

9 February 2023

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Hon Eugenie Sage MP  
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Environment Committee  
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Dear Eugenie,

## **Christchurch City Council submission on the Spatial Planning Bill**

On behalf of the Christchurch City Council (the Council), thank you for the opportunity to make a submission on the Spatial Planning Bill (the Bill). The Council appreciates the opportunity to make this submission to your committee.

### **Introduction**

The Council generally supports the need for greater integration across the region and sees Regional Spatial Strategies as an important tool to enable that integration.

However, as the attached submission explains in more detail, we have reservations about whether the proposed legislation will achieve these objectives nor provide a simpler, more efficient system that offers appropriate local input and involvement.

We are disappointed that the Bill does not ensure local voice nor that involvement in spatial planning is appropriately provided for in the proposed regionalised system.

### **Overview of Submission**

The Council has prepared a detailed submission which further explains the reasoning for this view, centred on three key points:

- Supporting local voice in a regionalised system,
- Providing appropriate financial support to operationalise the new system,
- Giving the greater certainty necessary for transitional arrangements, and
- Pause the second readings of the NBE and SP bills until the Climate Adaptation Bill has been introduced.

### **Key Recommendations**

The Council believes that there are some areas where the select committee could make changes or consider options that attempt to resolve these. We specifically recommend that your committee:

- Expand the scope of the appointing bodies' review of Regional Spatial Strategies (RSS) from simply identifying errors or implementation issues to one that allows for comments to be made on the whole proposal, and require the RPC to consider those comments when developing the RSS.

- Consider empowering an independent authority (such as the Environment Court) to have the power to direct RPCs when changes to the RSS are required rather than having that power sit with the Minister administering the Act to ensure political independence.
- Require RPCs to 'give effect' to Statements of Community Outcomes and Statements of Regional Environmental Outcomes so that local communities have some guaranteed voice in the regional planning process.
- Define the Bill's purpose, outcomes and principles more clearly to address and avoid potential conflicts which may result in future litigation and judicial review.
- Review the Bill to ensure it has the ability to align with potential future reforms, such as those reforms which may come from the Future for Local Government review, including enabling provisions which reduce the need for amendment if these reforms eventuate.
- Clarify the mechanisms available to local government within the Bill to help cover the projected 11% cost increase, including clarification on how the costs of the RPC will be met (e.g. local council rates, regional rates, user fees, etc.).
- Request that the second readings of the SP and NBE bills are paused until the Climate Adaptation Bill has been introduced in the House.

Further to these changes, if your committee can inform implementation of the Bill, then the Council would like more clarity from MfE on the transitional arrangements between the existing and proposed system. This information is fundamental to supporting the development of councils forward work programmes and long-term planning in a way that ensures the smoothest possible transition. This lack of clarity poses a substantial risk to councils.

The Council notes that it is difficult to fully evaluate this Bill without seeing the proposed Climate Adaptation Bill to ensure alignment.

### **Conclusion**

The Council strongly urges your committee to thoroughly consider the proposed legislation carefully. This Bill, and the accompanying Natural and Built Environment Bill, will have an enormous and longlasting impact on our country's future. While we support the intended outcomes, we believe that more work is needed on this legislation to improve its implementation and give voice to local communities.

Thank you again for the opportunity to provide this submission. Our Council staff have worked hard over the Christmas break to review this Bill and consider its impacts in a thoughtful and meaningful way to help you in your role reviewing this legislation. We are grateful for their hard work and advice in helping our Council consider this Bill within the short submission period over the Christmas holiday.

If your committee would like more information on our submission, or if you have any questions about the submission, then please contact Mark Stevenson, Manager Planning at the Christchurch City Council: [mark.stevenson@ccc.govt.nz](mailto:mark.stevenson@ccc.govt.nz)

Thank you for your consideration.

Yours sincerely,



Phil Mauger  
**Mayor of Christchurch**

## Christchurch City Council submission on the Spatial Planning Bill

1. Christchurch City Council (the Council) thanks the Select Committee for the opportunity to submit on the Spatial Planning (SP) Bill.

