

Resource management reform Will it move the dial for infrastructure?

Infrastructure Series: What's on the horizon?

Article 4

With the Bills for the Natural and Built Environments Act (NBA) and the Spatial Planning Act (SPA) proposed to be introduced into Parliament before the end of the year, 2023 is set to be a big year for resource management reform.

The current system has been at the centre of criticisms as to why the development of infrastructure has not kept pace with demand, has been unnecessarily complex, and has been costly. So reform of the resource management system comes with big expectations around a step change for the way we plan and undertake development of our infrastructure.

Significant questions remain as to whether the new framework can genuinely change the way infrastructure is planned, consented and delivered. In this article, we explore some of the key elements we expect to see in the new framework and consider whether they will shift the dial for infrastructure development.

Environmental Outcomes

Under the NBA, decision making will shift from the management of effects to consideration of how environmental outcomes are achieved. The NBA will specify environmental outcomes that all planning documents must promote and environmental limits that cannot be crossed.

In the exposure draft of the NBA released earlier this year, the environmental outcomes included the "ongoing provision of infrastructure services to support the well-being of people and communities". This outcome uses less directive language than some of the other outcomes providing for ecological and biophysical matters, which has the potential to create an unintended hierarchy of outcomes at a cost to our essential infrastructure.

The environments our infrastructure operate in can include sensitive environments that need to be protected. However, a balance needs to be struck between environmental bottom lines and a strengthened infrastructure outcome in order to adequately provide for the ongoing use, development, and upgrade of essential infrastructure. How the NBA defines and captures “infrastructure” will also be critical and likely to be the subject of much debate through the Select Committee process next year.

National Planning Framework

Under the NBA, national direction will be consolidated into the National Planning Framework (NPF) to provide integrated direction on matters of national importance. This will include new national direction on infrastructure, which will incorporate aspects of the current national direction on matters such as telecommunications facilities and electricity transmission.

Many infrastructure services could benefit from clear, standardised national direction. However, developing national direction that is workable and delivers real benefits will take time. We expect the first draft NPF, which is anticipated late next year, will prioritise some infrastructure. We have reservations that the first NPF will deliver what is required to meet the NBA’s stated outcomes.

The NPF promises to resolve conflicts between outcomes, such as environmental bottom lines and enabling infrastructure or housing supply, rather than leaving it to the consenting process. This is fundamental to an effective NPF. Without a clear pathway for infrastructure, there remains a risk the NPF will not move the dial away from the existing (and increasing) tensions between the natural environment and infrastructure development.

Regional Spatial Planning

The SPA will require the development of Regional Spatial Strategies (RSS) which are intended to provide long term, high level direction on integrated planning for all regions.

RSS provide opportunities for greater certainty around planning for infrastructure and urban development by spatially identifying existing and future infrastructure locations to align with projected growth, as well as areas in proximity to infrastructure that are inappropriate for certain types of urban development. There is considerable optimism in what RSSs offer for infrastructure.

However, it does require all relevant infrastructure providers to be involved in the development of those RSSs. Otherwise, there is a risk that the resultant combined plans will not provide for the infrastructure we all need.

Designations

The NBA proposes to apply a two-step process for securing designations:

- a Notice of Requirement identifying the spatial location; and
- construction and implementation plans that authorise the works and outline management measures for constructing and operating the infrastructure on the environment.

The intent behind the process is to enable requiring authorities to secure land for designations early. This approach bears striking similarities to the development of designations under the RMA. Questions remain as to whether the first stage will really be the footprint designation it is intended to be. There has been an increasing trend under the RMA for more detail to be provided at the Notice of Requirement stage to the extent that in some cases they have essentially become de facto resource consents. Ensuring the new system can deliver on the intended process will require a step change in the way that local authorities currently process Notices of Requirement.

Conclusion

There are major opportunities for infrastructure under the new system but there remain some critical areas that need to be resolved in order for it to work in practice and to ensure it can really shift the dial in the right direction towards a simpler, more effective planning regime for infrastructure development. While 2023 is set to be a big year for putting the new framework in place, it will still take a further 8-10 years before the framework has been fully implemented and we start to see some of the benefits realised. With the major infrastructure deficit New Zealand currently faces, and the need for infrastructure to help meet our climate change ambitions, can we afford to wait that long?



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