

# Joint Wairarapa Combined District Plan Committee Meeting Agenda – 10 November 2020

*Meeting will be held in the WBS Room of the Greytown Town Hall and Library, 115 Main Street, Greytown.*

## Attendees:

### *Joint Committee:*

Cr Frazer Mailman	Masterton District Council
Cr Tina Nixon	
Cr Rob Stockley	Carterton District Council
Cr Robyn Cherry-Campbell	
Cr Brian Jepson	South Wairarapa District Council
Cr Alistair Plimmer	
Tirau Te Tau	Rangitāne o Wairarapa
Jason Kerehi	
Hera Edwards	Ngāti Kahungunu
Robin Potangaroa	

### *Advisory Group:*

Sue Southey	Masterton District Council
Angela Jane	
Alan Flynn	
Tony Pritchard	Carterton District Council
Dave Gittings	
Solitaire Robertson	
Godwell Mahowa	South Wairarapa District Council
Russell O'Leary	
Hamish Wesney	Boffa Miskell
Charles Horrell	

10 November 2020 - 9.00 am

## Agenda Topic

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1. INTRODUCTIONS
2. CONFIRMATION OF CHAIR FOR THIS MEETING

Note: This chairperson will only be required for this initial meeting. Future meetings will be chaired by the independent chairperson.

3. APOLOGIES

No apologies were received prior to the publication of this agenda.

4. CONFIRMATION OF AGENDA
5. CONFLICT OF INTEREST

No conflicts of interest were apparent at the prior to the publication of this agenda.

6. COMMITTEE REPORT – RECOMMENDATION FOR APPOINTMENT OF INDEPENDENT COMMISSIONER CHAIRPERSON

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Presentation by advisory group

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10. CLOSE OF MEETING

COMMITTEE REPORT – RECOMMENDATION FOR APPOINTMENT  
OF INDEPENDENT COMMISSIONER CHAIRPERSON

# Joint Wairarapa Combined District Plan Committee For Meeting on 10 November 2020 Appointment of Independent Chair

## 1 Purpose of this Report

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This report has been prepared for the Joint Wairarapa Combined District Plan Committee for the purpose of appointing an appropriately qualified Commissioner to act as the independent chair for the Wairarapa Combined District Plan Joint Committee.

## 2 Background and Context

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The Terms of Reference for the formation, delegation and appointment of Councillors to the Joint Wairarapa Combined District Plan Committee was made at the following Council meetings:

- Carterton District Council: 12 August 2020
- Masterton District Council: 5 August 2020
- South Wairarapa District Council, 14 October 2020

As part of these resolutions, the Councils resolved that the Joint Committee had the authority to:

*“appoint an appropriately qualified Commissioner as an independent Chair and the Joint Committee will appoint one of its members as the Deputy Chair”.*

## 3 Legislative Framework

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In accordance with section 39B of the Resource Management Act 1991, if the Council gives authority to a group of persons that has a chairperson (such as the Joint Committee), it may only do so if the chairperson is accredited. This accreditation are individuals who hold a current chair endorsed certificate under the RMA Making Good Decisions programme.

## 4 Options and Analysis

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Officers have undertaken an evaluation of potential candidates for the role of Chair. Officers developed criteria for the purposes of this evaluation. These criteria were:

- Current chair endorsement under the RMA Making Good Decisions programme
- Significant District Plan making experience, including at least one full regional or district plan review
- Experience in working with Councillors in a similar role
- Ability to manage diverse views and reach consensus

- Engaging approach and understands the importance and value of relationships (internal and external)
- Pragmatic approach to plan-making which is fit for purpose for the Wairarapa context
- Qualified lawyer or planner to ensure they have a thorough understanding of the legislative process
- Lower North Island based (preferred)
- Existing knowledge and relationships with the Wairarapa (preferred)
- No conflicts of interest
- Availability and willingness to commit to entire review process

Based on this evaluation, David McMahon has been identified as the preferred chair for consideration by the Joint Committee. Attached to this report is David McMahon's CV.

## 5 Considerations

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### Tangata Whenua

The Joint Committee includes two members representing the local iwi entities within the Wairarapa.

### Climate change

Not relevant to this appointment.

### Financial

Costs of the Chair will be covered by the budget for the District Plan Review.

### Community engagement

Not relevant to this appointment.

### Risks

Considered as part of the evaluation referred to above, particularly the availability and willingness to commit to the entire review process.

## 6 Recommendation

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Appoint David McMahon as the independent Chair for the Joint Wairarapa Combined District Plan Committee.

Report prepared and reviewed by:

**Charles Horrell/Hamish Wesney - Boffa Miskell**

**Sue Southey – Masterton District Council**

**Dave Gittings – Carterton District Council**

**Russell O’Leary – South Wairarapa District Council**

## **Appendices**

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### **Appendix 1: David McMahon CV**

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## DAVID MCMAHON – DIRECTOR AND PRACTICE MANAGER; RESOURCE MANAGEMENT GROUP LIMITED

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### SKILLS, EXPERIENCE & BACKGROUND



David McMahon has 30 years' experience in urban and environmental planning, representing both public and private interests. He is a founding director of RMG, established in 2001. Following the Christchurch earthquakes, David moved to Wellington to establish an RMG practice.

While David's workload in recent years has been heavily geared towards commissioner appointments at local council and EPA boards of inquiry level, many of the former relate to plan and plan change reviews. David also continues to be heavily involved in plan preparation and consent application and processing work for a range of local government and other clients.

David has substantial experience in:

- Hearing and deciding submissions on district and regional plans and major resource use and infrastructure projects
- Providing planning policy advice to local government and private clients
- Preparing and representing submissions and evidence on legislative, policy and plan reviews
- Leading long-term and complex consenting strategies
- Preparing resource consent applications to territorial, regional and unitary authorities
- Engaging and managing specialist consultants
- Practice and office management
- Liaising and communicating with clients

David's relevant project experience traverses:

