

19 February 2023

Committee Secretariat
Environment Committee
Parliament Buildings
WELLINGTON

By email: environment@parliament.govt.nz

To whom it may concern:

Kaikōura District Council submission on the Spatial Planning Bill

1. The Kaikōura District Council (KDC) thanks the Committee for the opportunity to make a submission on the Spatial Planning Bill.

Background and context

2. Our beautiful district spans from the Haumuri bluffs in the south to the Kekerengu valley in the north, covering 2,046 square kilometres of diverse landscape. The inland boundary of our district is the Inland Kaikōura Range, climbing 2,885 metres. Māori history and culture are an integral part of Kaikōura, and there is evidence of Māori settlement in the area up to 1,000 years ago. Historically the district has thrived in the fishing, farming and dairy industries. Today Kaikōura is a world-class tourism destination, attracting one million visitors each year pre COVID-19, yet still maintaining its fishing and farming heritage.
3. Our community is involved in determining our vision for the future of our town through public participation and planning documents.
4. Following the 2016 Earthquake, Kaikōura District Council developed a new vision - “Moving Kaikōura Forward”. Moving forward is an appropriate vision for several reasons. The first is that it acknowledges we have a point in time to move forward from – the 2016 earthquake. It recognises that the earthquake changed our lives forever, one way or another. It recognises that the earthquake also resulted in significant changes for our community. Moving forward means letting go of the past. The second reason is that “Moving Kaikōura Forward” also recognises the rebuild projects that have now all been completed, and we can enter the next phase of recovery which is our new normal. Our new normal has seen the review of the natural hazards chapter of our district plan, which takes into account climate change. Sea level rise as yet has not been included due to delays in technical information as a result of earthquake uplift¹. We are currently working with our community to develop a spatial plan to ensure a dedicated vision to move us forward. It will create a long term, 30yr plus vision for the future growth of the Kaikōura township and immediate surrounding area. It is important that such visions can be drawn into regional spatial plans.

¹ <https://mpi.govt.nz/dmsdocument/29933-kaikoura-earthquake-and-tectonic-deformation-of-the-kaikoura-coastline>

5. It is from this perspective of moving forward that we have provided our submission on behalf of our community for the Spatial Planning Bill outlined below. This submission seeks to support the Canterbury Mayoral Forum submission which has been developed with input from across Canterbury Councils some specific changes have been included which relate to the KDC circumstances.
6. The Kaikōura District Council does wish to appear in support of this submission, in particular to address any questions which may arise.
7. The KDC acknowledges the significant amount of work the Ministry for the Environment (MfE) has undertaken in developing the Spatial Planning Bill.
8. The KDC generally supports the need for greater integration of the resource management and infrastructure legislative systems and sees regional spatial strategies as an important tool to enable that integration. Notwithstanding, our general support, the KDC considers that several important amendments to the Spatial Planning Bill are required to ensure spatial strategies are an effective planning instrument. The key amendments requested are set out in the following section and are very similar to the Canterbury Mayoral Forum submission.

Key amendments requested

Reduce political interference

9. The Spatial Planning Bill provides opportunities for central government political interference in spatial planning. This includes the Minister's ability under section 60 to direct a regional planning committee to amend a regional spatial strategy. It also includes the ability under section 62 to direct a regional planning committee or local authority to perform a power, function or duty under the Act.
10. The KDC considers this contrary to good governance practice, which, as outlined by the auditor general², should separate governance from management. The KDC believes that the Government's role should be setting national planning policy and legislation, not directing regional and district spatial planning matters. As proposed, the Spatial Planning Bill potentially politicises spatial planning by providing an opportunity for the government of the day to make changes for political gain. Any such future changes may be unintended by the government that passed the Spatial Planning Bill. These powers provide for direct political interference in a spatial planning system that is otherwise a policy driven and evidential process.
11. While the KDC acknowledges the need to direct changes if a regional planning committee is not adequately exercising their powers, it believes it would be more appropriate for the Minister to direct an independent authority (e.g. the Environment Court) that specialises in planning to direct those changes. It is important that any such authority is not appointed or aligned with a political organisation. This would ensure planning decisions are based on evidence and good

² [Good Practice Summary: Good Governance](https://oag.parliament.nz/good-practice/docs/good-governance.pdf) (oag.parliament.nz/good-practice/docs/good-governance.pdf)

practice as opposed to being politically motivated, or a result of lobbying. The KDC considers that it is vital to protect the integrity of the spatial planning system. Accordingly, the KDC requests amendment to sections 60 and 62 to ensure that the Minister can only refer these matters to the Environment Court for their consideration and determination.

Broaden the scope of the appointing body's review of draft spatial strategies

12. The KDC requests a broader scope for appointing bodies to review a draft spatial strategy. Clause 3, Schedule 4 of the Spatial Planning Bill intends to limit the scope of the appointing body's review to just identifying errors and any risks in the implementation or operation of the draft strategy. The KDC requests the ability for appointing bodies to provide a range of comments on the draft strategy. This will ensure that appointing bodies comments are not just limited to errors and risks but can also include:
 - a. any opportunities the draft strategy can address
 - b. any issues with the content of the draft strategy
 - c. any matters of local knowledge including existing spatial strategies approved by a Council
 - d. any aspect of community concern known to the appointing body
 - e. any other matter.
13. Broadening the scope of the appointing body's feedback provides a valuable opportunity for the regional planning committee to obtain feedback on the draft spatial strategy prior to its public notification. It also provides the opportunity to ensure the significant work of previous planning documents such as spatial strategies is not lost and that the wheel is not reinvented. This opportunity would be partly missed if the feedback is limited to errors and risks.

