



Future Proof Submission on the
Resource Legislation Amendment Bill

March 2016

Name of Submitter:

Future Proof Implementation Committee

c/- Bill Wasley: Independent Chair

P O Box 13231

TAURANGA

M. 027 4713006

E. bill@wasleyknell.co.nz

Submission:

This is a submission by the Future Proof Implementation Committee on the Resource Legislation Amendment Bill (“the Bill”). The content of the submission follows overleaf. We appreciate the opportunity to provide comments on the document.

Other Future Proof partners will also be making submissions on the Bill. These will be more detailed in nature than the Future Proof submission which provides a higher level, overarching view of the Bill.

Signed:

A handwritten signature in black ink, appearing to read 'Bill Wasley', written over a horizontal line.

Bill Wasley

Independent Chair – Future Proof Implementation Committee

1. Introduction

This submission is presented on behalf of the Future Proof Implementation Committee (“FPIC”), the governance group responsible for implementation of the Future Proof Growth Strategy. The FPIC includes representatives from the Future Proof sub-regional councils of the Waikato Regional Council, Hamilton City Council, Waipa and Waikato Districts as well as Tāngata Whenua and the New Zealand Transport Agency.

The Future Proof Growth Strategy is a 50-year growth management and implementation plan for the Future Proof sub-region. The sub-region refers to the administrative areas of the territorial authorities of Hamilton City Council, Waipa District Council, and Waikato District. Future Proof is currently in the implementation phase and the Strategy has been embedded in relevant statutory documents. The Strategy has been successful in providing a strategic, integrated approach to long-term planning and growth management in the sub-region.

Future Proof is a collaborative model for responding to growth management issues. It is a voluntary, cooperative arrangement built on understanding, agreement and a commitment to agreed outcomes. A key factor in the success of the Future Proof Strategy has been its long-term commitment to collaboration and implementation between agencies along with broad community support and effective central government engagement.

The Future Proof Implementation Committee is supportive of initiatives to improve how the resource management system in New Zealand operates as this is an important part of implementing the Future Proof Strategy.

2. Summary of Main Submission Points

Future Proof’s submission makes the following key points:

- General support for Sections 30(1)(ba) and 31(1)(aa) of the RMA 1991 requiring regional policy statements and district plans to provide sufficient development capacity for residential and business land to meet expected long term demands, however there is a need to reference the ability to fund infrastructure as well as the importance of other strategic documents.
- General support for national planning templates for consistency, however these templates should not be used in a manner that takes away the ability of local authorities to cover planning issues that are relevant to their area, for example the ability of high growth areas to implement growth or spatial plan strategies such as Future Proof.
- Support for collaborative and streamlined planning processes.
- Strong support for Clause 62(1) which allows consent authorities to take account of proposed environmental benefits.
- The removal of financial contributions needs to be thoroughly investigated before this occurs as it could remove an important funding tool for local government that is not covered by development contributions.
- Support for the Court's use of alternative dispute resolution processes.
- Future Proof is opposed to Clause 105 (new section 360D) which contains a wide range of proposed ministerial powers. In effect they could be used to permit or prohibit certain rules relating to uses which Central Government wishes to see and they could prohibit a local authority from making specific types of rules which may be necessary given local circumstances.

3. The Future Proof Strategy

3.1 Context

The Future Proof sub-region is an area of rapid population and development growth. The Waikato region is the 4th largest in New Zealand and is part of the 'golden triangle' that is Auckland, Waikato and the Bay of Plenty. The golden triangle is expected to contain 53% of the nation's population by 2031 and account for over half of New Zealand's total economic activity.

The Future Proof sub-region is the growth hub of the Waikato region. It is projected that the Future Proof sub-region will contain 96% of the entire Waikato region's population growth out to 2026.

The Future Proof Strategy seeks to provide a consistent knowledge base and vision for its partner councils and other agencies in order to plan for, and sustainably manage growth in an integrated manner. Specifically the Strategy provides a framework for co-operatively managing growth and setting goals for future implementation. This allows the costs and resources required to fund and manage infrastructure such as transport, wastewater, stormwater, recreation and cultural facilities to be identified and provided for.

