HAWKE'S BAY
REGIONAL COUNCIL

11 March 2016

Local Government Select Committee
Resource Legislation Amendment Bill
Via Online Submission

Dear Sir/Madam

Submission on the Resource Legislation Amendment Bill

This submission is on various aspects of the proposed amendments that would require changes to the way that our Regional Council's functions are undertaken. Staff have worked with the Hawke's Bay Regional Council (HBRC) Regional Planning Committee and this submission has been approved by Council's elected members. As a result, this submission reflects the views of HBRC and is further detailed in the **attached** document.

We note that Local Government New Zealand ('LGNZ') is to submit on the Bill on behalf of the local government sector. We support the LGNZ submission, and consider our submission to be complementary to it, we share a number of LGNZ's concerns in terms of the finer technical details that we wish to see amended, removed or worked through.

We acknowledge that there are areas where current practice can be improved in relation to the Resource Management Act and other resource legislation and are generally supportive of a number of the proposals put forward in the Bill. Where possible, we have made suggestions that we seek be considered to address issues that have been identified.

HBRC seeks to ensure that changes being implemented provide a suitable balance to still enable good practice in local plan making, based on sound national level direction that complements this. We seek changes that are practical, workable, and improve the resource management system.

Lastly, with the recent enactment of the Hawke's Bay Regional Planning Committee (HBRPC) Act 2015, it is important that the RLA Bill and any amendments made to it (including changes sought by Local Government New Zealand), must not supplant, compromise or weaken this legislation. The HBRPC Act has resulted in fundamental and positive changes to the way in which HBRC operates and works with tāngata whenua. Vitally it was an agreed part of the treaty settlement negotiations with nine treaty settlement entities.

Yours sincerely

E.a. Lambert

LIZ LAMBERT
INTERIM CHIEF EXECUTIVE
Phone: (06) 835 9214
Email: liz@hbrc.govt.nz

Address for Service:
Hawke's Bay Regional Council
Private Bag 6006
NAPIER 4142
Attn: Gavin Ide
E: gavin@hbrc.govt.nz
P: (06) 833 8077

Hawke's Bay Regional Council Submission on the Resource Legislation Amendment Bill (The Bill)

1. HBRC supports a number of the objectives and approaches in terms of the Bill. HBRC supports the submission of LGNZ which covers many of the important technical details that need to be amended, removed or worked through. This includes the following aspects which are of particular concern:

Regulation making powers, and delegated legislation

2. The new regulation making powers are far-reaching and HBRC and LGNZ have concerns at several levels including:

    i. the extensive use of regulations and other secondary instruments to define and prescribe policy. This contravenes best practice and established guidelines and amounts to legislation by the executive of the day, not Parliament;
    ii. the use of regulations imposed by central Government to override rules made by local authorities under the authority of statutes.
    iii. the uncertainty as to what the regulations may contain; and
    iv. the uncertain status of Ministerial policy statements. While they are presented to the House, the ability of the House to address them is unclear.

3. These are fundamental points, with constitutional implications. HBRC and LGNZ request that the Committee refer them to the Regulations Review Committee under SO 293 for its consideration under SO 318(3) if it has not already done so. There appear to be several grounds to invoke SO 319, should the regulations be made.

4. Regardless of that referral, these concerns go to the heart of the proposed reforms and their credibility and workability.

Powers are Unprincipled

5. There is ample authority that what is proposed is unprincipled, and indeed the Departmental RIS on this Bill recognises this (see pp 17-19 regarding proposed section 360D and the concession that it is a Henry VIII clause).

6. The Legislation Advisory Committee's Guidelines on Process and Content of Legislation revised in 2014 is very relevant. Chapter 13 is very relevant.

7. Among the matters described in para 13.1 as "ideally (or in some cases can only) be addressed in primary legislation" (i.e. Acts, not Regulations) are:
    - matters of significant policy; and
    - procedural matters that go to the heart of the legislation scheme.