- Planning policy advice:
  - Advice and preparation of submissions on the Christchurch City Replacement District Plan for various clients
  - Advice and preparation of submissions on the Canterbury Regional Policy Statement for various clients
  - Advice to Wellington City Council with respect to Plan Change 72 (suburban commercial provisions) and 73 (medium density provisions)
  - Overseeing a review of designation provisions for Wellington City and Nelson City Council
- Commissioner roles relating to numerous plans and plan reviews:
  - Submissions on the Proposed Kapiti Coastal District Plan
  - Submissions to the Greater Wellington Proposed Natural Resources Plan
  - Wellington City Plan Change 81 relating to the rezoning of 320 The Terrace and delisting of Gordon Wilson Flats
  - Private Plan Change 84 to the Kapiti Coast District Plan (Airport Zone)
  - Flooding Overlays and Southern Hills Landscape Overlay provisions for Upper Hutt City Council
  - Institutional Precinct Zone for the Hutt City Council
  - Port noise and inner city noise provisions for Nelson City Council
  - New commercial zone and Network Tasman overlay for Tasman District Council
- Commissioner roles relating to significant regional developments including:
  - Boards of Inquiry for the Basin Bridge flyover proposal and Transmission Gully notice of requirement
  - Castle Hill, Project Central, Project Hayes, and Project West Wind windfarms and Greytown and Masterton Wastewater treatment plants
- Consents for the Overseas Passenger Terminal Redevelopment, Hilton Hotel, and temporary relocation of marina activities to Evans Bay

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### HOME LOCATION

Wellington



COMMITTEE REPORT – SCOPE OF DISTRICT PLAN REVIEW

# **Joint Wairarapa Combined District Plan Committee**

## **For Meeting on 10 November 2020**

### **Scope of District Plan Review**

## **1 Purpose of this Report**

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The purpose of this report is to seek direction and confirm the scope of the District Plan Review. The report sets out the legislative requirements for a District Plan Review, the potential implications of upcoming Resource Management Act (“RMA”) reform and the findings of the initial scoping of the review. Options for the scope of the report are set out for consideration by the Joint Wairarapa Combined District Plan Committee. This report also makes recommendations on what the most appropriate course of action in the current environment based on our assessment.

## **2 Background and Context**

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### **2.1 Current RMA Requirements**

The RMA requires all operative provisions of a plan to be reviewed every 10 years. The current Wairarapa Combined District Plan was made operative in 2011, with most of the chapters in the Plan not subject to any review or change since this time. These chapters include heritage (apart from updates to schedules), coastal environment, indigenous biodiversity, natural hazards, public access, noise, signs, Rural Zones, Residential Zones, Commercial Zones, and Industrial Zones.

The review provides an opportunity to consider whether there are implementation issues, update provisions to reflect current practice, and ensure alignment with national and regional policy direction.

### **2.2 Higher Order Planning Documents**

Through the review process, the new Proposed Combined District Plan will need to be developed to implement the National Planning Standards which set the structure and format for new District Plans (and including some specific defined terms). These standards mean that even if existing plan provisions and/or chapters are considered effective by the review process, they will likely still need to be re-structured and re-formatted to align with the National Planning Standards. In addition, the National Planning Standards require the new Combined District Plan to be produced to meet minimum electronic (online) functionality and accessibility, such as an e-plan.

An initial review of the higher order planning documents (e.g. National Policy Statements and Regional Policy Statement) has identified that the following higher order planning documents need to be given effect to:

- National Policy Statement on Urban Development (2020)
- National Policy Statement for Freshwater Management (2020)
- New Zealand Coastal Policy Statement (2011)

- National Policy Statement for Indigenous Biodiversity (currently at proposed stage)
- National Policy Statement for Highly Productive Land (currently at proposed stage)
- Regional Policy Statement for the Wellington Region, particularly the policies relating to natural hazards, heritage, natural environment and landscape and coastal environment

## 2.3 Local Planning Documents

The three Wairarapa District Councils have prepared or are preparing strategies and plans which provide direction for the District Plan Review. These strategies and plans include:

- Masterton Urban Growth Strategy
- Masterton Town Centre Strategy
- Carterton Urban Growth Strategy
- Carterton East Structure Plan
- South Wairarapa Spatial Plan

## 2.4 Implementation Issues

The District Plan Review also evaluates the efficiency and effectiveness of the provisions in the Operative District Plan. This evaluation assesses whether the objectives in the Operative District Plan are being achieved and how the policies and methods (including rules) are influencing this outcome. This evaluation also considers the costs of the methods in achieving the outcomes.

There are also implementation and interpretation issues which have informed the scope of the District Plan Review.

Based on the above policy directions, known issues with the current District Plan, the following topics have been identified as priority for review:

- Residential Zone, including providing for more intensive housing and expansion of the residential zone
- Rural Zone, including subdivision and non-primary production activities
- Commercial Zone, including the compatible/incompatible activities
- Natural hazards, including areas subject to flooding and seismic risks

## 2.5 RMA Reform

Central government has signalled it will be reforming the RMA. The Labour Party manifesto for the 2020 general election included “repealing and replacing the RMA”.

This reform commenced prior to the recent general election when the previous government commissioned a comprehensive review of the resource management system in New Zealand. The government stated the *New Directions for Resource Management in New*

*Zealand* report is the most significant, broad ranging and inclusive review to take place within the system since the RMA came into force in 1991.

The Resource Management Review Panel<sup>1</sup> reported their recommendations to the Government in June 2020 on “new directions for resource management in New Zealand”<sup>2</sup>. The recommendations in the report (commonly referred to as the ‘Randerson report’) if enacted would have significant impacts on the process of resource management planning within the Wairarapa and across the Wellington region.

In particular, the Randerson report recommends replacing the RMA with three new pieces of legislation, as well as replacing District Plans with new mandatory Combined Plans (combined regional and district plans). The Labour Party manifesto states ‘they are committed to implementing the core recommendations of the Randerson report, and to working through other details, including by way of a select committee process’.

In commencing the review of the Wairarapa Combined District Plan, the Councils should be cognisant of this report and its recommendations, and actively monitor announcements by the government on RMA reform.

A paper (in **Appendix 1** to this report) has been prepared which provides a brief outline of the key recommendations relevant to plan-making and review processes, and potential implications and considerations relevant to the review of the Wairarapa Combined District Plan.

### 3 Legislative Framework

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Meeting the obligations of the Resource Management Act 1991 is a key driver for the District Plan Review. Under Section 79 of the RMA, Council is required to commence a review of a provision in the District Plan if it has not been reviewed or changed during the previous 10 years. As outlined earlier, most of the current District Plan has not been reviewed in the last 10 years.

The process and timeframe for the review will be designed to comply with the requirements of the RMA. These requirements include the nature and level of engagement (particularly with iwi) and nature and level of evaluation on alternatives.

### 4 Options and Analysis

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Following a review of the current RMA requirements, higher order documents and the implications of the Randerson Report, the Officer Advisory Group discussed four possible options to move forward with the District Plan Review. These options entail either waiting to see what the recently elected government announces over the next few months, simple/discrete plan changes, a partial review or a full review of the District Plan. These options and their implications are discussed below and a summary of the pros and cons of each option is provided in **Appendix 2** of this report.

