

Entered by Board Secretary

Resource Management Reforms

For decision: For noting:

Ngā tūtohunga / Recommendations

That the Auckland Transport Board (board):

- a) Notes that the Government has recently begun consultation on statute to replace the Resource Management Act 1991.
- b) Notes that new statute, comprising the proposed Natural and Built Environments Act and Spatial Planning Act, could have material impact on Auckland Transport (AT) activities, responsibilities and assets.
- c) Notes that Auckland Council officers will lead a group response and that AT staff will feed into this process, but that other details of the submission process are unknown at this time.
- d) Notes that AT staff are still analysing the proposed reforms, but will provide a briefing note to the board on the scope of the reforms and key implications for AT.

Te whakarāpopototanga matua / Executive summary

1. The Government is now seeking views on replacing the Resource Management Act 1991 (RMA) with the Natural and Built Environments Act (NBA) and Spatial Planning Act (SPA).
2. The reforms are designed to improve resource management outcomes, comprising both better natural environmental performance and better urban performance (including more affordable and responsive development and infrastructure). The principal means to achieve this is via two main shifts:
 - a. To refocus environmental provisions under the NBA on “outcomes”, reversing the RMA’s emphasis on “effects”.
 - b. To enable statutory spatial planning which brings together central and local government, and iwi in the development of regional spatial strategies which take an intergenerational approach to economic, social, environmental and cultural wellbeing.
3. However, the focus of new statute is limited to reforming the RMA, rather than the wider resource management system. Other components of the system, including the interaction between urban planning and infrastructure funding and provision, are not part of this phase of the reforms.

Entered by Board Secretary

4. The reforms therefore risk providing for outcome-oriented regional spatial plans which lack the resourcing and structures needed to implement programmes, including for transport.
5. It is not yet clear what role AT will play in developing regional spatial strategies, nor what obligations will fall on AT to prioritise and reprioritise investment in accordance with regional spatial strategies.
6. AT staff will support council officials in developing a group position, as directed under the Statement of Expectation.
7. As the period of consultation is not yet known, it is not clear how the council group submission process will proceed. However, it is likely that council reporting processes reduce the time available for significant board involvement in the development of AT input.
8. Management will draft a briefing note for the board (and circulate any relevant Auckland Council information) once staff have had the opportunity to read and understand the proposals.

Ngā tuhinga ō mua / Previous deliberations

9. This is the first time that directors have discussed the resource management reform proposals in detail.

Te horopaki me te tīaroaro rautaki / Context and strategic alignment

10. The resource management system is the legislative framework which oversees natural and urban environments, including development, infrastructure and environmental protection. Since 1991, this system has been led by the RMA, with the Land Transport Management Act 2003 (LTMA), Local Government Act 2002 (LGA), and several other Acts playing a supporting role.
11. Noting underperformance across environmental, housing, infrastructure and other outcomes, the Ardern Government appointed Hon Tony Randerson QC to lead a panel to review the resource management system. In June 2020, that panel recommended fundamental reform, largely along the lines of that now proposed by the government (including a new NBA, SPA and Climate Adaptation Act).
12. In 2021, government released an exposure draft of the NBA for feedback. AT staff provided input via a council group submission. The government has not previously consulted on the SPA. The Climate Adaptation Act remains under development.
13. The Ministry for the Environment has been leading development of new statute and, in recent months, has been engaging AT and other stakeholders, signalling the direction of the reforms.

Entered by Board Secretary

Ngā matapakinga me ngā tātaritanga / Discussion and analysis

14. It is proposed that the NBA will replace the RMA, providing a new framework for urban planning and environmental protection. In addition, the Government proposes creation of the SPA, to facilitate regional spatial planning.
15. The NBA will include a “National Planning Framework” comprising all government resource management direction (consolidating national policy statements and national environmental standards). A section on infrastructure for the NPF is currently being drafted by the NZ Infrastructure Commission. Commission CEO Ross Copland is currently scheduled to discuss the reforms with the board in February.
16. The NBA will also set the rules, regulations and processes around resource consents and environmental protection, including for infrastructure and development.
17. The SPA will require the development of regional spatial strategies (RSS). RSS are designed to enable integrated long term land use and infrastructure planning at a regional scale, bringing together local and central government and iwi.
18. Although staff have not yet had the opportunity to fully read and understand the content of the Bills, it is clear that the reforms will be among the largest and most complex ever undertaken in New Zealand, and will materially impact almost all aspects of transport infrastructure planning, consenting and operation. The NBA could result in different standards or regulations for existing AT assets and services. Consent processes and conditions for future transport infrastructure could change in a way which makes it more difficult to deliver planned projects. The SPA could have a material impact on the Regional Land Transport Plan (RLTP) and the strategic decision making capacity of the board.
19. Emphasis to date appears to have focused on the NBA and the shift away from managing effects to enabling environmental and urban outcomes through regional unitary plans (replacing the myriad regional, district and city plans common outside Auckland).
20. Questions of resourcing and implementation of RSSs appear to have received significantly less attention. The new framework will make provision for regional spatial strategies (already provided for in Auckland, albeit without the requirement for central government involvement), but details of how spatial plans are funded, who is accountable for delivery and when, and what weight spatial strategies carry in regard to local government or RLTP processes, are unclear. It is known that funding and implementation agreements across partners will be necessary, but not whether there will be funding available nor what the consequence will be for under-delivery.
21. It is understood that the National Planning Framework (under the NBA) will inform RSS (under the SPA), but that, in turn, the RSS will inform NBA plans. This should ensure that strategic transport projects identified in spatial strategies are consentable, but it is not clear whether or if they will be funded. Given the 30+ year horizons of RSS and ten year planning horizons of Long Term Plans, the RLTP and National Land Transport Plan, it is not clear how funding certainty can or will be provided.
22. A benefit of the new system to an infrastructure provider like AT is that strategically significant projects in a regional spatial strategy should enjoy clearer, faster and less contentious consenting.
23. Risks, however, include:

Entered by Board Secretary

- a. New or different environmental protections under the NBA which make operating some existing AT activities more difficult;
 - b. Increased complexity in planning and operating transport services in a context where outcomes are imbedded in statute;
 - c. An expectation that AT implement outcome-oriented regional spatial strategies, without new funding sources;
 - d. Unclear relationships between the investment prioritisation requirements of the LTMA and LGA, and those of the SPA;
 - e. AT Directors and staff are not adequately involved in development of regional spatial strategies leading to poor transport outcomes;
 - f. A reduced role for AT and the board in prioritising investment; and
 - g. Increased costs and time delays transitioning to the new framework.
24. The Government remains committed to passing the two new Bills into law in this election cycle (i.e. within the next year). Some doubt remains as to whether this will be possible, but progress to date suggests the government may prefer to pass basic legislation while deferring more complex issues, such as around the funding of resource management outcomes and regional spatial strategies, into the next election cycle.
25. The government referred the two Bills to Select Committee on 15 November 2022 and Select Committee will shortly announce consultation timeframes. It is anticipated that submissions will be received until late January/early February 2023.

Ngā tūraru matua / Key risks and mitigations

Key risk	Mitigation
Existing or future transport infrastructure or services are compromised by new and higher environmental rules, regulations, standards and provisions under the NBA.	<ul style="list-style-type: none"> • AT staff are engaged through the consultation process and provided with the ability to feed into the council group submission.
Regional spatial strategies place higher expectations on AT to deliver transport outcomes without adequate resourcing.	<ul style="list-style-type: none"> • AT staff work closely with Auckland Council officers to identify infrastructure, land use, planning and other risks in the new statute,
RLTP processes and the board’s role in prioritising transport investment for Auckland, are changed in a way which undermines the organisation’s role or ability to meet statutory responsibilities.	<ul style="list-style-type: none"> • Directors will discuss key risks and issues with the New Zealand Infrastructure Commission at the February 2023 board meeting.



Entered by Board Secretary

Ngā ritenga-ā-pūtea me ngā rauemi / Financial and resource impacts

26. There are potentially significant financial and resource impacts for AT from the resource management reforms, including that, through the NBA, AT is expected to deliver on higher expectations for environmental and urban outcomes, and, through the SPA, that AT is expected to implement plans for which there is insufficient resourcing.
27. Depending on the final wording of the Acts, it is also possible that AT and the RLTP play a less strategic role under the new system. Strategic transport decisions, including what future investments are needed for the region, when and where, may be transferred to the Auckland regional spatial strategy process. Central government partners may perform a larger role in funding and delivering transport services in Auckland.

Ngā whaiwhakaaro ō te taiao me te panonitanga o te āhuarangi / Environment and climate change considerations

28. A key driver for the resource management reforms is the acknowledged failure of the RMA-led system to address cumulative effects, including those relating to carbon emissions. It is anticipated that the new system will enable a much more comprehensive and successful response to climate change.

Ngā whakaaweawe me ngā whakaaro / Impacts and perspectives

Mana whenua

29. Government is leading engagement with iwi as Treaty partners.

Ngā mema pōti / Elected members

30. Council officials are still developing an understanding of the priorities of elected members. Noting guidance provided by the new mayor to date, it is expected that elected members, including the mayor, will want to shape the group position. AT staff will work closely with council officials to understand submission priorities.

Ngā rōpū kei raro i te Kaunihera / Council Controlled Organisations

31. Auckland Council officials will manage an all-of-group submission.

Entered by Board Secretary

Ngā kiritaki / Customers

32. Customer impacts will be considered as part of AT staff input.

Ngā whaiwhakaaro haumarū me ngā whaiwhakaaro hauora / Health, safety and wellbeing considerations

33. The new resource management framework is designed to improve environmental outcomes. It is expected that, over time, air quality will improve.

34. Higher standards for stormwater runoff may impact AT activities, but should be expected to improve freshwater and marine water quality.

Ā muri ake nei / Next steps

35. AT staff will feed into a group submission when consultation opens (anticipated to run into early 2023).

36. The New Zealand Infrastructure Commission / Te Waihanga CEO Ross Copland will present to the board in February 2023.

Te pou whenua tuhinga / Document ownership

Submitted by	Hamish Glenn Head of Transport Policy	
Recommended by	Jenny Chetwynd Executive General Manager Planning and Investment	
Approved for submission	Mark Lambert Interim Chief Executive	