8. It is worth quoting the reverse situation in full; i.e. where delegated legislation is not appropriate from page 51 of the LAC Guidelines:

    "*It **will not** be appropriate to authorise delegated legislation*:

Hawke's Bay Regional Council
159 Dalton St, Private Bag 6006, Napier 4142, New Zealand Tel 06 835 9200 Fax 06 835 3601 Freephone 0800 108 838
www.hbrc.govt.nz

- *to fill any gaps in primary legislation that may have occurred as a result of a rushed or unfinished policy development process;*
- *to avoid any full debate and scrutiny of politically contentious matters;*
- *solely to speed up its passage through Parliament;*
- *that simply follows past a practice of using delegated legislation."*

9. LGNZ and HBRC consider that, every one of those grounds exist here, while of course any one of them is enough to make delegated legislation inappropriate. The position might be ameliorated if the delegated legislation were made available in a timely way so that this Committee could see what it was authorising.

10. The LDAC, as successor to the LAC has commented on: *"…the general importance of departments developing regulations in tandem with a Bill so that the public is aware of their detailed requirements and can make informed submissions."* Regrettably, that has not occurred here despite the lengthy gestation period of the Bill.

11. LGNZ and HBRC believe the Committee should request officials to provide at least an outline of the proposed content of the regulations before the Committee deliberates on this Bill. Unless there is good reason those outlines should be made public so that interested and affected parties can provide comment to MPs as the Bill passes through its stages.

12. The Cabinet Manual, at para 7.60 requires Ministers to confirm that bills comply with certain principles and must draw Cabinet's attention to aspects that have implications for or may be affected by various matters including "the guidance contained in the LAC Guidelines". The DDS in discussing delegated legislation at para 4.8 does not mention the LAC Guidelines nor, therefore, the manifest breaches of them.

13. Most of the proposed delegated legislation has the potential to end up before the Regulations Review Committee (with the possible exception of Ministerial policy statements in the EEZ legislation where the position seems confused).

14. The Regulations Review Committee takes a dim view of inappropriate regulation making powers; a view that LGNZ and HBRC suggest should be shared by this Committee. A useful summary of the views of the Regulation Review Committee is found in the Regulations Review Committee Digest. At page 24 it is noted:

    "As discussed in Chapter 2, it is a well-established principle that statutes should set out the policy of a law, while regulations may provide the detail necessary for the implementation of that law. There are a number of examples of the Committee being referred regulation-making powers that seem to allow for the making of regulations dealing with matters of policy, and the Committee ultimately recommending that these powers either be amended or omitted altogether, particularly under Standing Order 315(2)(f)."

15. Henry VIII clauses are of particular concern, and there have been several instances where the Regulations Review Committee has recommended against these clauses in the local government area. Those recommendations tend to be adopted.

Legislating by National Policy Statement

16. National policy statements allow Central Government, at Ministerial level, to direct and constrain and limit the functioning of local government either throughout New Zealand, or by singling out specified regions or districts; clause 29; new section 45A.

17. Similarly, national planning templates enable the Government of the day to direct the structure format and even the content of regional policy statements and plans

18. The desire of central Government to have maximum flexibility is superficially attractive. But it comes at a price. That price is lack of stability and certainty; far too much is left to the discretion of the Minister of the day.

19. While existing processes can be used, it must be recognised that the proposed section 45A allows an NPS to be a very prescriptive and controlling document rather than a statement of objectives and policies for matters of national significance as is the case under the current section 45.

Regulations overriding Rules

20. Local government is expressly empowered by Parliament to make rules at the local level controlling land use. Well established procedures must be followed. They may well vex those who want to move more quickly. To others, the right to participate and express a view is fundamental to democracy at a local level.

21. The proposed section 360D (clause 105) allows regulations to be made on Ministerial recommendation, after a process of notification and opportunity to comment that contains at every point a subjective assessment by the Minister as to its adequacy.

22. The regulations can be very far reaching. They can permit a specified land use; thus overturning local decisions on what communities consider to be orderly development.

23. Local government rule makers are directly accountable, elected members suffer at the next election. The same checks and balances do not apply to central government with the new powers for central government.

24. Regulations can also prohibit local authorities from making specified rules or kinds of rules, or override rules and require their withdrawal.

25. The only ameliorating feature is that the power to make three kinds of these regulations expires one year after the first national planning template is gazetted. However, there is no certainty as to when that will be, and in any case actions taken under the regulations will remain valid and could have effects that last for decades.