### Retaining local voice in a regionalised system remains a concern

#### **Regionalisation of spatial planning has the potential to limit voice of local authorities**

2. The establishment of Regional Planning Committees (RPCs) would mean that councils are no longer directly responsible for spatial planning, with RPCs being set up to deliver Regional Spatial Strategies (RSS), which local authorities will be tasked with implementing. We remain concerned that moving to this regionalised governance structure without adequate protections in the legislation for local democratic input and the ability for councils to meaningfully influence plan-making, will have the effect of limiting the local voice.
3. One stated objective of the reforms is ‘retaining appropriate local democratic input’. In our submission on the NBE exposure draft we expressed concern that the limiting of local elected members in decision making would fail to meet this objective. This is covered further in our submission on the Natural and Built Environment bill.
4. We are pleased the Government has adopted the Local Government Steering Group's recommendation for the inclusion of Statements of Regional Environmental Outcomes (SREOs) and Statements of Community Outcomes (SCOs).
5. However, there is a risk that SCOs and SREOs will not be able to influence the plan-making process in a meaningful way, hindering local input and outcomes for communities. The proposed weighting of the SCOs and SREOs is weak. RPCs are required to have only “particular regard” to SREOs and SCOs in preparing RSS and only to “have regard” to the SREOs and SCOs in identifying the major policy issues for a region (Clause 24).
6. We consider that this weighting is insufficient. As one of the few mechanisms for local voice in the development of RSS, stronger direction is required for these strategies to appropriately consider local input.
7. We seek change to Clause 24 so that RPCs be required to “give effect” to SREOs and SCOs, or at the very least ensure their decision-making is “not inconsistent with” SREOs and SCOs. If left as currently drafted, we have reservations about how this bottom up approach would actually provide for local voice and enhance local authority participation. As such it fails to meet the objectives of the reforms.
8. Additionally, to enable greater public participation in the development of RSS we seek change to Clause 32. As drafted, this clause requires that the process must be designed to ‘encourage’ public participation. We consider that this weighting is insufficient and should be amended to strengthen the requirement for public participation.

#### **We are concerned local authorities will become responsible for delivering actions they have had limited input in developing**

9. Clause 4(1)(d) and (e) requires councils’ long-term plans to set out steps to implement the priority actions for which the local authority is responsible under the spatial strategies and to require annual reporting of the steps taken.
10. We are concerned that, as the legislation is currently drafted, councils will become responsible for delivering RSS priority actions that they have had limited input in developing. This could lead to misalignment between a council’s preferred local planning objectives and the directions to the council from RSS. This may result in councils being required to implement actions that they do not support at the local level.

11. To address these concerns, we recommend that the scope for appointing bodies to review the draft RSS is broadened. Clause 3 of Schedule 4 of the SP Bill seeks to limit the scope of the appointing body's review to one of simply identifying any errors and risks in the implementation or operation of the draft strategy. We recommend that provision be broadened to allow appointing bodies to provide any comments on the draft strategy, and for the RPC to have particular regard to those comments.
12. Broadening the scope of the appointing body's feedback, and the duty of the RPC to consider it, provides a valuable opportunity for the RPC to obtain valuable feedback on the draft RSS prior to its public notification. The value of this opportunity would be partly lost if the feedback is limited to errors and operational risks.

### **We see there is a need to reduce political interference**

13. The SP Bill provides opportunities for central government political interference in spatial planning. This includes the Minister's ability under Clause 60 to direct a RPC to amend a RSS. It also includes the ability under Clause 62 to direct a RPC or local authority to perform a power, function or duty under the Act.
14. We see that the Government's role should be setting national planning policy and legislation, not directing regional and district spatial planning matters. As proposed, the SP Bill potentially politicises spatial planning by providing an opportunity for the government of the day to direct changes for political gain. Any such future changes may be unintended by the government that passed the SP Bill. These powers provide for direct political interference in a spatial planning system that is otherwise a policy driven and evidential process.
15. While we acknowledge the need to direct changes if a RPC is not adequately exercising their powers, we believe it would be more appropriate for the Minister to direct an independent authority (e.g. the Environment Court) that specialises in planning to direct those changes. It is important that any such authority is not appointed or aligned with a political organisation.
16. This approach would ensure planning decisions are based on evidence and good practice as opposed to being politically motivated, or a result of lobbying. We see this is vital to protect the integrity of the spatial planning system. As such, we request amendments to Clause 60 and 62 to ensure that the Minister can only refer these matters to the Environment Court for their consideration and determination.

### **Potential funding and resource implications for councils**

#### **We are concerned that the proposed system will result in substantive costs to local government**

17. The Ministry for the Environment (MfE) detailed in their Supplementary Analysis Report (SAR) released in September 2022 that on-going costs to local government would increase 11 percent (\$444m) when compared to the current system. It also identified that there would be one-off establishment costs to local government of \$350m, which would be spread over the first ten years.
18. Local government is already operating in a fiscally constrained environment. The anticipated costs from the new system will further exacerbate the fiscal pressures that local authorities face and force councils into difficult decisions around funding and potential rate increases.
19. We consider that it is unreasonable for the onus to be placed on local government to absorb a significant extent of costs anticipated from the new system, particularly as these costs would be placed on ratepayers.
20. MfE does acknowledge in the SAR that the extent to which local government's share of costs may be subsidised by central government has not been determined. We urge the Government to consider the implications of these additional costs on councils and provide appropriate financial support to operationalise the new system.

## **We would need additional resource to support the operation of the new system**

21. In addition to the fiscal implications, we also are concerned about the need for additional resource to support the operation of the new system. We believe successful delivery of these requirements would inevitably involve a need for further resource.
22. For example, local authorities would be required to implement the priority actions identified in the RSS as well as report annually on the implementation of these actions (clause 4). This would require staff and time to deliver.
23. We ask the Government to consider the constraints the new system would place on already tight resources and, as outlined above, provide the appropriate fiscal support to effectively deliver and operationalise the system.

