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Environment Committee
Parliament Buildings
Wellington

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Tēnā koutou

SUBMISSION ON THE PLANNING BILL AND NATURAL ENVIRONMENT BILL

The Central Otago District Council (CODC) welcomes the opportunity to submit on the Planning Bill and the Natural Environment Bill, as part of the wider resource management reforms proposed to replace the Resource Management Act (RMA) 1991.

Local government plays a critical role in the management of the natural and built environments. The RMA is one of the primary statutes that local government implements. Although the proposed change to the resource management system will fundamentally change the role that local government plays, it will remain critical to the delivery of the new system.

While we support the intent of reform, we have identified a number of design and implementation issues that, if unaddressed, will compromise the system's ability to deliver on its objectives. We have focused our submission on what we see as the "big issues," and have not provided detailed analysis of the entire two bills.

This submission focuses primarily on the Planning Bill (the Bill), as this is the principal piece of legislation through which the CODC would deliver its resource management functions. However, the submission also touches on broader themes that apply to both Bills, the resource management system overall and how the new system will be delivered in the context of other legislative changes that are currently being considered by government.

Introduction

1. CODC recognises that change is needed within the resource management system and acknowledges the scale and complexity of the reform. CODC supports key elements of the proposed system, particularly a strengthened role for spatial planning and clearer national direction. These have the potential to improve coordination, provide certainty, and enable more consistent approaches to issues.

2. CODC does however, consider several aspects of the current proposals create significant governance, delivery and cost implications for local authorities and their respective communities. These risks are substantial enough that, without

amendment, they may impact the effectiveness and affordability of the proposed new system.

Key Concerns

3. **Timeframes and Transitional Provisions**: The proposed timeframes and sequencing are not realistic for producing high-quality spatial plans and land-use plans, particularly while national direction, standards and methodologies are still being developed. Rushed implementation increases the likelihood of rework, dispute, and poor outcomes, and creates immediate pressure on council budgets that may not be provided for in Long Term Plans (LTPs). Decision making under the transitional provisions has the potential to create confusion and uncertainty due to assessment in a framework and against instruments established under RMA, being subject to restrictions in terms of matters that can be considered over an extended undetermined timeframe, (the matters being based on future outcomes of the proposed new system).

4. **Affordability of implementation**: The new system should explicitly enable growth to be sequenced and directed in a way that is infrastructure-efficient and financially sustainable for communities. Development should be appropriate and not be at all costs. Without clear ability to consider infrastructure affordability, funding pathways, and long-term operational implications, councils' risk being pushed toward inefficient servicing decisions that increase costs to ratepayers, undermining the delivery of other agreed infrastructure priorities. This has a direct impact on LTP funding cycles.

5. **Regulatory relief**: The proposed framework will impose significant and uncertain financial liabilities and resourcing demands on councils, which is at odds with the Government's stated intention to reduce rates and the proposal to require local authorities to cap rates. The relief is premised on where a plan has a 'significant impact on the reasonable use of land' with no clarity around what constitutes 'reasonable use of land'.

Submission Points and Decision Requested

6. Submission Points – Spatial Planning Bill

6.1. ***Timeframes and funding challenges***

6.1.1. Current timeframes place unrealistic demands on councils' capacity, risk poor quality plans, and ultimately jeopardise the integrity of the reform. A fully integrated and realistic sequencing of national direction, Regional Spatial Plans (RSPs), Natural Environment Plans and Land Use Plans is critical to success of the new system.

6.1.2. The new framework depends heavily on good quality national direction and standards being established first, and then for councils to have sufficient time to properly interpret and apply those to the preparation of spatial plans, natural environment and land use plans.

6.1.3. There is a clear misalignment between annual plan and LTP processes and the extremely tight timeframes to implement the new system. Councils have

insufficient time to make any changes to the annual plan and the RSP is required to be notified before the LTP process. It is unclear how councils will be able to fund the preparation of the RSP's within the current timeframes as the implementation of the RSP is also out of cycle with the 2027/2037 LTP process and constrained by a future rates cap.

Decision Requested:

Amend the timeframes to delay the delivery of regional spatial plans and land use plans until such time as the suite of National Direction and Standards have been developed and TA's have sufficient time to consider how best to implement. This is essential to understand what is required and estimate the costs associated with implementation, for inclusion in the 2027/2037 LTP cycle.