Ensure the Bill recognises existing Planning Strategies

14. Part 2 – Regional spatial strategies – Subpart 2 – Scope and contents of regional spatial strategies is unclear as to if existing district spatial strategies or the direction provide by them will be recognised when considering the level of detail to be provide with Regional Spatial Strategies.
15. Many Councils throughout Canterbury have recently developed or are currently developing district spatial strategies. For example Mackenzie Spatial Plan³ was developed by Boff Miskell in 2020 to 2021. The KDC has committed funds for the development of a spatial strategy for Kaikōura. This document will be used to help inform the current rolling review of the District Plan. Significant resources in terms of community engagement, staff time and money is placed in the development of these plans. The KDC wishes to ensure such plans are recognised within the legislation. This may be the intention of section 19(a) however to strengthen this section to specifically include existing district spatial plans will ensure that non-statutory documents that local communities have placed significant resources into are not forgotten.

³ <https://letstalk.mackenzie.govt.nz/mackenzie-spatial-plans>

Ensure spatial strategies integrate with other relevant legislation

16. The KDC also requests that the purpose of the Spatial Planning Bill makes it clear that regional spatial strategies need to ensure integration with the Water Services Entities Act 2022, the Climate Change Response Act 2002 and the Climate Change Adaption Act.
17. The Water Services Entities Act 2022 has recently received royal assent. It manages the delivery of three waters infrastructure and requires 30-year infrastructure strategies. Three waters infrastructure includes water supply, wastewater and stormwater infrastructure. All three types of infrastructure are necessary for urban development and many rural communities have drinking water supply infrastructure. Therefore, it is crucial that land use planning integrates with three waters planning. Accordingly, the KDC requests that the Water Services Entities Act 2022 is listed in section 3(b) and section 4 of the Spatial Planning Bill as one of the Acts that regional spatial strategies need to integrate with. Section 4 needs to ensure that the infrastructure strategy is consistent with the regional spatial strategy.
18. The Climate Change Response Act 2002 (CCRA) puts in place a legal framework to enable New Zealand to meet its international climate obligations. The CCRA requires the Minister to prepare an emission reduction plan and a national adaption plan. The emission reduction plan sets out the policies and strategies for meeting the relevant emissions budget. Action 7.1 of the current emissions reduction plan seeks to *"embed emissions reduction and climate adaptation into resource management frameworks (for example, the proposed Strategic Planning Act and Natural and Built Environments Act), including measures that help to achieve urban density that improves access to community amenities"*. Similarly, the national adaption plan has objectives that new and existing places are planned and managed to minimise risks to communities from climate change. However, there is no reference to CCRA, the emission reduction plan or the national adaption plan in the Spatial Planning Bill. As the emission reductions plan sees the Spatial Planning Bill as a key tool to embed emission reduction and climate change adaption, the KDC requests that the CCRA is listed in section 3(b) and section 4 of the Spatial Planning Bill as one of the Acts that regional spatial strategies need to integrate with rather than being subject to a later amendment.
19. The Climate Change Adaption Bill is expected to be introduced to parliament in 2023 as part of the broader resource management reform programme. Although there is uncertainty about the exact scope of the Climate Change Adaption Bill, its main purpose is to manage adaption to climate change. This will have a spatial aspect and particularly spatial implications for existing development, infrastructure, and urban areas prone to natural hazards and the effects of climate change. Therefore, it is also important that regional spatial strategies seek to integrate with the requirements of the Climate Change Adaption Act. Accordingly, the KDC also requests that the Climate Change Adaption Act is listed in section 3(b) and section 4 of the Spatial Planning Bill as one of the Acts that regional spatial strategies need to integrate with.
20. In respect of the timing of regional spatial strategies, it would be non-sensical that they are developed before the Climate Change Adaption Act receives royal assent particularly given the extent of climate related events which are presently occurring within the North Island. From our own experiences with the Kaikōura Earthquake which led to the recent review of our Natural Hazards chapter of the District Plan, all things are connected and if they are developed before this, they may have to be significantly amended to address its requirements. This would

be an inefficient use of resources. Accordingly, the Minister is requested to consider this in determining the timing of regional spatial strategies.

Amendments to other acts

21. The KDC also requests the amendment of the Water Services Entities Act 2022 to ensure its infrastructure strategies give effect to the regional spatial strategies. There is no mention of regional spatial strategies in the Water Services Entities Act 2022. As such and in the interests of consistency, the KDC requests the amendment of section 154 of the Water Services Entities Act 2022 to specifically require infrastructure strategies to give effect to regional spatial strategies.
22. As stated above, the Climate Change Adaptation Bill has not yet been introduced to parliament but will likely influence regional spatial strategies. Accordingly, the KDC requests that that Bill is prepared to ensure integration with the Spatial Planning Bill.

Too much too soon?

23. Also as noted in Kaikōura District Councils submission on the Water Service Legislation Bill Council is concerned that the reform agenda is being single mindedly driven by central government on an aggressive timescale. The implications of which are significant on us as a small council and are unlikely to result in good outcomes for our ratepayers and community. The lack of “active listening” when dealing with three waters to date by central government agencies has impacted on our trust and confidence in the process and threatens the relationship between central and local government. The timetable for reform needs to focus on good planning outcomes as opposed to political timeframes.

Further information

24. Our Strategy, Policy and District Plan Manager is available to provide any further information or answer any questions about our submission. Contact details are Matt Hoggard, Kaikōura District Council, matt.hoggard@kaikoura.govt.nz, 027 242 8314.

Yours faithfully,



Craig Mackle

Mayor

Kaikōura District Council