26. For these reasons, LGNZ and HBRC seek that a number of the regulation making powers are removed.

National Plan Template

27. The general concept of a National Plan Template (NPT) is supported as improving national consistency and direction, but LGNZ and HBRC have concerns about the potential scope of the Template with respect to it being used to provide national policy direction. Existing NPS and the new combined NPS/NES process are the appropriate mechanisms to provide national direction. LGNZ and HBRC also have concerns about the scope of its mandatory content, how it will be introduced and timing.

28. LGNZ and HBRC are very concerned that only two years is given to deliver the first NPT and then one year for local authorities to “publish” their plan(s), with recognition of the NPT. The ability for a council to meet prescribed timeframes and parameters with respect to “publishing” their plans needs to be understood before being prescribed in the Bill. Collaboration with the local government sector and other stakeholders is essential to effectively deliver the first amendments to the NPT.

29. HBRC supports that LGNZ has commissioned the redrafting of the provisions relating to the NPT and that LGNZ will submit this separately to the Local Government and Environment Committee.

NPSs and NESs – content and processes

30. LGNZ and HBRC support the new combined NPS/NES process in terms of consistency; if the intention is for the new combined tool is to address a related issue (this is not clear from the drafting).

31. It is proposed that NPSs and NESs, or any provisions in them, may apply to a particular region, district or specified part of New Zealand. LGNZ and HBRC question the logic behind national policy instruments and national standards being limited to only one area or part of the country – this would be a fundamental inconsistency that would diminish the significance and status of the genuinely national policies and standards. The intent underpinning these proposed changes is not articulated in the Introduction to the Bill.

32. The new streamlined planning process could be used to work with a council to develop a suite of rules for a particular region/district. HBRC seeks that the LGNZ recommendations in the LGNZ submission on the RLA Bill be accepted on all counts, including to:
    i. Withdraw the regulation-making powers proposed or refer them to the Regulations Review Committee under SO 293 for its consideration under SO 318(3);
    ii. Withdraw the proposals identified as being unworkable or creating perverse outcomes;
    iii. Develop the proposals supported by the LGNZ submission and work with LGNZ on their implementation, and;
    iv. Accept all the LGNZ recommendations on each and every clause and section of the schedule of amendments on the RLA Bill attached as a table to the LGNZ submission, except that any amendments must not supplant, compromise or weaken the HBRPC Act 2015.

Final points from HBRC

33. The concept of a National Plan Template (NPT) to include standard definitions and terms is supported and standard formats are supported in principle. It is important from the HBRC's perspective that local plan making is enabled as part of this and that HBRC is involved in the process of formulating the NPT. The NPT needs to be flexible in allowing the Regional Council to promote sustainable management of our region's resources and what is special about Hawke's Bay.

34. Over-arching national direction is needed on certain matters, and this can set the direction for National Policy Statements (NPS) and National Environmental Standards (NES). HBRC seeks that local government must be involved in setting the priorities for national direction: NPS, NES, Regulations and the scope of any National Plan Template.

35. HBRC supports more meaningful and effective participation for iwi/Māori early in the plan-making process, which enables and supports better and more certain planning outcomes in the long term. HBRC has already embarked on this approach with its Regional Planning Committee. The RPC's role in reviewing and preparing regional plans and policy statements is complemented by an emerging practice adopted by the Council regarding preparation of stakeholder engagement plans focussing on regional plan change projects. These engagement plans also set out principles for the participation of not just iwi, but also marae and hapu in the preparation of regional plan changes.

36. With the recent enactment of the Hawkes Bay Regional Planning Committee Act 2015, and this becoming a core part of how HBRCF operates it is very important that the RLA Bill and any amendments made to it (including changes sought by LGNZ) must not supplant, compromise or weaken this legislation. This Act has resulted in fundamental and positive changes to the way in which the Hawkes Bay Regional Council operates and works with tāngata whenua. Vitally it was an agreed part of the treaty settlement negotiation with 9 treaty settlement entities.