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<sup>1</sup> The review was conducted by the independent Resource Management Review Panel chaired by retired Court of Appeal Judge, Hon Tony Randerson, QC.

<sup>2</sup> See <https://www.mfe.govt.nz/rmreview> for links to the Panel's full and summary reports

## 4.1 Option 1: Pause and Wait

Option 1 places a hold on any further plan review work until the Government announces a work programme for the RMA reform. Once this work programme is known, the Committee can make a decision on the scope and timing of the District Plan Review.

This option may enable more certainty and, by waiting until the work programme is released, a better understanding of the priorities of the new Government and their likely timeframes for reform. This option also provides some cost and time savings to the councils in the short-term, but not necessarily in the long term, and could be perceived by the public as being fiscally responsible given the current level of uncertainty regarding the nature and extent of the RMA reform.

On the other hand, placing a pause on further plan review work could impact on any council promises and commitments that have already been made regarding the timing and expenditure for the review. Delaying the review may also have implications for other projects and work programmes which the District Plan may influence in terms of timelines and the relationships and linkages between them (e.g. CDC's earthquake prone building policy).

The Councils may be subject to criticism that they are not doing anything, particularly as there is an understanding that there are changes that need to be made to the Plan. However, delaying further work may hinder the ability to define issues of importance for the region at a local level if preliminary work is not progressed early on and before a national-level announcement on RMA reform is made. In addition, Option 1 comes with the risk that Councils may still not have any more clarity or certainty in 2 – 6 months' time than what we have now.

## 4.2 Option 2: Simple/discrete plan changes

The approach of Option 2 is to progress simple/discrete plan changes that are targeted at addressing specific plan implementation issues, and/or ensure the Combined District Plan is consistent with current national direction (e.g. NPS-UD). The approximate timeframe for this option is 12-18 months.

Preliminary work could be undertaken to identify and investigate the priority issues, irrespective of any Government announcement which would avoid the potential inertia under Option 1. This option would enable progress to be made on the high priority matters that need immediate solutions / updating (e.g. specific subdivision provisions, heritage, notable trees, financial contributions). In addition, if Option 2 was selected, the initial work would also be relevant and could inform Options 3 and 4, regardless of the government announcements and timelines. The preliminary work can be used to start shaping a local response on some of the priority issues, although not as much as what would be possible in Option 3.

However, Option 2 comes with several disadvantages, including that this option does not address any of the larger, more strategic planning issues that are facing the three districts. A discrete approach to address the smaller, specific issues, could result in these problems being 'patched up' rather than comprehensively addressed. This approach could also lead to unintended consequences that may require further changes, and a disconnect between the amended parts of the plan and those that haven't been changed. Whilst this approach allows a local response to highest priority issues, it may be difficult to get agreement on which issues are the highest priority to address. This option also has potential for scope creep, as many parties will have priority issues that require an "immediate" response. In addition, this option would not implement the requirements of the National Planning Standards. Therefore, additional work would be required in the future to implement these requirements by 2024.

As there will still be a reasonable amount of work involved in preparing discrete plan changes, this option may not be the most efficient and effective based on the cost to benefits as opposed to the partial review. Option 2 could still be relatively costly and time consuming depending on the plan change topics that are selected.

### **4.3 Option 3: Partial review**

This option would progress a partial review of the District Plan to address a broader set of key issues, in addition to addressing plan implementation issues and ensuring consistency with national direction (e.g. National Policy Statements, National Environmental Standards documents). This option would entail a more substantial review of plan content (e.g. approximately half to two-thirds of the current plan). It is estimated this partial review would take approximately 18 months – 2 years.

The advantages of a partial review is that it could address some of the larger, more strategic planning issues facing the three districts (e.g. planning for new growth – residential and business and the relationships with other matters like heritage and character; rural subdivision; natural hazards and climate change). In addition, this option could comprehensively review whole zones and interface issues (rather than just specific/discrete zone provisions under Option 2).

Furthermore, if the government proceeded with a Combined Plan approach under the RMA reform, the work on a partial review could be used to influence the future Combined Plan. This work could enable more local control of the review focus/purpose if/while higher level direction is shaped.

The disadvantages of a partial review are the level of uncertainty over the next few months as to the potential RMA reform and implications for plan making – this could result in time lost/wasted investigations/ or progressing matters that are not relevant in the future. In addition, it could be difficult to get agreement on what the most important issues/topics for review are – it could be influenced by strong advocacy from specific interest groups/ organisations. There will still be limits as to what parts of the plan/provisions are reviewed and what is not – this could mean some parts of the plan “lag behind” i.e. they are not as current and up-to-date as the parts that are reviewed.

The partial review would be undertaken within existing planned timeframe and budget. Depending on the final scope of the partial review, and if the partial review addresses some of the more significant issues, the time and costs may not be too different from a full review.

### **4.4 Option 4: Full review**

This option is the full review originally anticipated by the Councils. All chapters would be reviewed and a new District Plan would be prepared to replace the existing District Plan. The new District Plan would be prepared to implement all the requirements in the National Planning Standards. The full review would take approximately 3 – 4 years.

The advantages of a full review are that it enables all issues to be reviewed, including key strategic issues. In addition, it would mean issues of importance to the community and stakeholders would be considered. This option also enables an “all of plan” approach to be taken to plan development and would support a high-level of cross-plan integration of provisions (i.e. avoiding the “patchier”/ priorities driven approach).

Also, any RMA reform process is likely to have a reasonably long timeframe in terms of transitioning to a new resource management regime. In addition, it would take some time to

develop a new Combined Plan for the region, therefore a fully reviewed District Plan could be completed before the reform is in place.

The disadvantages of a full review are that it could result in the development of a new district plan that has a short lifetime and that requires potentially extensive change again shortly after its adoption – this would be costly in terms of time and money invested by the three councils and could be seen as inefficient. The timeframe for completing a full review could extend beyond the current nominated 3-4 year timeframe creating cost and other resourcing implications. In addition, the Councils could be perceived as ignoring the national-level political desire for change to the RMA and its associated planning documents.

However, it is difficult to accurately anticipate the changes that may be decided by the Government in terms of the nature and scope of the replacement RMA plans and the timeframe for transition.

