

17 February 2023

Committee Secretariat
Environment Committee
Parliament Buildings
WELLINGTON

By email: en@parliament.govt.nz

Tēnā koutou

Canterbury Mayoral Forum submission on the Spatial Planning Bill

1. The Canterbury Mayoral Forum (CMF) thanks the Committee for the opportunity to make a submission on the Spatial Planning Bill.

Background and context

2. The CMF comprises the mayors of the ten territorial authorities in Canterbury and the Chair of the Canterbury Regional Council (Environment Canterbury) and is supported by our Chief Executives. The purpose of the CMF is to promote collaboration across the region and increase the effectiveness of local government in meeting the needs of Canterbury's communities.
3. All Canterbury councils actively participate in the CMF: Kaikōura, Hurunui, Waimakariri, Selwyn, Ashburton, Timaru, Mackenzie, Waimate and Waitaki District Councils, the Christchurch City Council, and Environment Canterbury.
4. The following submission has been developed with input from across Canterbury Councils and focuses on matters of general agreement. Some of our Councils will make individual submissions.
5. The Canterbury Mayoral Forum does wish to appear in support of this submission.
6. The CMF acknowledges the significant amount of work the Ministry for the Environment (MfE) has undertaken in developing the Spatial Planning Bill.

Mayors standing together for Canterbury.

Secretariat, E: secretariat@canterburymayors.org.nz W: www.canterburymayors.org.nz
C/- Environment Canterbury, PO Box 345, Christchurch 8140 T: 03 345 9323

7. The CMF generally supports the need for greater integration of the resource management and infrastructure legislative systems and sees regional spatial strategies as an important tool to enable that integration. Notwithstanding, our general support, the CMF considers that several important amendments to the Spatial Planning Bill are required to ensure spatial strategies are an effective planning instrument. The key amendments requested are set out in the following section. A full list of the amendments requested is provided in Appendix 1.

Key amendments requested

Reduce political interference

8. The Spatial Planning Bill provides opportunities for central government political interference in spatial planning. This includes the Minister's ability under section 60 to direct a regional planning committee to amend a regional spatial strategy. It also includes the ability under section 62 to direct a regional planning committee or local authority to perform a power, function or duty under the Act.
9. The CMF considers this contrary to good governance practice, which, as outlined by the auditor general¹, should separate governance from management. The CMF believes that the Government's role should be setting national planning policy and legislation, not directing regional and district spatial planning matters. As proposed, the Spatial Planning Bill potentially politicises spatial planning by providing an opportunity for the government of the day to make changes for political gain. Any such future changes may be unintended by the government that passed the Spatial Planning Bill. These powers provide for direct political interference in a spatial planning system that is otherwise a policy driven and evidential process.
10. While, the CMF acknowledges the need to direct changes if a regional planning committee is not adequately exercising their powers, it believes 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. This would ensure planning decisions are based on evidence and good practice as opposed to being politically motivated, or a result of lobbying. The CMF considers that it is vital to protect the integrity of the spatial planning system. Accordingly, the CMF requests amendment to sections 60 and 62 to ensure that the Minister can only refer these matters to the Environment Court for their consideration and determination.

Broaden the scope of the appointing body's review of draft spatial strategies

11. The CMF requests a broader scope for appointing bodies to review a draft spatial strategy. Clause 3, Schedule 4 of the Spatial Planning Bill intends to limit the scope of the appointing body's review to just identifying errors and any risks in the implementation or operation of the draft strategy. The CMF requests the ability for appointing bodies to provide a range of

¹ [Good Practice Summary: Good Governance](https://www.oag.parliament.nz/good-practice/docs/good-governance.pdf) (oag.parliament.nz/good-practice/docs/good-governance.pdf)

comments on the draft strategy. This will ensure that appointing bodies comments are not just limited to errors and risks but can also include:

- a. any opportunities the draft strategy can address
- b. any issues with the content of the draft strategy
- c. any matters of local knowledge
- d. any aspect of community concern known to the appointing body
- e. any other matter.

12. Broadening the scope of the appointing body's feedback provides a valuable opportunity for the regional planning committee to obtain feedback on the draft spatial strategy prior to its public notification. This opportunity would be partly missed if the feedback is limited to errors and risks.

Clarify and strengthen the purpose of the Bill

13. The CMF requests several amendments to the purpose of the Spatial Planning Bill to help clarify and strengthen its purpose. It is important the Spatial Planning Bill has a clear purpose as an unclear purpose creates interpretation issues for its remaining parts, the spatial strategies made under it and for NBE Plans.

14. It is also important that more directive language is used in relation to the Spatial Planning Bill's purpose to integrate planning legislation with infrastructure legislation. Currently the Bill uses the word 'promote' to describe this relationship. The CMF is concerned that 'promote' is too weak, as it essentially means encourage, which is voluntary. The preparation of spatial strategies is going to be a significant task, involving a large investment of time and money. As such, the CMF believes that it is not worth developing spatial strategies if all that can be achieved is to encourage integration. Integration needs to be ensured or required for spatial strategies to be effective. Accordingly, the CMF requests that integration between the Natural and Built Environment Bill and the other relevant legislation is 'ensured'.

15. Similarly, we have requested more directive language about te Oranga o te Taiao. The use of the term 'upholding' te oranga o te Taiao is unclear. The CMF requests the words 'give effect to' is used instead, which has clear legal meaning. This will also avoid testing the meaning of 'upholding' through the courts.

Ensure spatial strategies integrate with other relevant legislation

16. The CMF also requests that the purpose of the Spatial Planning Bill makes it clear that regional spatial strategies need to ensure integration with the Water Services Entities Act 2022, the Climate Change Response Act 2002 and the Climate Change Adaptation Act.

