



NZPI Position Paper: Spatial Planning

Introduction

This position paper is one of four in a series on RM Reform, prepared by NZPI in preparation for the introduction to Parliament of the Natural and Built Environments Bill and the Spatial Planning Bill. The four papers address outcomes-based planning, spatial planning, NBA planning, and consenting under the new system and should be read together. They reflect NZPI's position as at 9 November 2022, before the Bills have been introduced and the detail reviewed. Other position papers, including one on digital transformation, will be added to the series in due course.

Overall position

NZPI supports a statutory requirement for mandatory spatial planning to be undertaken at a regional level. Regional Spatial Strategies will provide long-term strategic integration of planning for community wellbeing that has been missing from the RMA. The use of mapping, supported by strategies and implementation plans and agreements, will support the shift to an outcomes-based planning system and provide a spatial tool to help resolve conflicts and manage cumulative environmental effects.

What we know of what's proposed in the new system

The Spatial Planning Act (SPA) will set a requirement for there to be one Regional Spatial Strategy (RSS) for each region¹. These RSSs will be developed and maintained by Regional Planning Committees, supported by a secretariat. These committees would have a single 'all of government' representative on them when considering spatial strategies, alongside other members representing iwi and councils within the region. Exact composition will be determined by each Regional Planning Committee, subject to minimum requirements.

RSSs would be strategic-level documents that identify where development, growth and infrastructure should be provided, as well as areas to be protected or that are vulnerable to climate change effects and natural hazards. RSSs would identify the priority actions needed to achieve the strategy's vision and objectives. There would be implementation plans and agreements for RSSs that show how the strategy is to be delivered.

In terms of planning hierarchy, the RSSs would sit below and implement the National Planning Framework (NPF). In turn the RSSs would provide direction for the development of Natural and Built Environments Plans (NBA Plans).

Regional Planning Committees are expected to have flexibility to set their own processes for public participation in the development of RSSs, subject to minimum requirements. There is expected to be a requirement to provide an opportunity to make submissions and to be heard, but with no appeal rights on decisions made by Regional Planning Committees on submissions on RSSs.

¹ Each existing region, but with Tasman and Nelson treated as one region.

How is this different to the current system?

There is currently no statutory requirement for spatial planning in New Zealand, except for the Auckland Region. A number of districts and regions have prepared spatial strategies, or similar documents such as growth strategies, outside of the RMA. These strategies have had variable influence on planning under the RMA. A key change under the new system is to give a legislated place to spatial planning, and statutory weight to RSSs in the development of NBA Plans.

What improvements can we make?

Te Tiriti o Waitangi and te ao Māori

Planning for Māori outcomes is not new, but the opportunity for strategic planning for Māori outcomes as part of RSSs is new. This new opportunity needs to build on and give effect to the spectrum of delivery and implementation methods developed under, and outside of, the RMA. Spatial planning under the SPA should not erode this progress. Particularly, continued recognition and use of iwi and hapū management plans and mana whakahono a rohe. It is essential that spatial planning works alongside and integrates with treaty settlements and statutory acknowledgement areas.

Giving effect to Te Tiriti o Waitangi means providing opportunities for iwi and hapū to exercise tino rangatiratanga². Mechanisms that help empower iwi and hapū to make decisions on spatial planning for Māori outcomes should be provided in the SPA. This might include provisions similar to the transfer of powers provisions in s33 of the RMA and joint management agreements under s36B of the RMA.

The new system needs to provide a meaningful role for Māori on Regional Planning Committees, empower iwi and hapū to be partners in the development of RSSs, and recognise that Māori are experts in te ao Māori, including tikanga and mātauranga Māori, and the achievement of Te Oranga o te Taiao.

Doing a better job of giving effect to Te Tiriti o Waitangi requires an increase in capacity and capability of iwi and hapū, and mana whenua planners, to participate in the system in a meaningful way. This will require time and funding, with significant investment needed from the Crown. There is also a need for capability and capacity building of Pākehā participants in the system, and of the new Regional Planning Committees, in te ao Māori and what it means to give effect to Te Tiriti o Waitangi.

National spatial strategy

There should be a national spatial strategy. This would provide strategic national direction that RSSs would be able to give effect to. It would address national and inter-regional issues such as climate change and natural hazards, nationally important natural areas, significant natural landscapes, transport infrastructure (including major state highways, rail, ports and airports), energy infrastructure (including hydro, geothermal, wind and solar generation, storage, and transmission), and telecommunications infrastructure and data centres.

We see a national spatial strategy as a complementary tool that would be part of and work with the NPF. While the NPF is expected to be organised by issue or topic, a national spatial strategy would provide an overview across all issues and a spatial lens for helping to resolve conflicts between national priorities. This national spatial lens is currently missing from the proposed new system. A national spatial strategy is a potentially powerful tool to ensure consistency across the country and provide meaningful direction for regional planning. Being part of the NPF, it would also provide a

² The SPA and NBA propose to give effect to *the principles* of Te Tiriti o Waitangi, whereas NZPI's position, in alignment with the position of Papa Pounamu (NZPI Special Interest Group) on the Exposure Draft, is that Te Tiriti itself should be given effect to.

much-needed link between the two separate pieces of legislation – the NBA and the SPA. A national spatial strategy also opens an opportunity for creation and management of national databases and digital tools, which we consider is essential to the efficient and effective operation of the new system.