## 5 Considerations

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### 5.1 Tangata Whenua

The need to ensure that Māori have an effective role in the review, consistent with the principles of Te Tiriti o Waitangi. Two mana whenua representatives can be appointed to the Joint Committee. In addition, a partnership with mana whenua would be a key part of the review.

### 5.2 Climate change

Climate change considerations will be made through the review process, including the topics to be reviewed.

### 5.3 Financial

All options outlined in this report are within the existing budgets for the District Plan Review. The relative costs of each option are noted in the analysis above.

### 5.4 Community engagement

All options outlined in this report would involve community engagement. Once the scope of the review is confirmed, a Communications and Engagement Plan will be prepared for the review.

### 5.5 Risks

All options outlined in this report involves different risks as noted in the analysis above.

## 6 Recommendation

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The Officer Advisory Group recommends **Option 3: Partial Review**.

At this time, Option 3 is considered the most appropriate option as it enables the key issues to be addressed and would be efficient and effective use of Council and community resources in the context of pending reform. Active monitoring of government announcements

on RMA reform would occur, and the Committee could re-consider the scope and approach to the review at any time.

Report prepared and reviewed by:

**Charles Horrell/Hamish Wesley - Boffa Miskell**

**Sue Southey – Masterton District Council**

**Dave Gittings – Carterton District Council**

**Russell O’Leary – South Wairarapa District Council**



## **Appendices**

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Appendix 1: Resource Management Review 2020 - A Summary of Potential Implications for the Review of the Wairarapa Combined District Plan

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# RESOURCE MANAGEMENT REVIEW 2020: A Summary of Potential Implications for the Review of the Wairarapa Combined District Plan

## 7 INTRODUCTION

The Resource Management Review Panel<sup>3</sup> reported their recommendations to the Government in June 2020 on “new directions for resource management in New Zealand”<sup>4</sup>. The recommendations in the report (commonly referred to as the ‘Randerson report’) if enacted would have significant impacts on the process of resource management planning within the Wairarapa and across the Wellington region.

In particular, the Randerson report recommends replacing the Resource Management Act (RMA) with three new pieces of legislation, as well as replacing District Plans with new mandatory Combined Plans (combined regional and district plans). In commencing the review of the Wairarapa Combined District Plan, the Councils should be cognisant of this report and its recommendations, and actively monitor announcements by the government on RMA reform.

The purpose of this paper is to provide a brief outline of the key recommendations relevant to plan-making and review processes, and potential implications and considerations relevant to the review of the Wairarapa Combined District Plan.

## 8 ISSUES THE RESOURCE MANAGEMENT REVIEW IS RESPONDING TO

The key concerns/issues the review is responding to are identified (by the Randerson report) as:

- **The natural environment is under significant pressure:** the way we use land and water has proved to be unsustainable for the natural environment. The quality of freshwater, coastal and marine environments is in serious decline, and biodiversity is under significant threat.
- **Urban areas are struggling to keep pace with population growth:** poorly managed urban growth has led to increasing difficulty in providing affordable housing, worsening traffic congestion, greater pollution, and reduced productivity.
- **An urgent need to reduce carbon emissions and adapt to climate change:** the impacts of climate change are already affecting where people live and use the environment. Land and resource use patterns need to change to mitigate and adapt to the effects of climate change and a resource management system is required that supports New Zealand’s commitments to reduce greenhouse gas emissions.
- **The need to ensure that Māori have an effective role in the system, consistent with the principles of Te Tiriti o Waitangi:** when it was enacted, the RMA was a significant step forward for Māori, offering opportunities for shared management of the environment. However, it has failed to live up to its promise, leaving Māori out of critical decision-making.

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<sup>3</sup> The review was conducted by the independent Resource Management Review Panel chaired by retired Court of Appeal Judge, Hon Tony Randerson, QC.

<sup>4</sup> See <https://www.mfe.govt.nz/rmreview> for links to the Panel’s full and summary reports

- **The need to improve system efficiency and effectiveness:** significant criticisms of the RMA have been its increasing complexity, cost and delay caused by its processes, uncertainty, and lack of responsiveness to changing circumstances and demands.

## 9 HOW THE PROPOSED SYSTEM DIFFERS FROM THE CURRENT RESOURCE MANAGEMENT SYSTEM

Rather than attempt to amend the RMA, the Panel concludes that the RMA should be repealed and replaced with new legislation.

The review proposes repealing the Resource Management Act and amending the Local Government Act (LGA), Land Transport Management Act (LTMA), and Climate Change Response Act (CCRA). The functions in the RMA would be covered by two new pieces of legislation: A Strategic Planning Act (SPA) and a Natural and Built Environments Act (NBEA).

In addition, the Panel proposes a new discrete piece of legislation called the Managed Retreat and Climate Change Adaptation Act. This Act would establish an adaptation fund to enable central and local government to support necessary steps to address the effects of climate change and would help deal with the many complex legal and technical issues involved in the process of managed retreat.

The figure in **Appendix 1** to this document outlines the proposed future environmental management system recommended by the Panel in their report.

### 10 Strategic Planning Act (SPA)

The purpose of the SPA would be to set long-term strategic goals and facilitate the integration of legislative functions across the resource management system. The SPA would sit above the Natural and Built Environments Act (NBEA), as well as the Land Transport Management Act, Local Government Act, and Climate Change Response Act. It would likely also inform other council policies such as those under the Reserves Act.

The SPA mandates the preparation of a long-term regional spatial strategy. The spatial strategy would replace regional policy statements and other regional-level spatial plans. It would be prepared by consensus by a joint committee comprising central government, local and regional councils, and mana whenua representatives, with the responsible minister resolving any disputes. It would need to be consistent with the biophysical environmental bottom lines in the NBEA, with any national direction, and with the purposes of the LGA, LTMA, and NBEA. It would integrate resource management planning with other facets of regional and local planning such as infrastructure provision and funding. It would encompass land and the coastal marine area.

The regional spatial strategy would in turn inform the development of the new combined plan, as well as other planning documents that are likely to remain in place under the new regime, such as the regional land transport programme and council long term plans. A key aim is to ensure closer links between land and resource planning and associated funding and investment.

### 11 Natural and Built Environments Act (NBEA)

The NBEA would have a substantially different approach from the RMA but would incorporate some of the key RMA principles which remain appropriate. The aim of the NBEA would be to establish more enduring solutions and bring to an end the series of ad hoc interventions that have been an undesirable feature of legislative change to date.

There would be a new purpose for the NBEA: enhancing the quality of the environment to support the wellbeing of present and future generations. This purpose will be achieved by promoting positive outcomes for both the natural and built environments, ensuring that use, development and protection of resources only occurs within prescribed environmental limits, and that the adverse effects of activities on the environment are avoided, remedied or mitigated.

