// SUBMISSION

Ko Tātou LGNZ.

Resource Management (Consenting and Other System Changes) Amendment Bill

// Local Government New Zealand's submission

// February 2025

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Ko Tātou LGNZ.

LGNZ champions, connects and supports local government. We represent the national interests of councils. Our aim is for New Zealand to be the most active and inclusive local democracy in the world.

Key Points

- There has been significant uncertainty in the resource management space. The changes outlined in this Bill, along with the upcoming replacement of the Resource Management Act (RMA), need to endure to promote investment certainty and allow councils to get on with their role as stewards of our natural and built environments.
- The new requirement for processing some consents within one year is achievable – but will require applicants to meet councils halfway and provide necessary information in a timely fashion. Making sure all players in the system are aware of requirements placed on them will be crucial.
- Councils want to play their part in solving the housing crisis. Some of the proposed changes around housing will be welcomed by councils, including making it simpler to de-list heritage buildings. But these changes must go hand in hand with ensuring that growth makes sense for councils and communities.
- Additional powers for the Minister to amend councils' planning documents increase the risk of ministerial intervention in council planning decisions – potentially undermining local voice.
- Councils welcome moves to resolve the regulatory overlap between the RMA and the Fisheries Act 1996, and urge the Government to provide as much clarity as possible about what councils will retain responsibility for in this area.
- Allowing for greater cost recovery for councils, and greater penalties for non-compliance, is a positive move that should be followed up with a strong focus on avoiding "unfunded mandates" in the upcoming replacement legislation.
- The legislation as it stands features an inconsistent approach for consultation with Māori, in which iwi that have not yet settled their Treaty claims, or lack specific consultation agreements in their settlements, have less influence over planning decisions than those who have.

Introduction

The need for resource management reform is something that nearly all New Zealand politicians, local and central, can agree on. The current system fails to both adequately protect the environment and enable the development we need to, amongst other things, improve productivity and build the housing that Kiwis need.

LGNZ is pleased to submit on the Resource Management (Consenting and Other System Changes) Amendment bill. This is a targeted package of interim reforms that are designed both to make the RMA more workable as replacement legislation is developed, and to be carried over into the new system once legislative change is complete. Given these changes are likely to be long-term fixtures of the resource management system in this country, it is especially important that we get them right.

LGNZ is generally supportive of the direction of this legislation, though we have some concerns around specific aspects, as discussed in more detail below. We are concerned the legislation generally makes the assumption that councils are to blame for delays around things like consenting renewable energy, infrastructure, and housing, and fails to take into account other stakeholders and issues that may be contributing factors.

The upcoming changes to National Direction that are intended to accompany this legislation will be crucial to achieving the Government's vision for stage two of its resource management reforms. We look forward to submitting on these when they are released for consultation.

Our submission

This legislation must form part of an enduring solution to the issues with our resource management system

There is widespread agreement that the RMA has failed in its goal of promoting the sustainable management of natural and physical resources. For decades it has caused needless complexity and uncertainty for New Zealanders who, either directly or indirectly, are affected by the RMA in their day-to-day lives.

There is bipartisan consensus on the need to replace the RMA, if not on how this should occur. Local government invested significant amounts of time and energy inputting into the previous government's reform efforts. From the perspective of councils, those reforms had a number of issues – particularly loss of local voice, added bureaucracy in the system, and the failure to meaningfully reduce complexity.

While the current government's reforms are likely to generate some concerns, LGNZ recognises the need to put RM reform to bed. We intend to work constructively to ensure the current process delivers a lasting solution. To that end, we ask all central government politicians to endeavour to deliver a bipartisan solution that can endure across successive governments.

While working quickly is important, it is vital that we get these changes right this time. We urge the Government to heed concerns, including from the Ministry for the Environment, about the pace of reform. Providing certainty must not come at the expense of a workable system on the ground.

LGNZ agrees that a lack of national direction and an overly broad scope are two key issues with the current regime. However, recent messaging from the Government suggests the pendulum may swing too far the other way, with communities finding control over some activities is either relinquished entirely or that decisions over others are largely made in Wellington.

Criticism of a more liberalised resource management regime is inevitable (whether justified or not), and local government often bears the brunt of criticism about planning decisions even when it has limited influence over them. So to reduce pressure on local government, it is vital the Government makes the case to New Zealanders about why these reforms are important, and why it is sometimes necessary to endure the inconvenience of development in one's backyard to service the greater good.

Energy and infrastructure changes are positive, but applicants must meet councils halfway

As custodians of around 25% of the country's infrastructure, local government has a deep appreciation of how important it is to get the settings right. In particular, we understand the need to move with urgency on bringing more renewable energy generation online, given constraints with supply. New Zealand must have a diverse range of generation that is resilient to ebbs and flows in

wind and lake levels – particularly with the anticipated greater pressure on the grid due to factors like increased uptake of electric vehicles.

A number of councils last year had to grapple with the closure of major businesses in their areas due to, in part, high energy prices making the cost of doing business prohibitive. This is a key concern for rural and provincial councils in particular and there is strong interest in promoting more energy generation at the community level (https://www.lgnz.co.nz/news/media-releases/energy-crisis-councils-must-look-locally-for-solutions/).

Councils are therefore generally supportive of requiring that renewable energy consents be decided within one year of application, and are capable of making decisions within this timeframe. However, our members told us that this relies on receiving high-quality applications that provide the information councils need to fulfil their statutory responsibilities and make well-informed decisions, as communities would expect. Energy infrastructure is often large scale, complex and long lasting, and can have significant implications for the natural and built environment.