37. Local/regional provisions are very important to diverse regions like Hawke's Bay that have a combination of characteristics that make this region different, special to New Zealand and the world, this combination of local and regional provisions formed from our community should continue to be provided for. A template or national direction that suits say Wellington, or Southland, or Gisborne may not and arguably will not suit Hawke's Bay if done in the exact same way.

38. HBRC supports the submission of LGNZ on the Bill. Our submission is made to complement the LGNZ submission whilst providing a local Hawke's Bay perspective.

39. The HBRC submission attached is made relevant to the numbering in the MfE Amendment Bill Regulatory Impact Statement and clauses/sections are referenced in the submission text.

Section (by MfE Regulatory Impact Statement numbering)	Support/ Request changes/ More information	Submission
1.1 Changes in National Environment Standard provisions	Support, with concern on scope of Ministerial decisions overriding locally prepared plan provisions needing addressing	Regulations relating to "National Environmental Standards" (NES) may be prepared *for any specific area of New Zealand*, and *may specify how affected consent authorities perform their functions to achieve the standard*. This is one of a set of measures which, when combined, gives the Minister wide ranging abilities to direct the activities of individual Councils in regard to what must be in Plans, how those Plans are given effect to, how they are monitored, and what their effects are. There appears to be an ability for the Minister to directly manage the activities of any Council in relation to the achievement of one or more NES. HBRC consider that there needs to be a process of discussion or collaboration with individual or collective Councils affected by such changes. Each Councils views should be sought and taken into account, especially where specific issues or areas are going to be targeted by a national instrument.
1.1 Changes in National Policy Statement provisions	Support, with concern on scope of Ministerial decisions overriding locally prepared plan provisions needing addressing	This expands the directive powers of a National Policy Statement (NPS), and allows an NPS to be targeted at a specific district, region or any specified area. The scope of the ability for Minister to direct and specify the functions of Councils in respect to developing Plans is widened considerably. For example: *methods or requirements that local authorities must, in developing the content of policy statements or plans, apply in the manner specified in the national policy statement, including the use of models and formulas…* In effect, provided an NPS states objectives and policies for matters of national significance that are relevant to achieving the purpose of the RMA, it can require any particular Council to insert specific objectives and policies into its Regional or District Plan. HBRC consider that there needs to be a process of discussion or collaboration with individual or collective Councils affected by such changes. Each Councils views should be sought and taken into account, especially where specific issues or areas are going to be targeted by a national instrument.

Section (by MfE Regulatory Impact Statement numbering)	Support/ Request changes/ More information	Submission
1.3 Changes in National Direction including a Mandatory National Planning Template	Support, with amendments	Clause 34. New National Planning Template (NPT) provisions. The main stated objective of these provisions is to minimize duplication. It will also harmonise and standardise plans. The first of these NPTs must be promulgated within 2 years of enactment. A National Planning Template could be a very useful base on which to provide more streamlined plan making when drafting provisions based on Schedule 1 of the RMA. HBRC has concerns about the apparently wide scope of the NPT which may include objectives, policies and rules which the Council considers to be better addressed through other measures such as NPS, NES and regulations. These tools allow better assessment of the appropriate resource management issues and possible solutions than an NPT. The term "template" does not indicate significant resource management content, but rather something to be used as a pattern in formatting plans. A National Planning Template should from HBRC's perspective enable and allow for local communities to voice their own specific needs to fit into the template framework. The NPT is supported as long as: • Local government is involved in preparing the scope and content of the NPT alongside other stakeholders in the next 2 years, and; • The template has inherent flexibility in its local application, in principle this should be limited to a pattern or plan format that identifies: i. The plan format and layout, key headings and sections ii. E-planning provisions including for both text and associated planning maps iii. Matters that must be addressed by the council iv. Provisions that must be included as a result of existing national provisions (NES, NPS, regulations) and v. a glossary of terms that must be used consistently across all councils