A further purpose of the NBEA would be to recognise the concept of Te Mana o te Taiao which is an expression of the importance of maintaining the health of air, water, soil and ecosystems and their capacity to sustain life. A similar concept is already incorporated in section 5(2)(b) of the RMA and the more recent national direction developed under the RMA.

The NBEA would set biophysical environmental bottom lines and provide most of the regulatory processes currently provided under the RMA. These processes would include preparation of a mandatory combined plan, a regional-level document that would replace current district plans, regional plans, regional coastal plans, and regional policy statements. The combined plan would need to be consistent with the purpose of the NBEA, any national direction, including national planning standards, and the long-term regional spatial strategy.

## 12 The contents of combined plans

There would be 14 combined plans nationwide: one for each region, but with Tasman, Nelson, and Marlborough combined into one. Thus the three Wairarapa districts would be part of a Wellington Region combined plan.

Combined plans would generally follow the same model as current unitary or combined plans. Despite being a single document, plans would still distinguish between provisions handled by regional authorities and territorial local authorities. Plans could also be divided territorially, including into constituent council areas.

Combined plans would be expected to be more prescriptive and leave less to the consenting stage. They would be “outcomes-based”, rather than “effects-based”. Objectives will be replaced with “targets”, which would be expected to be more quantitative and detailed. Plans would still include policies and other methods, and rules would still provide for permitted activities and conditions, and specify activity statuses, matters of discretion, or assessment criteria for activities requiring resource consent. The recommendations include removal of the non-complying activity status category.

The Panel’s expectation is that there would be a larger scale/range of permitted activities within the combined plan, with more detailed conditions, more controlled and restricted discretionary activities (with more specific matters of control or discretion), and conversely, wider use of prohibited activity status. Combined plans should also try to avoid using a generic discretionary status for activities. The current resource consent types – land use and subdivision consents, and water, discharge and coastal permits – would remain.

## 13 The combined plan process

The combined plan would be produced by a joint committee process between all councils in the region, although it would still incorporate the general split the RMA has between regional and district functions.

At the centre of the combined plan development process is a standing joint committee, which would include representatives from the regional council and each constituent territorial authority in the region, as well as the Department of Conservation (DoC) and mana whenua. The recommendations

are silent on the number of representatives there would be from councils and mana whenua. The joint committee would have its own staff, likely seconded from constituent councils or private contractors, although as joint committees would be permanent bodies, they may end up having some dedicated staff.

The committee would run early public engagement, including a semi-formal public “discussion document” and “scene-setting” hui. The committee would draft a plan, which would be audited by the Ministry for the Environment. The resulting plan would be notified in a similar way to the existing RMA Schedule 1 process. Plans would require an assessment of the different options, although simplified from the current section 32 report. Councils and mana whenua would be able to make submissions on the combined plan.

An independent hearings panel, chaired by an Environment Court judge, would hear submissions and further submissions (i.e. a similar process to that used for the Auckland Unitary Plan). The hearings panel would make recommendations back to the joint committee. The joint committee would then make final decisions on those recommendations: it would have authority to make final decisions without going back to the constituent councils, DoC, or mana whenua bodies.

In respect of any recommendation rejected by the joint committee there would be a right of appeal to the Environment Court on the merits by any submitter. Where recommendations are accepted by the joint committee, appeals would only be allowed on points of law to the High Court.

There are obvious difficulties of operating such a committee on a voting model (would DoC and mana whenua have voting rights, would regional versus territorial local authorities have different weight, should the votes of local authorities would be weighted by population, etc.). Therefore, the committee would be expected to operate by consensus. There would be a formal dispute-resolution process within the committee, including facilitated mediation, but ultimately the Minister would decide in situations where the committee still cannot reach consensus.

**Appendix 2** to this document includes a figure summarising the Combined Plan development process.

## 14 Reviewing and changing the combined plan

The preparation of combined plans would be undertaken after the preparation of a spatial strategy for the region and would be reviewed at least every nine years, with flexibility to review more often.

Plan changes are not addressed in detail in the report’s recommendations, other than some acknowledgement that the process may need to be simpler than the full combined plan process outlined above to account for the nature, scale and complexity of the change. The joint committee could propose changes itself, and would be required to hear proposals from constituent councils and private plan change applications. Private plan changes would still be possible but with greater constraints on when and in what circumstances that may occur.

The new provisions would replace all plan-making processes available under the RMA.

## 15 Transition timeframes

In terms of transition timeframes to the new resource management system, the Panel’s recommendations (Chapter 16 of the Randerson report) provide direction as follows:

- New legislation is to be in place by the time the Covid-19 recovery (fast tracking) legislation expires (i.e. 2 years from the 8 July 2020, which would be July 2022)

- Mandatory national directions are to be completed within 3 years of the new Natural and Built Environments Act coming in (i.e. 3 years from July 2022, which would be July 2025)
- Overall transition process to be completed within 10 years of the new legislation coming in (i.e. by July 2032)
- The preparation of a combined plan would follow the completion of the regional spatial strategy
- Notwithstanding the above timeframes, some work (i.e. data collection and analysis) should start immediately in order to establish a robust evidence base for setting targets and limits.

It is also noted that the recommendations state that one region would be selected by the Minister to effectively be a 'Guinea pig' for the development of the new plans required under the system, thereby providing a model for other regions to follow.

## 16 POTENTIAL IMPACTS FOR THE THREE WAIRARAPA COUNCILS

The Panel's recommendations, if enacted, would involve significant change for the plan review and plan-making process of the three Councils, and particularly, the level of political direction the Councils would have over the resource management outcomes in their respective districts.

It is considered unlikely that the Panel's recommendations would be enacted exactly as-is, and in some cases, the detail of the recommendations is relatively vague. However, some of the broad themes coming out of the Panel's recommendations and their potential impacts include:

### 17 Greater national influence/control

The RMA has long had substantial powers for national direction, although they have not been used on most topics until more recent times. The Panel clearly envisions a larger level of national direction under the new system than currently present under the RMA.

National direction would become a broad, routine feature of the new system (although it is likely to become so under the RMA regardless of any broader reforms/change, as the recent activity in national direction demonstrates). Increased levels of national direction may focus local decision-making on specific local issues where national direction provides options.

However, the explicit audit stage by the Ministry for the Environment returns to the more directive approach of the Town and Country Planning Act where central government approval is needed for planning schemes. This requirement is a big unknown that could either be a formality in practice, or involve a significant up-front role for central government.