3.2 Strategy Features

The key features of the Future Proof Strategy are:

- A focus on providing well designed, sustainable and affordable housing and lifestyle choices;
- Increased densities in new residential development and more intensive redevelopment of some existing urban areas to reduce the need for car dependency;
- Metropolitan Hamilton being a vibrant and lively place where people want to live, work and play;
- Thriving business centres in the sub-region's towns providing local housing and employment options along with a range of social and recreational activities;
- Development directed away from hazard areas;
- Green spaces (i.e. wildlife habitats, public open space and farmland) between settlements;
- Planning focused on resilience of communities and infrastructure while moving towards highly energy efficient devices and low carbon emissions;
- Protection of future infrastructure corridors, energy generation sites and mineral deposits;
- Protection of versatile and productive farmland by directing rural-residential and residential development and business land closer to towns and villages. This will also assist in reducing reverse sensitivity issues;
- Identification, planned maintenance and enhancement of biodiversity areas, clusters and corridors;
- Integrated transport and land-use planning;
- The values, principles, aspirations, role, responsibility and place of tāngata whenua in the subregion;
- Development of key transport corridors; and
- Recognition of and support for protection of strategic nationally and regionally important service and businesses.

4. The Resource Legislation Amendment Bill

Future Proof supports the Bill's focus on decision-making processes, including reducing duplication across different pieces of legislation, streamlining plan-making processes, more effective iwi and public participation, and reforms to the resource consenting regime.

Future Proof does have some concerns around particular areas of the Bill. Areas of concern and support are outlined in 4.1 below.

Future Proof would also like to see better alignment between the multiple processes which are currently running relating to urban development. There needs to be linkage between the Resource Legislation Amendment Bill, the proposed National Policy Statement on Urban Development, and the Productivity Commission's inquiry into urban planning. It is unclear at present how these processes relate to one another or whether the outcomes of one will affect the other initiatives.

4.1 Council Functions and Plan Making

Clauses 11 and 12 - New development capacity requirements

The Bill proposes amendments to Sections 30(1)(ba) and 31(1)(aa) of the RMA 1991 requiring regional policy statements and district plans to provide sufficient development capacity for residential and business land to meet expected long term demands.

Future Proof is generally supportive of this approach as it introduces growth management and development planning considerations into the RMA which helps to implement strategies like Future Proof. Future Proof aims to have 10 years of developable land supply at any given time. The Strategy also takes a long term approach and identifies specific growth areas and land needs over a 30 year period and in a general sense over 50 years.

Future Proof has a strong focus on integrated planning and the need to consider land use, infrastructure and funding in a coordinated manner. A focus solely on releasing more land will not achieve good

planning outcomes and has implications for infrastructure and funding. Future Proof suggests that Clause 11(5)(b) needs to reflect the financial limitations of infrastructure providers. There is also a need to clarify what is meant by the term “expected long term demand”. It is unclear whether this would mean a period of 30 years like the long-term plans and Infrastructure Strategies under the LGA 2002.

Future Proof suggests the addition of the following sub-clauses to 11(5)(b):

Add an additional sub clause (iv) to 11(5) (b) which reads:

(iv) the funding ability of providers to fund infrastructure in a timely manner

Also a new sub-clause (e) which reads as follows or similar:

Other strategies or plans which are relevant to development capacity such as growth strategies and spatial plans.

National planning templates

Clause 37 enables the Minister to prepare and adopt within 2 years of the Bill becoming law a national planning framework. Future Proof generally supports this initiative as it will add to the plan development toolkit. The proposed amendments are clear on process but significantly less clear on how the concept may work in practice, especially where there is a need for differences to be provided for in separate communities. Also, it is unclear how community input would feed into the process since this is both a hallmark and an expectation of the current RMA process.

The following are possible approaches:

- Government drafts and hands down the plan like Australian State Governments do.
- Templates are crafted in outline form and completed by the planning authorities. This was the approach taken by the 1960 regulations of the Town & Country Planning Act 1953. The 3rd Schedule was a scheme statement (policy framework) and the fourth schedule model code of ordinances (rules).

Future Proof supports the template approach given the diverse nature of New Zealand's towns and cities.

While Future Proof supports the concept of a national planning template that provides guidance and will encourage consistency across local authorities, these templates should not be used in a manner that takes away the ability of local authorities to cover planning issues that are relevant to their area, for example the ability of high growth areas to implement growth or spatial plan strategies such as Future Proof.

