to have a good understanding of resource management issues and practices. It will take time to develop this knowledge and the capability to clearly express values and preferences in such a way, that can be applied to specific plan changes or resource consents.

It is very difficult to translate cultural issues into the existing planning framework, particularly in terms of:

- When and where should resource consent be required;
- Which resource consents should be notified and to whom;
- When effects on cultural values/heritage/archaeology are 'minor' or 'more than minor';
- Appropriate conditions of consent;
- Appropriate permitted standards; and
- Appropriate activity status for development.

Feedback may be of limited value unless answers to these sorts of specific questions can be distilled. It would be unrealistic to expect cultural issues to be able to be addressed entirely at the plan drafting stage. If resource consent is required, thought should be given as to whether strict compliance with statutory time limits, would compromise the ability to properly investigate cultural issues.

In some cases, such as development affecting a site of identified cultural significance (such as a ridge/mountain peak) or undeveloped flat area adjacent a watercourse (which are of high visibility to the general community and typically have public access), any community consultation which is limited to one ethnic group is likely to appear discriminatory to members of other ethnic groups. That is, whilst the trigger for resource consent may be development affecting land of high cultural value, such sites may also be seen to have other important values to the general community (visual, recreation, amenity, public access, landscape), which warrant wider public consultation.

NOTE ABOUT AUTHOR

Allison Tindale is currently employed in the Local Government Sector. She has worked for a variety of Councils in England, Wales and New Zealand. She has practiced as a town planner since 1997 in the countries of Australia, England, Wales and New Zealand. Previous employment includes the private sector as both a town and social planner and the central government sector (as a consultant engaged by the former NSW Office of the Commissioners for Inquiry for Environment and Planning). She holds a Masters of Urban and Regional Planning (with Honours), as well as a Bachelor of Economics (triple major) from the University of Sydney, Australia.

The views contained in the document represent her own personal views. No payment has been received for this document.