The additional power for the Minister of the Environment to resolve disputes within the joint committees, even if it is seldom used in practice, would also in practice give a large amount of sway over decisions.

### 18 Greater regional control

The main detail of the new planning system would be the development of a regional spatial strategy (under the SPA) and a combined regional and district plan (under the NBEA). Both of these documents would apply at the Wellington Region level.

While the process of development would still formally include both Greater Wellington Regional Council and the eight district/city councils, it would involve a greater level of direction by the regional council into district-level land use planning than is the case at present.

Conversely, territorial local authorities would also be involved in regional policy-setting to a greater degree than at present. In addition, territorial local authorities would no longer be as independent of each other.

## 19 More focus on outcomes

The Panel's proposals put environmental outcomes at the heart of the system, rather than environmental effects. This change may provide more specific questions about strategy for communities and elected officials to grapple with. This change also means trade-offs between values can be more explicitly addressed at plan-making time, where public involvement is at its greatest, rather than at the consenting stage.

## 20 More focus on consensus between stakeholders

The present system under the RMA puts city and district councils in control of exercising their own specific resource management functions, and regional councils theirs. While the plan-making process involves a large number of parties who can influence the process, the Council is seen as being at the heart of it, and ultimately decides by a majority vote of elected councillors. Other than Environment Court appeals, the Council in principle retains the final say. The Council is also much more heavily involved in the drafting stage – committees have numerous workshops and provide direction, and the actual plan content is largely drafted by Council staff.

The proposed new system would move this position/responsibility from Council to the joint committee, and decisions would be based on consensus and mediation rather than majority vote. Councillors participating in this system would need to juggle their individual council's interest, while also reaching consensus with the other parties, all under the knowledge that disputes can be resolved by Ministerial decision. Staff writing the plan would be directed by the joint committee as a whole, and individual councils would be one voice amongst the other councils, mana whenua and DoC representatives.

## 21 Lesser role for elected councillors

The exact size and composition of the proposed joint committee is not detailed in the Panel's report, and any option presents a number of challenges.

A system with a fixed number of seats per council would advantage rural councils, while a more proportional system risks being dominated by Wellington City in the Wellington region context. In some ways this echoes the potential issues raised during proposals to amalgamate councils, with the added issue of much more indirect democratic accountability.

Only the councillor or councillors chosen to represent the Wairarapa councils on the joint committee would have any significant influence, since they would have delegated authority to make final decisions. These councillors would most likely need to have passed some equivalent to the Making Good Decisions programme run by the Ministry for the Environment. They would need to be capable of representing the entire council (or councils) while working in a consensus-based environment with other stakeholders (including DoC and mana whenua representatives) with a number of different and potentially conflicting interests.

The local authority would have some say in the make-up of the independent hearings panel, although once this panel is appointed there would be no further influence on the panel.

Lastly, the councils would be able to make a submission on the combined plan, although the submission would have the same formal weight as any other organisation or person submitting on the plan.

## 22 Uncertain transition process and timeframe

The Panel's report includes recommendations setting out timeframes for transitioning to the new system (summarised above). Given the extensive changes recommended, the transition to a new system will be a lengthy process. For example, the preparation of a regional combined plan would follow the completion of the regional spatial strategy, and it would need to implement new mandatory national directions developed under the Natural and Built Environments Act (which will take time for central government to develop). The process of developing the new plans required under the new legislation will likely be similar in nature to that which was required to transition from the Town and Country Planning Act to the RMA in the early-late 1990's.

While there is a clear expectation by the Panel that the implementation of reforms should take place as soon as possible, this is tempered by the need for a stable and smooth transition. Their expectation is that a full transition would be completed within 10 years of the new legislation coming in, i.e. by mid-2032 (approximately 12 years from now).

The Councils will need to consider the likely transition timeframe to a new system as part of the consideration of the scoping of options for the review of the Wairarapa Combined District Plan. There will be numerous matters to consider. For example, whilst pausing and waiting to see what the nature and extent of reform the next government directs may enable a better understanding of the specific reform proposals and timeframes, it may take some time for a reasonable level of clarity and certainty to be developed. Pausing may also provide some short term resource and time savings for the Councils and may be perceived as being fiscally responsible given the current level of uncertainty, but it may not necessarily deliver significant savings or benefits in the longer term. It may also mean that key parts of the current District Plan which are already in need of review and updating (e.g. as a result of new national directions and/or plan implementation issues) become increasingly outdated and difficult to work with.

On the other hand, continuing with a review under the current legislation and plan review/plan-making process would enable progress to be made on the key matters that require addressing, and the work undertaken would likely have relevance whatever the decision on reform is. It would also enable the Councils to front-foot and shape up a local response on key issues that will be discussed at a regional level should the regional spatial plan and combined plan proposals be adopted. However, it could also mean that time and resource is spent on progressing matters that are not relevant under the new system.

## 23 Cost and resourcing of change

The Panel's report stresses that the success of its proposal will be dependent on the capability and capacity of central and local government to adequately fulfil the roles required of them.

Given the scale of proposed change, the costs of achieving the Panel's proposals are likely to be significant. For example, the development of a spatial plan and a combined plan for each region will require significant ratepayer resources, as well as demands on the public and private sector users of the resource management system to fully participate. The development of the Auckland Unitary Plan provides an example of the scale of costs and resources required to fully integrate land use and coastal resources planning at a regional level.



The Panel's proposals for change are also being made at a time when the finances of central and local government, along with all stakeholders, will be constrained due to the economic impacts of COVID-19. The Panel's vision for change will therefore be challenging to achieve without a major funding and resourcing step-change. In particular, central government funding for the delivery of regional spatial plans and combined plans by regional and local authorities will be required, given the significant constraints local government is already facing with funding all their different activities, primarily through property rates.