1.5 Requirements on councils to improve housing/provide for development capacity		Clauses 11 & 12. Amendments to Sections 30 & 31. These are new provisions RE objectives, policies, and methods and are intended to ensure that there is sufficient development capacity in relation to residential and business land to meet expected long-term demands. At this stage it is not entirely clear what constitutes "long term", or what approach might be taken to assess "expected". Factors to be taken into account include whether the land is serviced with infrastructure, which is generally provided in terms of the LGA through District Councils. There is a question mark on how the relationship between LGA and RMA duties is managed/prioritized, given that infrastructure needs to increase development capacity with serviced land needs to be funded by means governed through LGA decision processes. The council's urban development planning also recognises the value and significance of the limited high quality, versatile land to the economic well-being of the region and the amendments do not adequately reflect the range of considerations the council accounts for in its regional development programmes. Hawke's Bay regional planning documents already adopt a future-focused approach to urban resource management that ties in with the development contributions approach of Napier City Council and Hastings District Council under the LGA. We note that RMA planning documents can only do so much – they are not a silver bullet for all ills, but together with other council initiatives and other agencies, communities can, and do, adopt future-focussed approaches to housing and business land needs. In Hawke's Bay, a key future-focussed housing strategy is through the jointly prepared 2010 Heretaunga Plains Urban Development Strategy (HPUDS). This is a non-statutory document prepared and adopted by Napier City, Hastings District and Hawke's Bay Regional councils. This is an urban growth strategy (including residential and business growth) for the 2015-2045 planning period. Relevant elements from HPUDS have been progressively incorporated into the HBRC RPS (Plan Change 4) and are being implemented where relevant, in regional and district plans (including recent changes to the Hastings District Plan, and the Napier District Plan). This sets out expected future residential and business needs and growth, subject to a regular 5 year review enabling future changes where required. In addition to providing for residential and business growth as part of section 30 and 31, there is some concern about the removal of hazardous substances in terms of function under s30(1)(d)(v) with the following being proposed to be deleted: *"and the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances"*. At first glance this does not appear to be a particular issue, however thought does need to be considered in terms of land use and the location and relationship to other activities/sensitive land uses. Consideration needs to be given to the provision of infrastructure designed to address risks associated with the use, storage and transport of contaminants/hazardous substances/facilities, including stormwater and roading especially in industrial and related zones. Removal of Hazardous Facilities management from regional control also reduces any opportunity for retrospective/progressive upgrade of hazardous facilities to ensure risks are appropriately managed. It is not clear if and how HSNO deals with this. This could be an issue for HBRC in terms of the control of hazardous substances in terms of the Coastal Environment Plan (i.e. in relation to activities in the coastal marine area).
2.3 Collaborative Planning Process option		Clause 52.

Section (by MfE Regulatory Impact Statement numbering)	Support/ Request changes/ More information	Submission
		This provides an optional Collaborative Planning process for plan changes. As worded it prescribes a set and locked in approach. There may be some benefits to some Councils in utilising this with some incentives around the process, rights of appeal, cross examination and so on. This does not appear to mean that HBRC or others could not proceed with their own approach to Plan making under the 1st Schedule of the RMA, which we want to see remain. Including our own approaches to catchment based collaboration to date. There are many methods that can lead to increases and improvements in community and stakeholder engagement with local planning decisions and systems. There are risks in adopting a cut and paste approach to collaborative planning processes without also reviewing the objectives, purpose and scope of such planning processes. There appear to be a number of models of collaborative planning, some of which aim for consensus building, others at conflict resolution, and others include a fully costed assessment of all of the gains and losses that might be the outcomes associated with a change or proposal. There is a need to clarify the relationship between iwi participation agreements and collaborative processes. Including any obligations or provisions for iwi if the council embarks on such a process. These processes depend on the goodwill of the group members to function effectively. There is no provision currently in the Bill for withdrawing from the process if the group itself does not/cannot continue. Based on this Council's experiences of collaborative planning processes, the use of the proposed Collaboration option process - as an option - is supported.