## **A need to clarify the purpose of the Bill**

24. There is a need for the purpose of the Bill to be clarified. The current uncertainty creates interpretation risks and we consider would result in matters being contested (including through the courts). This generates inefficiencies and ineffectiveness. It also has significant cost implications for councils and communities.
25. The purpose of the Spatial Planning Bill is to provide for regional spatial strategies that assist in achieving the purpose of the Natural and Built Environment Act 2022 and the system outcomes set out in that Act. How currently drafted the two arms of the purpose seemingly conflict with one another (Clause 3(a) and (b) of the Natural Built and Environment bill). This needs to be reconciled to resolve the apparent conflicts and provide greater clarity on the purpose the Bill. Additionally, there is need for clarity on what upholding Te Oranga o te Taiao means. We are concerned that without clarity this would lead to matters being contested and litigation.
26. We also see that there is a need to use more directive language in relation to the Bill's purpose to integrate planning legislation with infrastructure legislation. Currently the Bill uses the word 'promote' to describe this relationship. We are concerned that 'promote' is too weak, as it essentially means encourage, which is voluntary. We see that integration needs to be ensured or required for spatial strategies to be effective.

## **Greater clarity and efficiency required on the transitional arrangements**

27. Transitioning to the new system will be a significant undertaking for local authorities.
28. We are concerned about the lack of certainty and clarity of information provided on the transitional arrangements. This lack of certainty makes it very difficult for councils to plan for upcoming work programmes, including budgets and resourcing. This is of particular importance in relation to the long-term planning process.
29. We therefore seek guidance on transitional arrangements in moving to the new system and minimising unnecessary resourcing of work under the RMA.
30. Inefficiencies during the transition period could be reduced if information from a wider range of existing statutory documents can be incorporated into the RSS, such as spatial plans and strategies prepared under the Local Government Act or Future Development Strategies prepared under the NPS-UD. Information from these other spatial plans and strategies should potentially be able to be incorporated.

## **Need for alignment with other reform**

### **Need to understand how other reforms fit into this new regionalised system**

31. The RM Reform programme closely links with other reform and policy programmes of this Government. We are concerned about what alignment and integration exists between the Resource Management reforms and other significant programmes, such as the Future for Local Government review and Three Waters reforms.
32. For example the Future for Local Government reforms will have direct implications on how this new system would operate. We consider that this needs to be made apparent so we can understand the full impacts of the proposed governance arrangements.

### **Need for Climate Adaptation Act to be released to fully understand how the new system will function**

33. We support the Government's intention to develop a Climate Adaptation Act (CAA) as the third piece of legislation in the RM Reform programme, noting the urgent need to address pressing issues around climate mitigation and adaptation.
34. However, given that the CAA is on a slower track, we haven't been able to see all components of the new system and cannot fully understand how the new RM system will operate in its entirety. Given the interconnectedness between the three pieces of proposed legislation, we see that these need to be considered as an integrated package.
35. We are disappointed by the piecemeal approach and concerned it will lead to a lack of integration and coherency. For example, we have found it difficult to comment on the climate change provisions in the SP (and also NBE) without knowing how the CAA works in conjunction with these provisions.
36. We see that all parts of the RM system need to be considered holistically. To address our concerns, we request that the second readings of the NBE and SP bills are paused until the CAA has been introduced in the House.
37. Despite the content of the CAA being unknown, there some proposed provisions in the bill with important implications for management of climate change risks. We seek the following changes to those provisions:
  - Clause 3(b) and clause 4 is amended to include the Climate Adaptation Act as one of the Acts listed in clause 3(b) and clause 4 to integrate with RSS. The main purpose of the Climate Adaptation Bill is to manage adaptation to climate change. This will have a spatial aspect and particularly spatial implications for existing development, infrastructure, and urban areas prone to natural hazards and the effects of climate change. Therefore, it is important that RSS seek to integrate with the requirements of the Climate Change Adaption Act.
  - Clause 17(1)(j) makes specific reference to 'infrastructure' that would help to address the effects of climate change. This raises the question as to how this relates to the New Zealand Coastal Policy Statement (NZCPS), in particular policy 25(d) of the NZCPS, which discourages hard protection structures and promotes the use of alternatives to them, including natural defences. We therefore seek alignment of clause 17(1)(j) with the NZCPS.
  - To ensure consistency, we seek that any decisions made by the RSS on locations of hard infrastructure should be done in a manner that gives effect to any local adaptation plan. We seek that clause 17(1)(j) is amended to include this provision.

### **Conclusion**

38. In conclusion, while we are generally supportive of the need for reform we have detailed our reservations with aspects of the proposed legislation. In particular, we are seeking:

- a. to retain local democratic input in the new system as per the objective of the reforms
- b. appropriate financial support to effectively operationalise the new system
- c. clarity on transitional arrangements to provide more certainty and direction
- d. the second readings of the NBE and SP bills are paused until the CAA has been introduced in the House.

39. If you would like any further information or have any questions about our submission please contact Mark Stevenson, Planning Manager Christchurch City Council, [mark.stevenson@ccc.govt.nz](mailto:mark.stevenson@ccc.govt.nz)