## 24 CONCLUSION

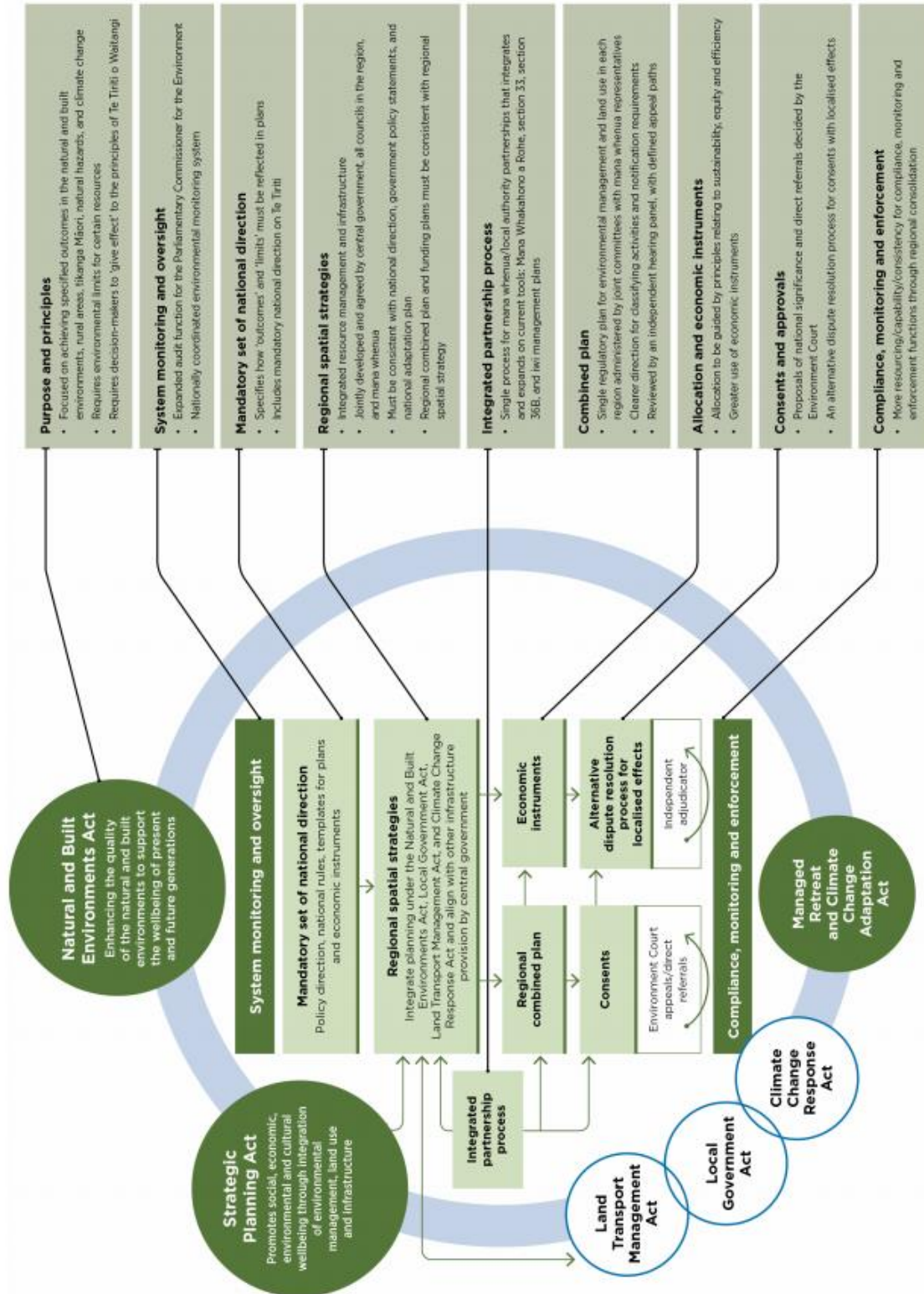
The Panel's recommendations, if enacted, would involve significant change for the plan review and plan-making process of the three councils, and particularly, the level of political direction the Councils would have over the resource management outcomes in their respective districts.

The report is an independent view from a government appointed panel therefore the recommendations carry no specific weight. However, the current government has made supportive comments about the findings of the report, and if re-elected, the Panel's recommendations will likely form the basis for reform.

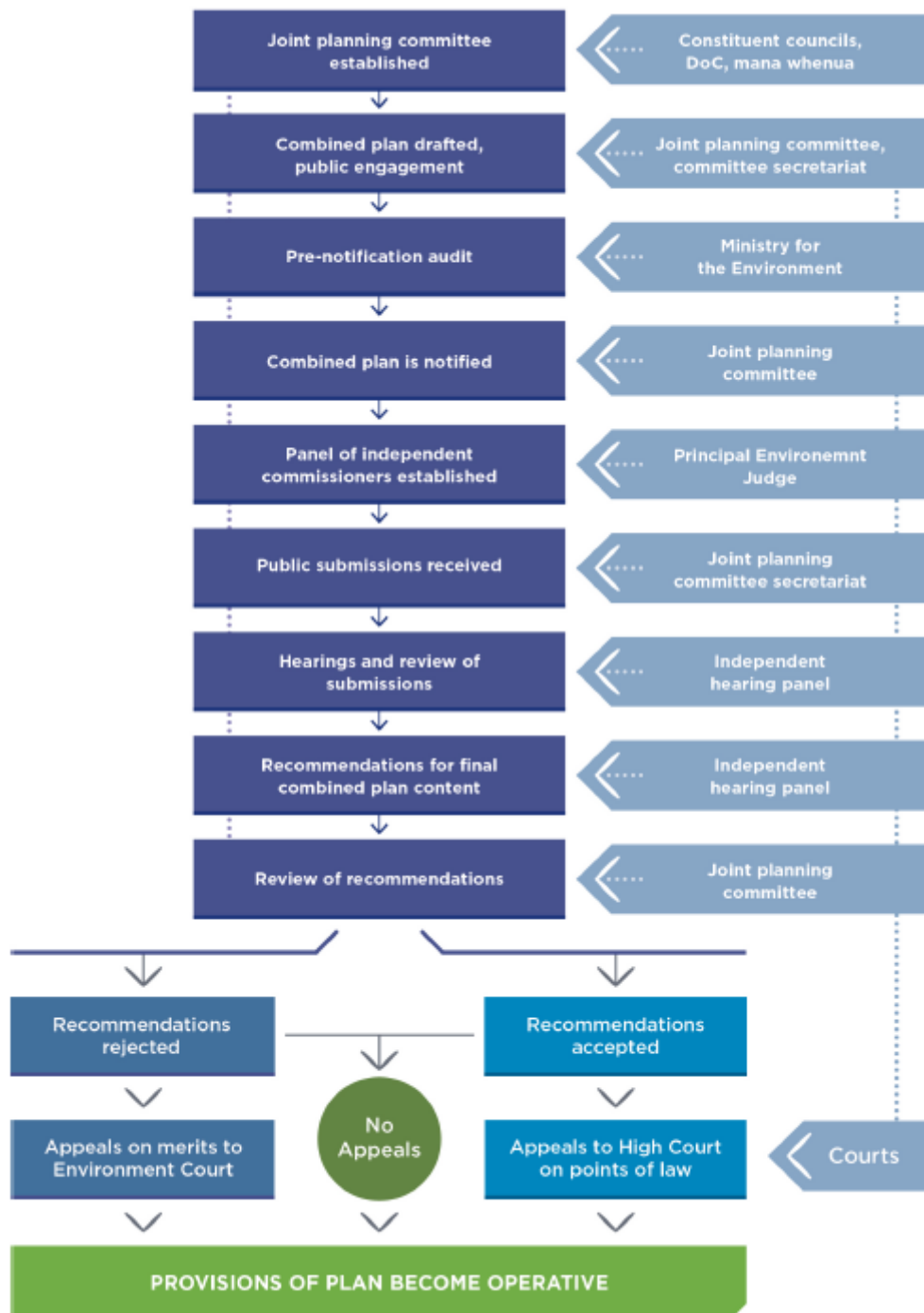
It will be up to the government elected in October to decide on how (or if) the Panel's recommendations are acted on. However, it is noted that all political parties have indicated that they are open to changing the current resource management system so some level of change in the next few years is inevitable.