1.4 Improve the management of risks from natural hazards under the RMA ***2.1 Changes to the plan making process to improve efficiency and provide clarity*** ***2.4 Enhance Māori participation by requiring councils to invite iwi to engage in voluntary iwi participation arrangements and enhancing consultation requirements*** ***3.1 Consent exemption for low impact activities and minor rule breaches*** ***3.2 10-day fast track process for simple applications*** ***3.8 Improve management of risks from natural hazards in decision-making on subdivision applications*** ***4.1 Enable objections to be heard by an independent commissioner*** ***4.2 Improve Environment Court processes to support efficient and speedy resolution of appeals*** ***4.3 Enable the Environment Court to allow councils to acquire land where planning provisions have rendered land incapable of reasonable use and placed an unfair and unreasonable burden on the landowner*** ***6.2 Streamlined and electronic public notification requirements***	Support	Elevation of natural hazards to section 6 (Matters of National Importance) is considered appropriate. Enhancing Māori participation in the RMA process is supported by HBRC. It is noted that Iwi do not have to participate if they do not wish to. There would be some value in better defining what 'participation in the preparation of plans' entails especially in relation to decisions about collaborative processes (or any other process); what is to be notified; and the hearing of submissions. We note that the Hawke's Bay Regional Planning Committee is one model of iwi being involved in plan-making processes, but the Bill is unclear if that model alone would satisfy proposed legal requirements. We seek that the HBRPC Act is not supplanted or compromised in any way. The ability to exempt low impact activities from requiring a consent is supported. This is not expected to be widely used at HBRC, but the ability to do so could be beneficial. In regard to the 10 day fast track process, it seems unlikely many regional council consents would fit this criteria. Bore permits, possibly transfers of water permits to use surface or groundwater that meet the conditions of the controlled activity rule, and also discharges of domestic wastewater to land on 'low risk' sites could be processed within 10 working days. HBRC already endeavours to process simple applications quickly and efficiently with technical conditions applied as required. Quality of applications is a key component for improvement through this process. It is not an issue to enable objections to be heard by an independent commissioner as an option to applicants. In terms of stock exclusion, the ability to use infringement notices are supported as an additional compliance tool. There appears to be some inherent flexibility on how stock are excluded from waterways.

Section (by MfE Regulatory Impact Statement numbering)	Support/ Request changes/ More information	Submission
7.1 Minor changes to the Public Works Act 1981 to ensure fairer and more efficient land acquisition processes ***7.2 Provide for equal treatment of stock drinking water takes*** ***7.3 Provide regional councils with discretion to remove abandoned coastal structures*** ***7.4 Create a new regulation making power to require that stock are excluded from water bodies***		

Section (by MfE Regulatory Impact Statement numbering)	Support/ Request changes/ More information	Submission
2.2 Provide councils with an option to request a Streamlined Planning Process for developing or amending a particular plan ***2.3 Provide councils with an option to use a Collaborative Planning Process for preparing or changing a policy statement or plan*** ***3.3 Streamline the notification and hearing process*** ***3.4 Improve processes for specific types of housing related consents*** ***3.5 Require fixed remuneration for hearing panels and consent decisions issued with a fixed fee*** ***3.6 Clarify the scope of consent conditions*** ***6.6 Simplify charging regimes for new developments by removing financial contributions*** ***6.7 Remove the ability for Heritage Protection Authorities that are bodies corporate to give notice of a heritage protection order (HPO) over private land and allow for Ministerial transfer of HPOS***	Support with changes needing consideration	It is considered that these provisions whilst supported, do require further work to ensure how they are to be implemented. For example, the streamlined approach could be a very useful tool and presents a 'ground up' opportunity to deal with particular matters. Whilst there are some issues in the technicalities of how this works this option is supported in principle at streamlining the RMA process. There is a question mark on whether financial contributions should remain as a tool at regional council level as regional councils do not have access to Development Contributions under the LGA. National consistency in fee schedules may be of some benefit. There is some tension between paying commissioners for the job they are engaged to do or for the skills they are selected for (e.g. science specialisms, engineering, legal and so on).

5.1 Provide for joint resource consent and recreation reserve exchange processes under the RMA and the Reserves Act 1977 ***5.2 Align the notified concessions process under the Conservation Act 1987 with notified resource consents under the RMA*** ***6.3 Enhanced council monitoring requirements*** ***6.4 Reduce BOI cost and complexity*** ***6.5 Enable the EPA to support RMA decision-making processes*** ***7.4 Create a new regulation making power to require that stock are excluded from water bodies*** ***7.5 Amendment of section 69 and Schedule 3 – Water Quality Classes***	Support but need more information	It is considered that these provisions whilst supported in principle, do require further explanation or work to ensure/understand how they are to be implemented. One matter that needs further explanation for example is s360 hp prescribing requirements that apply to the use of models (e.g. farms, catchments and regions). We have concerns about the locking in of models could stifle innovation and development; and cause issues with existing models already in use by HBRC. The evolution of existing models and development of new models ought to be recognised.