17. The Water Services Entities Act 2022 has recently received royal assent. It manages the delivery of three waters infrastructure and requires 30-year infrastructure strategies. Three waters infrastructure includes water supply, wastewater and stormwater infrastructure. All three types of infrastructure are necessary for urban development and many rural communities have drinking water supply infrastructure. Therefore, it is crucial that land use planning integrates with three waters planning. Accordingly, the CMF requests that the Water Services Entities Act 2022 is listed in section 3(b) and section 4 of the Spatial Planning Bill as one of the Acts that regional spatial strategies need to integrate with. Section 4 needs to ensure that the infrastructure strategy is consistent with the regional spatial strategy.

18. The Climate Change Response Act 2002 (CCRA) puts in place a legal framework to enable New Zealand to meet its international climate obligations. The CCRA requires the Minister to prepare an emission reduction plan and a national adaptation plan. The emission reduction plan sets out the policies and strategies for meeting the relevant emissions budget. Action 7.1 of the current emissions reduction plan seeks to *"embed emissions reduction and climate adaptation into resource management frameworks (for example, the proposed Strategic Planning Act and Natural and Built Environments Act), including measures that help to achieve urban density that improves access to community amenities"*. Similarly, the national adaptation plan has objectives that new and existing places are planned and managed to minimise risks to communities from climate change. However, there is no reference to CCRA, the emission reduction plan or the national adaptation plan in the Spatial Planning Bill. As the emission reductions plan sees the Spatial Planning Bill as a key tool to embed emission reduction and climate change adaptation, the CMF requests that the CCRA is listed in section 3(b) and section 4 of the Spatial Planning Bill as one of the Acts that regional spatial strategies need to integrate with rather than being subject to a later amendment.
19. The Climate Change Adaptation Bill is expected to be introduced to parliament in 2023 as part of the broader resource management reform programme. Although there is uncertainty about the exact scope of the Climate Change Adaptation Bill, its main purpose 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 also important that regional spatial strategies seek to integrate with the requirements of the Climate Change Adaptation Act. Accordingly, the CMF also requests that the Climate Change Adaptation Act is listed in section 3(b) and section 4 of the Spatial Planning Bill as one of the Acts that regional spatial strategies need to integrate with.
20. In respect of the timing of regional spatial strategies, it would be non-sensical that they are developed before the Climate Change Adaptation Act receives royal assent. If they are developed before this, they may have to be significantly amended to address its requirements. This would be an inefficient use of resources. Accordingly, the Minister is requested to consider this in determining the timing of regional spatial strategies.

Amendments to other acts

21. The CMF also requests the amendment of the Water Services Entities Act 2022 to ensure its infrastructure strategies give effect to the regional spatial strategies. There is no mention of regional spatial strategies in the Water Services Entities Act 2022. As such and in the interests of consistency, the CMF requests the amendment of section 154 of the Water Services Entities Act 2022 to specifically require infrastructure strategies to give effect to regional spatial strategies.
22. As stated above, the Climate Change Adaptation Bill has not yet been introduced to parliament but will likely influence regional spatial strategies. Accordingly, the CMF requests that that Bill is prepared to ensure integration with the Spatial Planning Bill.

Further information

23. Our secretariat is available to provide any further information or answer any questions about our submission. Contact details are Maree McNeilly, Canterbury Mayoral CMF Secretariat, secretariat@canterburymayors.org.nz, 027 381 8924.

Nāku iti, noa, nā

A handwritten signature in blue ink, appearing to be 'Nigel Bowen', with a small comma at the end.

Nigel Bowen
Mayor, Timaru District Council
Chair, Canterbury Mayoral Forum

Appendix 1 – Amendments Requested

The proposed amendments sought are described below. Where text from the Spatial Planning Bill is quoted, new additional text sought is underlined and text that is proposed to be deleted is shown as ~~strikethrough~~.

Purpose and related provisions

1. Amend section 3 as follows:

The purpose of this Act is to provide for regional spatial strategies that—

1. assist in achieving—
 - (i) the purpose of the **Natural and Built Environment Act 2022**, including by recognising and giving effect to ~~upholding~~ te Oranga o te Taiao; and
 - (ii) the system outcomes set out in that Act; and
2. ~~promote~~ ensure integration in the performance of functions under the **Natural and Built Environment Act 2022**, the Land Transport Management Act 2003, and the Local Government Act 2002, the Water Services Entities Acts 2022, the Climate Change Response Act 2002 and the Climate Change Adaptation Act 2023.

2. The reasons for these amendments are explained in the main body of the submission.

How regional spatial strategies promote integration

3. Amend section 4 so that regional spatial strategies are required to be consistent with the:
 - a. national emission reduction plan
 - b. national adaptation plan.
4. Amend section 4 so that Water Services Entity Boards are required to ensure that their infrastructure strategy is consistent with the regional spatial strategy.

Ministerial powers to intervene and assist

5. Amend sections 60 and 62 so that the Minister can only request the Environment Court to investigate and direct a:
 - a. regional planning committee to amend its regional spatial strategy; or
 - b. regional planning committee or local authority to exercise or perform a power, function, or duty.

Urban centre of scale

6. Amend section 17(2) to clarify whether 'urban centre of scale' relates to an urban centre (e.g. town centre) or an area (e.g. town/city).

Amendments to other acts

7. Amend schedule 5 of the Spatial Planning Bill to include an amendment to section 154 of the Water Services Entities Act 2022 to require infrastructure strategies to give effect to regional spatial strategies.
8. Ensure that the Climate Changes Adaptation Bill integrates with the Spatial Planning Bill.

Other Requests

9. The Minister ensures that regional spatial strategies do not commence until the Climate Changed Adaptation Bill receives royal assent.