We do not see urban growth as a matter for a national spatial strategy. Where and how growth occurs within a region should be a matter for each region, within the requirements of national direction.

Purpose and place of RSSs in the proposed planning hierarchy

The SPA needs to be clear about the purpose of an RSSs. RSSs need to set clear strategic direction for the future management of a region. In an outcomes-based system, the RSS needs to set strategic, regional-level outcomes. The SPA therefore needs to provide a link between RSSs and the outcomes in NBA Plans and require monitoring of their performance.

There needs to be a clear and direct relationship between RSSs and the NPF and NBA Plans. NZPI considers that the NBA and the SPA should be one piece of legislation, rather than two. As two separate Acts, it is essential they are clearly linked, and the relationship between the planning documents prepared under each is clear. For example, the purposes of upholding Te Oranga o te Taiao and providing for community wellbeing are within the NBA. We consider RSSs should also achieve these purposes, and that the SPA should somehow be subservient to the NBA in this regard.

We see the NPF and a national spatial strategy as an essential bridge between the NBA and the SPA, and note that RSSs will need to give effect to the NPF when the NPF directs this. This relationship needs to be clearly set out in both the NBA and the SPA. The role of the NPF in providing direction to RSSs is critical, including the interaction between, and the different roles of, RSSs and NBA Plans on particular issues.

The influence of an RSS on NBA Plans is important. As a strategic-level, statutory document, RSSs need to provide clear direction to NBA Plans, to ensure the effectiveness of the RSS in the planning hierarchy. We consider that a requirement for NBA Plans to ‘be consistent with’ RSSs is appropriate. NBA Plans are a tool to implement RSSs, as well as fulfilling other functions, and it is important that the RSS is specific on what is required of NBA Plans. Vague or general direction in an RSS will not be effective and negate the role of the RSS in the system.

It is important that matters resolved in an RSS are not re-litigated in the development of an NBA Plan, and that evaluation requirements for NBA Plans do not undermine the decisions made in RSSs. This could be an unintended consequence of more rigorous or different evaluation criteria being required at NBA stage than at RSS stage. A requirement for NBA Plans to be consistent with RSSs will give weight to what has been resolved in the RSS and make re-litigation in NBA Plans less of a risk.

Integration of processes and funding

We understand the new legislation will integrate RSSs with other strategic planning processes, such as those under the Local Government Act, the Land Transport Management Act, and the Climate Change Response Act, and we support this. We see a significant opportunity for spatial planning to add value to the existing broad system of planning for wellbeing.

Specifically, we support the integration of infrastructure planning more directly into the resource management planning system via the RSSs. However, infrastructure is provided by a range of different entities, including the Crown, local government, council controlled organisations, the new three waters entities, and the private sector. This means a number of different funding sources for implementation of RSSs. The legislation needs to clearly specify the roles and responsibilities of these parties in the development and implementation of RSSs. Similarly, the use of implementation plans

and agreements alongside RSSs will be very important, and there needs to be sufficient direction and guidance for the use and implementation of these documents, including ensuring transparency.

The shift to outcomes-based planning in the new system presents an opportunity for spatial planning to integrate funding sources for achieving positive outcomes, in addition to infrastructure funding. Our planning system cannot achieve outcomes on its own – while it can protect things, it needs actors to propose, develop, build and restore things in order to achieve positive outcomes. For the system to *achieve* outcomes, incentives and non-regulatory measures will be required as well as rules and regulations. Using RSSs as a means to coordinate and prioritise funding for positive outcomes, such as restoration funds, eco funds, innovation funds etc, will greatly assist the system as a whole to achieve positive outcomes.

Timeframes

We support spatial planning being a long-term exercise, using long term scenarios. The *te ao Māori* practice is for intergenerational planning, considering 100 to 500 years into the future. For addressing climate change issues, at least 100 years needs to be considered. The decisions we make now will have lasting impacts, so it is important to consider the long term. However, we expect community engagement to be more difficult, the longer the planning timeframe.

The SPA needs to be realistic in setting timeframes for strategic spatial planning. We think 30 years, with reviews at least every 10 years, is appropriate. Within this, there should be a requirement to consider climate change scenarios for at least the next 100 years, to try and avoid making decisions that might need to be undone in the future. Shorter review periods may be desirable, to ensure RSSs can be responsive to change, but there is a balance required between review frequency and the time and resources needed for a review, including for effective monitoring. Regular review of the implementation plans and agreements that support the RSSs should be provided for.

With NBA Plans being one of the key tools for implementing RSSs, we agree with the proposed staging of the transition to the new system, which sees RSSs developed ahead of NBA Plans. In addition, with both RSSs and NBA Plans being tools to implement the NFP, it is important the NFP is developed first, and we understand this is the Government's intention. Given RSSs and NBA Plans will be developed by the same Regional Planning Committee, we see efficiencies and benefits in the two plans being prepared alongside each other. This would ensure integration between the two documents, including between the level of detail in each document. RSSs should be heard before NBA Plans, but the hearing and decision-making processes should follow each other closely.

