



Responses of

The Employers and Manufacturers Association (EMA)

to the

Ministry for the Environment

on

Our future resource management system

January 2022

About the EMA

The EMA has a membership of more than 7,500 businesses from Taupo north to Kaitaia that employ around 350,000 New Zealanders.

The EMA provides its members with employment relations advice from industry specialists, a training centre with more than 600 courses, and a wide variety of conferences and events to help businesses grow.

The EMA also advocates on behalf of its members to bring change in areas that can make a difference in the day-to-day operations, such as RMA reform, infrastructure development, employment law, skills and education and export growth.

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Introduction

The Employers and Manufacturers Association (EMA) has long been in favour of reform of the Resource Management Act and both individually and through its involvement with the Resource Reform Group (RRG) continues to support that reform.

But we do have several concerns with proposed replacement system and while gaps continue to remain in draft legislation and the proposed implementation and interaction of the three replacement pieces of legislation it is hard to gain a fully functioning picture of how the reforms will work.

Our goals and the goals of the RRG were for replacement legislation that was less complex, easier to understand and navigate during consenting, faster and more efficient to meet the needs of the development, business and infrastructure communities (including housing) and gave better protection to the environment – especially as the current Resource Management Act (RMA) was visibly failing in that key requirement.

Our concern is that with three pieces of legislation and no roadmap on how they interact we are in danger of creating a system that is even more complex and costly than the incumbent. This concern was raised in Treasury's Regulatory Impact Statement (RIS)

And that system appears as if it will be implemented and managed by the same mix of central and local government officials and politicians who arguably made such a confused and time consuming process out of the previous system.

Despite including goals for economic and infrastructure outcomes in the NBEA there is no representation for those sectors in the governance or management of that Act and those communities of interest are noticeably absent from any oversight or involvement in the development of Spatial Plans.

This is particularly concerning following the Ministers' statement at last year's EDS conference in Christchurch that he "had removed references to the built environment from the NBEA because that would be dealt with in the spatial planning stages."

Central and local governments and iwi are the proposed representatives on the spatial planning committees. Economic development and infrastructure development are recognised as having key outcomes from both the NBEA and Regional Spatial Strategies (RSS) but have no representation at the table to influence or reflect those outcomes.

The EMA continues to have concerns that funding, especially at Local Government level, has been out of scope since the start of this review process and all discussions tend to remain silent on this critical issue. Local Government must have a far greater mix of funding tools, especially to meet housing and infrastructure requirements.

Similarly we continue to have concerns around an absence of discussion or reference to allocation of resources, especially what happens with existing allocations, and how they will be allocated/reallocated in the future.

Another of our key goals was the establishment of far better monitoring of outcomes and consents and the establishment of a knowledge resource on best practice.

Again it appears that monitoring will be left to the existing TLA's many of whom have limited resources, capacity and expertise to carry out such a critical function and certainly no ability to fund that process.

1. National planning framework

The National Planning Framework will give critical direction to local and regional decisions around the priority and importance of resources. The proposals will provide certainty at a local level, making it easier for local authorities to develop plans and reducing the time local authorities currently spend on determining priorities between competing interests. But meaningful local and regional consultation will still be required to enable buy-in to those decisions.

We remain concerned that the Minister for the Environment makes the final decision on national direction. While understanding the need for national direction our preference is for cross-party support for major shifts.

This Ministerial directive has led to much of the politicisation we've seen in the current RMA with incoming Ministers from different political parties imposing their own agendas to make policy shifts based on partisan views rather than what may be best for the country.

As well as constant shift in policy this has also led to constant reinterpretations by local government of those policies adding confusion to implementation and unintended consequences. The most recent example being the National Freshwater Standard that effectively halted consenting at local government level of critical quarry developments.

This has directly resulted in fragmentation of planning, uncertainty for local authorities and the private sector and piecemeal implementation and delivery of projects.

There is no certainty past limited political terms which is entirely counter-productive to a system supposedly in place to develop 30-year plans. Both the public and private sector need certainty to implement these plans.

We strongly support the NPF in terms of providing certainty to resolve the conflicts we see in the current consenting process. The main issue with our current consenting and approval process is implementation as numerous councils and officers incorrectly interpret the provisions of the RMA, the relevant plan, or are inappropriately applying personal views and preferences. Resolving conflicts at a cross-partisan national level helps remedy these concerns.

But we also support the Randerson Panel recommendation of a board of inquiry process, including the private sector for the preparation and review of national direction. Expertise should inform decision-making.

2. Natural and Built Environment Act

The removal of most of the references to the Built Environment from the original draft of this legislation is a concern as the EMA feels the balance is now too heavily weighted in favour of environmental outcomes to the exclusion and perhaps unintended consequences on the ability to enable necessary development and infrastructure.

There is a case for considering separate outcomes for high growth regions based on population and the required infrastructure and services to meet that growth.

We'd reiterate the need for good local and regional consultation to offset the perceived loss of voice created by the NPF and the reduction to 12-14 regional plans. National guidance is required but so too is some scope for regional direction and input.

3. Regional spatial strategies

The EMA, Infrastructure New Zealand, Property Council New Zealand and Business New Zealand have continually raised the importance of private sector representation at a governance level to help resolve many of the issues that are within our current resource management system.

The discussion document says that developing RSS will require multiple groups to work together to identify how the region will grow over the next 30 years but then lists only representatives from hapū/iwi/Māori, local and central government as being involved in that process.

Two of those three groups are responsible for the confused and lengthy process of implementing the current RMA and we believe critical private sector representation is missing. It is the development, business and infrastructure providers that are the major end users of plans and consenting processes.

Our view is that the private sector must have representation at the table, particularly as development and infrastructure outcomes are included as goals for the plans and the NBEA.

Private sector representation at the joint committees will help with efficiency of processes and decision-making by balancing policy and planning decisions with knowledge on whether proposals can be practically implemented, and proposed outcomes delivered within the proposed market, region or location.

The consultation document is also light on funding RSS plans will be funded. It states the need for RSS to coordinate investment from the public and private sector but does not say how. Again the private sector is likely to bear the costs or be asked to help co-fund emphasising the need for private sector membership on RSS committees. Arguably councils could have avoided expensive litigation if the private sector had been more involved in development and implementation of various Development Contributions.

4. Monitoring and system oversight

From the beginning of this process the EMA has supported the concept of enhanced monitoring, system oversight and the gathering of a central pool of knowledge to assist future development, applicants and enforcement on consent conditions.

Monitoring provides information on environmental limits and tracking progress towards targets and outcomes and provides precedents and information to help resolve conflicts and develop new or refined proposals.

There are resource constraints within councils and the EMA would support the establishment and funding of either a national or regional monitoring organisations that are also focused on delivery and implementation.

This could provide independent monitoring of delivery and implementation by councils as well as monitoring consent compliance.

5. Summary

The EMA believes that private sector involvement committees is critical to the success of the future resource management system especially in developing NBA and RSS plans.

The sector shares environmental goals – it was our jointly funded research that helped EDS identify the shortcomings in environmental protection outcomes of the current RMA - and will partner Iwi/Central and Local Government in achieving those environmental outcomes.

But we have real concerns that by not being represented at the table those desired outcomes could also create adverse outcomes for critical economic, housing and infrastructure development.

There are precedents for private sector input and that input could well prevent future delays as the sector challenges impractical initial drafts that may be unworkable on a practical level causing renegotiating and even legal delays.

Private sector representation at a committee level can ensure that doesn't happen.