With the upcoming general election, we suggest the Wairarapa Councils actively monitor any announcements on RMA reform from the government post-election. The Councils should then consider these announcements and confirm how they wish to continue with the review of the Wairarapa Combined District Plan.

## 25 APPENDIX 1 – RM REFORM PROPOSED FUTURE ENVIRONMENTAL MANAGEMENT SYSTEM



26 APPENDIX 2 – OUTLINE OF THE COMBINED PLAN PROCESS



Appendix 2: Table summary of Pro vs. Cons of each option

Option 1: Pause and Wait		Option 2: Simple/discrete Plan Changes		Option 3: Partial Review		Option 4: Full Review	
Pros	Cons	Pros	Cons	Pros	Cons	Pros	Cons
Certainty over scope of reforms and changes to regulatory framework	Council promises and commitments to the community	Preliminary work can commence e.g. investigation of priority issues	Does not address strategic issues facing the three districts	Enables wider review to target broader key issues as well as implementation issues and national direction	Uncertainty associated with the level of RMA reform	Enables a full comprehensive review of all issues	Difficult to accurately anticipate the changes that may be decided by the Government in terms of the nature and scope of replacement RMA plans and the timeframe for transition
Short term cost and time savings	Alignment of other work programmes and timelines will be compromised	Enables progress of highest priority matters that require immediate attention	Could result in a 'patch up' rather than comprehensive fix	Would enable strategic planning to be more in the forefront of the plan review.	Difficulties in agreeing on list of issues/topics to be reviewed	Would enable an "all of plan" approach to be taken to plan development	Could result in costly and lengthy process for development of a new district plan that has a short lifetime
Perception of fiscally responsible due to current level of uncertainty	Potential perception of inertia by the public	Can start to shape a local response on some priority issues	Difficulties to identify discrete list of highest priority issues	Can enable review of full zones and interface issues	Parts of the plan could "lag behind" other that will be subject to the partial review	New combined district plan would influence future 'Combined Plan' for wider Wellington Region	Timeframe could extend past the nominated 3-4-year timeframe
	Uncertainty over timeframes for pausing which could lead to further delay		Likely that additional matters will arise through the process which result in scope creep	The wider scope of plan review would result in better across-plan integration of changes to provisions		Reform is likely to have a transition period therefore the combined district plan is likely to remain for several years	Perception that Councils are ignoring national level political change to RMA
	Could result in less local influence being able to be made in defining the issues of importance if preliminary work isn't progressed early on		Would still require a similar process to a wider review therefore time/cost savings are not likely to be large	Partial review content could influence future 'Combined Plan' for wider Wellington Region			
	Reforms to the RMA will be inevitable based on pre-election promises by Labour						

COMMITTEE REPORT – ASPIRATIONS AND IDEAS FOR REVIEW

# **Joint Wairarapa Combined District Plan Committee**

## **For Meeting on 10 November 2020**

### **Seeking Aspirations and Ideas for District Plan Review**

## **1 Purpose of this Report**

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This report has been prepared for the Joint Wairarapa Combined District Plan Committee for the purpose of seeking aspirations and ideas from the Committee on the District Plan Review overall.

## **2 Background and Context**

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A review of the District Plan is a significant undertaking, both in terms of the influence it has on the future of the districts, and the process of the review. It involves significant time, resources and thinking by Council, the community and stakeholders.

The review process extends for a significant period of time, and involves engagement, research, evaluation, Plan drafting, submissions, hearings and appeal phases.

In addition, the review covers a wide range of topics, such as urban growth, housing, indigenous biodiversity, natural hazards, temporary events, noise, signs and public access to waterbodies.

In undertaking the review, officers will be advising the Joint Committee on the legal framework and national/regional policy direction, as well as technical and other evidence to informing decision. In addition, officers will be reporting views and feedback received during engagement.

## **3 Legislative Framework**

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The Joint Committee will be advised of the legal considerations for the District Plan Review in future reports.

## **4 Options and Analysis**

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The role of the Joint Committee is to provide the overall direction and decision-making for the review. At this early stage in the review process, officers seek any overall aspirations or ideas from the Joint Committee on what the review should seek to achieve. These aspirations or ideas could relate to specific topics or issues, the review process, engaging with the community and stakeholders, or the production of the District Plan itself.

Officers would use these aspirations or ideas to guide the District Plan Review and would refer to them in future reporting to the Joint Committee.

Given this discussion is during the initial stages of the review process, members of the Joint Committee are reminded that they are to maintain an open mind throughout the review process. The Joint Committee will receive information (including views from various groups and individuals) which will assist in making decisions on the content and process for the District Plan Review.

## 5 Considerations

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### Tangata Whenua

The Joint Committee will be advised of any tangata whenua considerations for the District Plan Review in future reports.

### Climate change

The Joint Committee will be advised of the climate change considerations for the District Plan Review in future reports.

### Financial

The Joint Committee will be advised of the financial considerations for the District Plan Review in future reports.

### Community engagement

The Joint Committee will be advised of the community engagement considerations for the District Plan Review in future reports.

### Risks

The Joint Committee will be advised of the risks for the District Plan Review in future reports.

## 6 Recommendation

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Not applicable to this matter.

Report prepared and reviewed by:

**Charles Horrell/Hamish Wesney - Boffa Miskell**

**Sue Southey – Masterton District Council**

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