

Submission by



to the

Ministry for the Environment

on

Our Future Resource Management System

February 2022

OUR FUTURE RESOURCE MANAGEMENT SYSTEM SUBMISSION BY BUSINESSNZ¹

1.0 INTRODUCTION

- 1.1 BusinessNZ welcomes the opportunity to comment on *Our Future Resource Management System* (“the Discussion Document”).
- 1.2 BusinessNZ believes the RMA has served as a handbrake on government, limiting its ability to achieve its economic development aspirations. This is especially so in the urban context where the Act has made it difficult to obtain the infrastructure consents needed to support rapid growth. In BusinessNZ’s view, the RMA will continue to inhibit government aspirations until such time as it is amended to better allow both for economic growth and environmental protection. But it is also recognised that economic development will not always be compatible with environmental protection, therefore furthering the one or the other will necessarily involve a balancing exercise.
- 1.3 While BusinessNZ was supportive of the intent of many of the changes outlined in the Draft Natural and Built Environment Bill (2021), we were concerned as to how these would be implemented in practice. Given the novelty of some of the changes, it is possible the result would simply amount to replacing one form of complexity and uncertainty with another, for little substantive net gain. The Bill’s Regulatory Impact Statement (RIS) raised several concerns that would lead to this conclusion.
- 1.4 A quality assessment of the RIS statement led by Treasury said there was a high level of uncertainty about the proposals: *“the estimated costings appear understated, especially in relation to the costs of transitioning existing consents and allocation rights into the new planning system with new outcomes, environmental limits and national and regional priorities.”*
- 1.5 And there are many other important issues not yet resolved which have significant implications for business, for example, existing use rights and the allocation of natural resources. Their exclusion from the Discussion Document is particularly concerning given some of the Randerson Report’s thinking on natural resource use.
- 1.6 For example, while the Randerson Report talks a little about freshwater allocation mechanisms and approaches, it very much avoids making the hard

¹ Background information on BusinessNZ is attached as Appendix 1.

allocation decisions, leaving it for future planning decisions to provide solutions. This failure to address the freshwater allocation issue raises concerns over decision-making certainty for investors, merely continuing the uncertainty businesses have had to face for years in respect to a major economic resource. While flexibility is to some extent appropriate when making allocation decisions (as each region is different in terms of water quantity/quality), government will nevertheless need to respond by implementing approaches such as that agreed by the Land and Water Forum (LWF) - water to flow to its most highly valued uses via trading and transfer, provided environmental quality standards are not unduly jeopardised. This, effectively, will mean allowing for water use decisions to be made locally. Anything else could lead to argument both centrally and in each locality.

1.7 The Discussion Document has continued to effectively kick for touch in respect to Freshwater Allocation. It just says that "*The Government has committed to working to achieve efficient and fair allocation of freshwater resources having regard to all interests, including Māori and existing and potential new users*" (page 16). This is a cop-out: resource allocation issues, including dealing with over-allocation etc, need to be addressed.

1.8 BusinessNZ recommended in our submission on the Inquiry on the Natural and Built Environments Bill (August 2021) that:

to encourage efficient investment in natural resource and infrastructure development for the economic, social, environmental, and cultural well-being of current and future generations of New Zealanders, the Select Committee insert clauses into the Bill:

- (a) recognising the importance of upholding property rights to encourage efficient investment and resolving how existing use rights will be treated,**
- (b) grandparenting current rights to resource use where practical and providing for the trading and transfer of rights within a specified framework,**
- (c) introducing a compensation regime for regulatory takings to encourage better decision-making from regulators when impacting on private property in the public interest.**

1.9 The distinct danger is that if account is not taken of such factors, government will be able to ride rough-shod over existing rights. If it does so, the effect on investment will be chilling.

Natural Planning Framework (NPF)

- 1.10 BusinessNZ considers the proposed national planning framework might provide for greater certainty, but its success or otherwise will depend on the quality of the planning input. Planning involves foreseeability which in turn involves uncertainty. The test of a regime of this kind will be its ability to respond both to changing circumstances and to errors arising from the planning process, although whether these can be corrected via an unsupervised regulation-making system remains to be seen. Nor will the apparent shift towards greater centralisation of authority make resource use disputes go away. Centralisation could make their resolution even harder than it is currently.
- 1.11 Developing the NPF by regulation could have the effect of excluding from the decision-making process those who will be affected by whatever decisions are made, thereby preventing them from contributing on-the-ground experience. If mistakes are to be limited and arbitrary decision-making avoided, the legislation must make provision for effective consultation and discussion. Will, for example, the regulation development process have regional or district input and what will be the business community's role?