6.2. ***Co-ordination with other legislative changes affecting local government***

6.2.1. Local government will concurrently implement water service reform, the new emergency management framework, changes to development levies, and potential structural reforms to local government, alongside proposed rates caps. The Bills are not adequately integrated with these reforms, generating conflicting obligations, duplicated processes, and significant resource and cost pressures. Without system wide alignment, the cumulative burden threatens implementation of the new planning system.

6.2.2. The Bills have been introduced alongside a number of other reforms that collectively create substantial uncertainty and significant pressure for the local government sector, who are a key implementor of the new resource management system. The timeframes to implement these reforms concurrently have the potential to undermine the implementation of the new system and have a compounding effect on resourcing.

Decision Requested:

The committee considers and understands the impact proposed changes to other legislation that impacts on local government and its ability to deliver the new system.

6.3. **Regional spatial plans, Land Use Plans and fast-track consents**

6.3.1. CODC considers that the Planning Bill should clarify the interaction of regional spatial plans with approvals under the Fast Track Approvals Act.

6.3.2. Consents processed under the Fast Track Approvals Act require a significant about of resource to process and this process would seem to be redundant considering the changes proposed under the new system.

6.3.3. CODC's experience has been that there is considerable Council resource required to manage the expectations of the Fast Track process. While this can be in part cost recovered the applications are generally inconsistent with current planning instruments, have wide ranging and technically complex issues, and inevitably resource heavy. This is not limited to engaging with applicants and

responding to requests from the EPA or Panel but also in terms of a constant stream of LGOIMA requests.

Decision requested:

CODC supports the fast-track streamlined consenting process remaining available as an option provided the Fast Track legislation is amended to align with the objectives of relevant spatial plans or provide for critical infrastructure.

Alternatively, the fast-track process should be removed altogether, as without amendment it has the potential to undermine the effectiveness of regional spatial planning if development can occur regardless of the regional spatial plan.

6.4. ***Local democratic decision-making***

6.4.1. CODC supports national consistency where appropriate but does not support a model that removes local policy judgement and reduces local government to implementing centrally determined settings regardless of local context.

6.4.2. National direction and standardised provisions must include sufficient flexibility to reflect genuine variations between regions, districts and cities.

6.4.3. Providing for Ministerial decision-making powers, and especially at the end of the process, creates procedural and outcome uncertainty experienced for all parties that will affect how decisions are made, disputes are resolved, appeals are managed and how RSPs are made operative.

6.4.4. We are concerned that the proposed Ministerial decision-making powers will create instability and time delays in the new system.

6.4.5. The three-yearly national election cycle later has the potential to result in unforeseen changes in views associated with a change in Minister. As drafted these provisions will create uncertainty and risk expensive implementation for any re-work required. The costs will inevitably cascade down through the system, with these costs falling to local authorities.

6.4.6. Evidence of this can be found in the significant time, resource and effort put into development and enactment of the Natural and Built Environment Act and Spatial Planning Act in 2023, including working towards giving effect to the system proposed under that legislation, which was subsequently repealed later in 2023 with a change of government.

6.4.7. If the system is developed under clearly defined national direction (prior to the preparation of instruments under the new system, Ministerial oversight beyond that is not necessary.

6.4.8. CODC strongly supports the retention of local representation of our communities being part of the decision-making processes associated with the new system. One size does not fit all when it comes to determining what may or may not be appropriate, for the communities we represent or our unique environments.

Decision Requested:

Limit Ministerial decision-making powers to the setting of clear National Direction to avoid delays and the potential for the three-year election cycle impacting on consistency of decision making and changes in political philosophy.

6.5. **Transitional Provisions**

6.5.1. The transition period commences one month after royal assent and ends in a specified transition date to be determined by the Minister.

6.5.2. Councils are required to operate under a modified consenting framework reflecting to separate systems until the yet undetermined specified date ends, without the benefit of clarity in terms of National Direction or guidance from instruments produced under the new system.

6.5.3. The Bills require local authorities to prepare and implement RMA planning instruments modified by a substantial set of transitional rules and altered effects tests, while simultaneously preparing for the new system.