We consider the review timeframes of the RSSs and the NBA Plans needs to be lined up so that review of an NBA Plan either occurs at the same time or comes after review of an RSS.

Content of RSSs

RSSs should be high-level, strategic documents that are short and make effective use of maps. A key function of RSSs will be to provide a spatial representation of what the future will look like, and provide a spatial lens for resolving conflicts and managing cumulative adverse environmental effects. Our understanding is that the spatial accuracy of RSSs would not be down to the property level and they would have no direct impact on individual properties. We consider this is appropriate.

NZPI supports the scope and content of RSSs as suggested in the Randerson Report and repeated below, and consider this list, or similar, should be included as a schedule to the SPA:

- use, development, protection, and enhancement of natural and built environments
- provision of infrastructure and associated funding/investment

- relationship of iwi, hapū and whānau and their culture and traditions with natural and built environments
- responses to climate change, including adaptation and mitigation
- reduction of natural hazard risks
- limited marine spatial planning within the CMA.

Clarification on the level of detail required in RSSs compared to the level of detail required in NBA Plans would assist implementation. It may be difficult in some cases to find the right balance and this could be the subject of challenge. We recommend the NPF provide guidance on this, either by 'issue' in accordance with the organisation of the NPF, or as a separate guidance document. For example, an NPF chapter on climate change could set out the level of detail required to identify an area in an RSS as one needing to adapt to climate change, and what would be required to confirm the extent of that area in an NBA Plan. For issues not covered by the NPF, RSSs could state the quality of the information relied on, for example to identify an area for urban development, and give directions for the level of investigation needed for zoning decisions in NBA plan-making.

Process for RSSs

The SPA should provide flexibility for the process of development of RSSs. Flexibility will be needed to accommodate differing iwi and hapū arrangements in different regions. The make-up of local communities within regions also varies, and flexibility of process to suit regional variability will be important. It is essential that the aspirations of local communities are provided for in RSSs.

We support an inquisitorial process for public input on RSSs, with an opportunity for submissions and to be heard, but no rights to merits appeals. The Government has suggested the process will be similar to the special consultative procedure under the Local Government Act. The process will need to give weight to Māori spatial planning aspirations, which has previously been a struggle in similar processes. There should also be an ability to make significant amendments in response to submissions, with a further feedback process on that particular change.

NZPI agrees with the Randerson Panel that this type of public participation is the right balance between due process and efficiency and is appropriate for the level of detail anticipated for RSSs and for the level of influence that RSSs will have in the system. RSSs are intended to be high-level strategic documents that do not directly impact on private property rights. As such, while they need to be informed by public input, they can be subject to a lesser degree of public scrutiny than NBA Plans. The higher the degree of scrutiny, the greater the evidence burden required for plan development, and the longer the development process will take. An RSS that costs a significant amount and takes a long time to become operative will be more of a burden to the system than a benefit.

Transition for existing spatial strategies

There are a number of documents that are the equivalent of spatial strategies, that are the result of significant investigations, research, and public consultation, and work is underway to implement them. These documents need to be acknowledged in the new legislation with transition arrangements. It is important that the time and resources put in to develop and implement these documents is not lost in the new system.

Central Government role on RSS Committees

Government involvement in RSSs is essential, to provide certainty for successful implementation. We are hesitant about the effectiveness of a single government representative on Regional Planning Committees. We are keen to understand how the system will ensure this representative has the authority to speak and make decisions on behalf of all government departments and agencies.

Alternatives should be considered, such as a Crown unit that supports the Regional Planning Committees, or using steering groups. We note that a national spatial strategy would be a very effective support tool, as it would resolve the differing and conflicting government priorities before the representative get to the RSS table.

The relationship between the Regional Planning Committees and the Government needs to go both ways. That is, the representative needs to recognise that locals are experts in their regions and be able to listen and respond to local government issues and concerns, as well as putting forward the Government position.

Capacity and capability

Generally, the track-record for integrated, strategic decision-making under the RMA is quite mixed. Strong strategic national direction, as well as strong community engagement, will assist to turn this around and produce strong strategic regional direction.

Partnership and collaboration with iwi and hapū, infrastructure providers, key stakeholders, developers, and communities will be essential to producing workable and implementable RSSs. An increase in the capacity and capability of all actors in the system, including the new regional planning committees, will ensure we undertake effective spatial planning. Support and funding for this needs to come from the Crown, as local councils are unlikely to be able to fund it on their own.

Clear national direction on the standards for data inputs for spatial planning in terms of demographics, projections, infrastructure, climate change and natural hazards, land use information and key information about the human and physical geography of a region would greatly assist capability for spatial planning. Consistent spatial data, particularly Geographic Information Systems across central and local government, would greatly enhance national, regional and local outcome planning. Modelling and AI need to be employed to enable more evidence-based planning over time.