Regional spatial strategies

- 1.12 The discussion document states: "Regional spatial strategies will require multiple groups to work together to identify how the region will grow over the next 30 years" (p.24). However, subsequently, the consultation document lists the groups that will develop each regional spatial strategy ("RSS") as: "representatives from hapū/iwi/Māori, local and central government" (p.25). We are concerned that private sector representation is missing. Given that the business community and wider private sector in general are key players in resource management, having a place at the table is of fundamental importance.

Natural and built environment plans

- 1.13 Potentially moving from around 100 plans down to 12-14 or so regionally-based plans could provide for greater consistency. Currently, many problems arising from the RMA are the consequence of varying council interpretations, plus a high degree of risk-averseness and sometimes a lack of necessary expertise, all of which have delaying consequences. However, consistency might not be the answer if what is appropriate for one region is not appropriate for others.
- 1.14 If one plan per region covers resource use, allocation, and land use management, will resource consent applications be made to a regional organisation or to a local council? If, as noted above, many problems arising

from the RMA are the consequence of varying council interpretations, plus a high degree of risk averseness and sometimes a lack of necessary expertise, will this '*significant change*' produce a better result?

- 1.15 There appear to be two major issues arising from the proposed 14 regional plans which need further consideration. First, what provision will be made to enable trade-offs at a local level? Second, given the many relevant views received from a broad cross-section of society and the very wide range of environmental outcomes promoted, how can coherent plans be developed in a timely manner? Local pushback is also likely if planning becomes the sole prerogative of regional councils, particularly as quality improvement will not be a necessary consequence. Consistency should not be purchased at the expense of local input or control.

Environmental limits

- 1.16 While it can be argued that natural resource allocation requires environmental limits to be clearly understood, there must also be flexibility to meet the unique trade-offs local communities might be prepared to make. For example, it might be sensible to set a common national standard for maximum microwave discharge, since this is a health issue and the risks of electro-magnetic radiation do not vary across the country. But a common national standard makes little sense in considering water allocation, for example: should all rivers be subject to the same minimum flows? The benefits of mandatory national direction might come at the expense of flexibility (desirable economic outcomes) at the local level.
- 1.17 Within the existing RMA system, it is clear blunt environmental limits can lead to unintended or perverse outcomes. Unless provision is made for a clear consenting pathway through such infrastructure limits, significant issues could arise in relation to the protection, maintenance, or upgrading of core services where these are addressed in a sensitive environment. Geographic factors mean many networks span a variety of different areas, including those that are environmentally sensitive. It is paramount that network providers can maintain existing infrastructure without the need to follow an overly onerous consenting pathway.
- 1.18 BusinessNZ would welcome the opportunity to discuss our submission with officials as considered appropriate.

Appendix One - Background information on BusinessNZ



BusinessNZ is New Zealand's largest business advocacy body, representing:

- Regional business groups [EMA](#), [Business Central](#), [Canterbury Employers' Chamber of Commerce](#), and [Employers Otago Southland](#)
- [Major Companies Group](#) of New Zealand's largest businesses
- [Gold Group](#) of medium sized businesses
- [Affiliated Industries Group](#) of national industry associations
- [ExportNZ](#) representing New Zealand exporting enterprises
- [ManufacturingNZ](#) representing New Zealand manufacturing enterprises
- [Sustainable Business Council](#) of enterprises leading sustainable business practice
- [BusinessNZ Energy Council](#) of enterprises leading sustainable energy production and use
- [Buy NZ Made](#) representing producers, retailers and consumers of New Zealand-made goods

BusinessNZ is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.

In addition to advocacy and services for enterprise, BusinessNZ contributes to Government, tripartite working parties and international bodies including the International Labour Organisation ([ILO](#)), the International Organisation of Employers ([IOE](#)) and the Business and Industry Advisory Council ([BIAC](#)) to the Organisation for Economic Cooperation and Development ([OECD](#)).