We also note that the Supplementary Analysis Report prepared by MfE stated there is little evidence to suggest there is an issue with renewable energy consents taking more than one year to process.

We believe the Government needs to accompany these reforms with engagement with the energy sector and local government on how to reduce the barriers to getting more renewable energy generation online. LGNZ stands ready to assist with any efforts to this end.

Growth needs to make sense for councils to realise potential of pro-housing changes

There is widespread appreciation of the need to act with urgency and take a far more liberal approach to address the housing crisis New Zealand faces.

We believe the move to make the Medium Density Residential Standards (MDRS) optional for councils that can demonstrate 30 years of housing growth capacity is a move in the right direction. This will allow for greater flexibility on the part of councils in ensuring enough land is made available to allow the market, the state, and community/iwi providers to build the housing we need as a country.

We support the decision to give councils the final decision-making power in the Streamlined Planning Process (SPP), which will be required to be used for removing or altering the MDRS from planning documents. We note that new appeal rights to the Environment Court have been introduced in instances where a council rejects a recommendation of the SPP panel. Some members have expressed concern about the legal risk this will expose councils to, which could mean significant legal fees and ultimately delays to getting more housing built. We recommend the Government monitors implementation to ensure excessive litigiousness is avoided.

However, changes to resource management settings alone are not sufficient to enable councils to fully address the housing crisis. As LGNZ has repeatedly advocated for in the past, they must be complemented by an effort to address the disproportionate share of costs councils bear to enable

housing. These costs are mainly generated by providing the necessary infrastructure. We acknowledge the Government is working on this at the moment, and we urge them to continue to engage with councils to ensure any incentives are set at a level sufficient to meaningfully shift the dial on housing supply.

We are also concerned about the new intervention powers that the legislation grants the Minister for the Environment "to ensure compliance with national direction", as laid out in clauses 6 and 7 of the Amendment Bill. While these powers largely build on existing ones, we see this signalling a greater appetite by ministers to intervene in the planning decisions of councils. While obviously it is important for councils to follow the law and implement national direction, our concern is that these changes may see good-faith implementation of national direction overruled by ministers, at the expense of local voice.

LGNZ is supportive of moves to make it easier for councils to list or delist heritage buildings and structures, as laid out in the legislation. While it is important to protect sites of genuine historical significance, the situation Wellington City Council experienced in 2024 when trying to remove 10 buildings from the heritage schedule was an obvious example of a technical issue subverting the clear will of both the council and the Government.

Clarity welcomed for primary sector activities

LGNZ has no significant concerns with the changes in the legislation pertaining to farming and the private sector. We welcome the move to clarify the relationship between the RMA and the Fisheries Act 1996, which has caused confusion in the past due to the overlap that exists between the two pieces of legislation. Members stressed the need for boundaries and responsibilities regarding rules that control fishing to be as clear as possible.

LGNZ supports allowing industry organisations to deliver farm plan certification and audit services. However, we note the lack of detail around the monitoring role regional councils will still be expected to perform. Regional councils look forward to working with the Government and relevant industry organisations to determine how this role will work in practice.

Regarding the new one-year timeframe for consent applications pertaining to wood processing activity, we take the same position as for renewable energy applications – that this is achievable, but will require applicants to meet councils halfway through high-quality applications and the prompt provision of information to those tasked with making decisions.

Some provisions could affect the relationship between councils and Māori

Councils value their relationships with Māori, and work hard to ensure they can input into local decision-making processes, including in the resource management space. This engagement is facilitated through clauses within Treaty settlements as well as other arrangements such as Mana Whakahono ā Rohe, as well as more informally.

LGNZ is concerned that this legislation takes an inconsistent approach towards enabling Māori input into resource management. It does this both by creating a "two tier" system in which the interests of iwi with Treaty settlements or other formalised consultation arrangements with councils are prioritised, such as for requesting an extension to consent timeframes for renewable energy or wood-processing applications.

Even for those iwi with Treaty settlements, consultation arrangements are not always consistent. Clause 34, for example, only allows for consultation with Māori on the decision to hold a hearing if a Treaty settlement explicitly recognises the right of an iwi or other Maori group to participate in one.

We suggest the Government may want to review the approach to consultation with Māori across the legislation and take a more consistent approach, to ensure that their views are given due weighting in council decision making.

Other issues

LGNZ strongly supports provisions allowing for the recovery of costs associated with compliance and enforcement activities, such as permitted activity monitoring, complaint response, and investigation activities. Our members have expressed significant concern about the range of "unfunded mandates" that have been imposed on councils by successive governments in recent years, so it is pleasing to see any instance of this being addressed.

LGNZ notes that the Regulatory Impact Statement for the compliance and enforcement proposals saw merit in undertaking a wider review of RMA cost recovery. While this will obviously only be relevant in the long term to the extent that the eventual replacement legislation carries over aspects of the existing regime, we urge the Government in its design of the new system to ensure councils are fully enabled to recover costs for the responsibilities they will have.

Conclusion

LGNZ values the opportunity to submit on this legislation, and broadly supports the programme of reforming and ultimately replacing the RMA as crucial to unlocking development while protecting our environment.

Councils are on the front line of the resource management system, and it is crucial their voice is consistently heard at all stages of the reform process. This is both to ensure proposals are workable and to draw from the significant institutional knowledge held at the local level. It is also crucial that any new system retains the ability for people to retain a say in how development takes place in their communities, and for the Government to make the case as to why it is important for development to take place.

We welcome the opportunity to work with the Government on the issues raised in our submission. For further information if we can be of any assistance, please contact William Blackler, Senior Policy Advisor at William.blackler@lgnz.co.nz