Section (by MfE Regulatory Impact Statement numbering)	Support/ Request changes/ More information	Submission
RLA Bill as a whole	**Support with changes**	Subject to all the assessment in this submission, HBRC supports the submission of LGNZ. HBRC supports the RLA Bill in principle, depending on the incorporation of amendments sought. There is complexity in the changes and there is a need for rigorous cross checking of connections across different parts of the amendments. The apparent increase and wider scope of centralized government powers to manage resources at the local and regional level, does lead to concerns that local decision making could be unbalanced and potentially over-ridden. We recognise that the RMA already enables national direction through a variety of instruments (eg: NPSs, NESs and regulations). Section 360D(1) is of concern in this regard, and its removal is supported. With the greater emphasis on national direction, NPS and NES, 360D should not be required. There are issues where the development of some of the new provisions and regulatory tools, are likely to result in an increase in regulatory complexity where existing measures could be improved instead. There is potential for significant costs to result from some of the measures being proposed including concerns arising from the lack of specificity about the NPT. There is some concern at the amount of different options and approaches provided in the RLAB amendments. This is because with the amount of changes sought there are going to be multiple ways for achieving various outcomes that cross over each other, from NPS, NES, to regulations, RMA rules, NPT, national direction for specific provisions, Schedule 1 plan making, collaborative or streamlined plan making and so on. As a euphemism the RLA Bill can be seen to provide seven prescriptive ways to skin a cat. There may also be an issue in using an overly blunt approach or tool in some cases and too fine an approach for others. What could be an issue is that innovation could be stifled by this. Innovation in the RMA and our legislative framework shouldn't be underestimated. The Regional Planning Committee is a very positive example of innovation with Treaty Settlement Partners. The last point that must be re-iterated is that the RLA Bill and amendments made to it (including changes sought by LGNZ) must not supplant, compromise or weaken the Hawkes Bay Regional Planning Committee legislation (Hawkes Bay Regional Planning Committee Act 2015). This Act has resulted in fundamental and positive changes to the way in which the Hawkes Bay Regional Council operates and works with tāngata whenua, it was part of the treaty settlement negotiation with 9 treaty settlement entities.

Example in regard to part of the issue in paragraph 36 (p4) of HBRC submission on the Resource Legislation Amendment Bill

Submission on Section 38 of the Bill relating to new subpart 2 – Iwi participation arrangements of the RMA

The nine tāngata whenua groups of Hawke's Bay benefit from Treaty settlement redress in the form of the Hawke's Bay Regional Planning Committee. This Committee was established under specific stand-alone legislation, namely the Hawke's Bay Regional Planning Committee Act 2015 (HBRPC Act). The purpose of the Committee is to oversee the development and review of regional policy statements and plans. It is important to ensure that the provisions of subpart 2 do not change or compromise the existing HBRPC Act.

It is noted however that clause 58P states (with *emphasis* added):

"**Relationship with iwi participation legislation**

An iwi participation arrangement does not limit any relevant provision of any *iwi participation legislation* or any agreement under that legislation."

Section 4 of the Bill amends section 2 of the RMA and provides that "Iwi participation legislation means legislation (other than this Act), including any legislation listed in Schedule 3 of the Treaty of Waitangi Act 1975, that provides a role for iwi or hapū in processes under this Act."

Schedule 3 does not refer to the HBRPC Act. The Schedule needs to be amended to include a reference to the HBRPC Act. Please note, there is no reference to the establishment of the Committee as Treaty redress in the settlement legislation for example, for the Maungaharuru-Tangitū Trust, i.e. the Maungaharuru-Tangitū Hapū Claims Settlement Act 2014. This was not required as stand alone legislation was contemplated in the Deed of Settlement between the Crown and the Hapū. This would be similar in the other Deeds of Settlement.