6.5.4. The differences between how effects are considered for consents, designations, plan making and enforcement will create uncertainty, inconsistent outcomes, and high legal risk.

Decision Requested:

Keep transition provisions to a minimum. The preference is that these do not come into effect until the National Direction has been developed and Regional Spatial Plans are a in place to guide the transition.

6.6. ***Landscape, Amenity and Historic Heritage***

6.6.1. The new system requires local authorities to protect the identified values and characteristics of areas of high natural character within the coastal environment, wetlands, and lakes and rivers and their margins; outstanding natural features and landscapes; sites of significant historic heritage from inappropriate development.

6.6.2. It also proposes a narrowing of scope by the introduction of a higher threshold for assessing effects including the removal of an ability to consider amenity and character protections is at odds with the requirement to protect these values.

6.6.3. CODC considers the current approach underplays the significant contribution that amenity, landscape and heritage make to Central Otago's visitor economy and what our communities value about living in our District.

6.6.4. The Central Otago community through community engagement have consistently indicated clearly the high value they place on our natural environment and built heritage.

Decision Requested:

That a high threshold for assessment of amenity matters associated with landscape and historic heritage be provided for acknowledging the value to local communities and significant contribution to the local, regional and national economies.

6.7. ***Regulatory Relief***

6.7.1. The proposed regulatory relief regime is conceptually unclear, operationally unworkable, and financially untenable for councils. It conflicts with councils' statutory responsibilities, relies on undefined concepts such as "reasonable use" and "significant impact", and exposes councils to open ended financial liabilities.

6.7.2. The proposed regulatory relief regime is vague and not workable in its current format. It is completely at odds with other legislation currently being considered by government in terms of a proposed rates cap. Local authorities would be unable to fund any form of financial compensation to property owners. Equally any form of rates relief would also impact on local authorities' ability to deliver core services.

6.7.3. CODC currently has a policy regime in relation to historic heritage that provides a fee waiver for Resource Consents when the only reason a consent is required is in relation to the heritage values. This works well alongside heritage guidelines that provide applicants with clear guidance for each or of our five heritage precincts.

6.7.4. This type of policy relief may also work in relation to Outstanding Natural Landscapes and features if it were similarly linked to activities provided for as a permitted activity in the zone.

Decision Requested:

1. Remove the regulatory relief provisions from the Bills or
2. If the regulatory relief provisions remain:

- Work with local government to develop the detail and fill in the gaps of the regime
- Define what constitutes a 'significant impact on the reasonable use of land' and provide guidance to support this
- Place the onus on the landowners to apply for relief if they consider that they are impacted at Councils discretion
- Consider fee waivers for consenting associated with activities that would be a permitted activity in the zone if it were not for the heritage or landscape notations as relief rather than rates or financial compensation.
- Remove the Environment Court's ability to direct the use of financial tools like rates relief
- Remove the ability for landowners to seek relief from the Environment Court
- The regulatory relief regime should only apply prospectively, acknowledging the existing protections.

6.8. ***Regional Spatial Planning – Sub Regional Plans***

6.8.1. CODC is party to the Otago Central Lakes (OCL) partnership, along with Queenstown Lakes District Council and Otago Regional Council. OCL has been formed to engage on the government's City and Regional Deal process. OCL focus is on unlocking opportunities for this sub region of Otago which faces high growth and housing challenges.

6.8.2. The preparation of a sub-regional spatial plan as part of the OCL work is anticipated, however it is not clear where this would fit in the context of a regional spatial plan prepared under the Planning Bill. We consider that the Planning Bill presents an opportunity to support the considerable work already progressed in the OCL partnership if it were to enable the concept of a sub-regional spatial plan that reflects the regionally and nationally unique challenges faced by OCL.

Decision Requested:

Provide for sub-regional spatial plans to be incorporated into regional spatial plans, enabling the spatial plan prepared by Otago Central Lakes (OCL) partnership as part of the City and Regional Deals to be incorporated into the Otago Regional Spatial Plan.

Conclusion

The CODC thanks you for the opportunity to submit on the Planning Bill. We look forward to working with the Government and other entities on this new chapter of resource management reform in New Zealand.

The CODC wishes to be heard in support of this submission.

Ngā mihi nui



Peter Kelly
Chief Executive Officer