Collaborative and Streamlined Planning Processes

Clauses 51 and 52 (new Sections 80A and 80B) gives local authorities the option of using a more structured/collaborative process to plan making or a streamlined approach in certain instances. Future Proof is generally supportive of these approaches.

4.2 Consenting

Considering the positive effects of applications

Clause 62(1) allows consent authorities to take account of proposed environmental benefits. Future Proof is strongly supportive of this approach. If used in the right way, these provisions have the ability to promote better environmental outcomes. They reflect an approach in some of the growth areas of Australia, for example South East Queensland where there is often considerable offset negotiations between developers and regulators. The amendment also reflects a practice emerging in New Zealand which needs to be formally mandated.

Financial Contributions

Clause 155 proposes the removal of financial contributions. Future Proof is of the view that this should be thoroughly investigated before such an amendment is made. The Future Proof partners are making individual submissions on this point and it is understood that some of the councils still use financial contributions to cover costs which they cannot collect development contributions for.

4.3 Courts and Appeals

Clause 91 gives the Environment Court clear alternative dispute resolution powers to resolve differences without resorting to formal Environment Court hearings. Future Proof supports this approach.

4.4 Regulations

Clause 105 (new section 360D) contains a wide range of proposed ministerial powers which would be implemented through Regulations using an Order in Council process. Future Proof is opposed to these provisions. In effect they could be used to permit or prohibit certain rules relating to uses which Central Government wishes to see and they could prohibit a local authority from making specific types of rules which may be necessary given local circumstances.

4.5 Summary of Submission Points

Future Proof's Submission Points on the Resource Legislation Bill

Document Reference	Future Proof Submission	Specific Recommendation
<p>Clauses 11 and 12: New Development capacity requirements: amendments to Sections 30(1)(ba) and 31(1)(aa) requiring regional policy statements and district plans to provide sufficient development capacity for residential and business land to meet expected long term demands</p>	<p>General support for this approach. Clause 11 (5)(b) needs to reflect the financial limitations of infrastructure providers. Should also include reference to other strategies and plans so that there is good alignment between growth strategies / spatial plans, regional policy statements and district plans.</p>	<p>Need to clarify what is meant by the term “expected long term demand”. It is unclear whether this is to be 30 years like the long-term plans/Infrastructure Strategies under the LGA 2002.</p> <p>Add an additional sub clause (iv) to 11(5) (b) which reads <i>(iv) the funding ability of providers to fund infrastructure in a timely manner.</i></p> <p>Also a new sub-clause (e) which reads as follows or similar: <i>(e) Other strategies or plans which are relevant to development capacity such as growth strategies and spatial plans</i></p>
<p>Clause 37 national planning templates</p>	<p>General support for this enabling framework. Will add to the plan development toolkit. Amendments clear on process but significantly less clear on how the concept may work in practice especially where there is a need for differences to be provided for in separate communities. Also how the community input would input into the process since this is both a hallmark and an expectation of the current process. The following are possible approaches,</p> <ul style="list-style-type: none"> • Government drafts and hands down the plans like Australian State Governments do • Templates are crafted in outline form and completed by the planning authorities. This was the approach taken by the 1960 regulations of the Town & Country Planning 	<p>General support. Further detail is required around the national planning templates, in particular how these will work at a local level.</p>

	<p>Act 1953. The 3rd Schedule was a scheme statement(policy framework) and the fourth schedule model code of ordinances (rules)</p> <ul style="list-style-type: none"> • Others 	
<p>Clauses 51 and 52 which gives local authorities the option of using a more structured/collaborative process to plan making</p>	<p>This concept is supported since it involves a more structured and broadly based framework for plan development than often exists in the current process. The presumption is that more considered input will result in a better quality of input as well as understanding and support for the issues covered by the plan.</p>	<p>Retain the concept</p>
<p>Clause 62(1) Positive effects of applications which allows consent authorities to take account of proposed environmental benefits when deciding consents</p>	<p>Strong support for the concept. Used responsibly these provisions have the ability to promote better environmental outcomes. They reflect an approach in some of the growth areas of Australia for eg South East Queensland where there is often considerable offset negotiations between developers and regulators. The amendment also reflects a practice emerging in New Zealand which needs to be formally mandated.</p>	<p>Retain the concept</p>
<p>Clauses 153-155 - Deletion of the financial contribution provisions of Section 108, 110 & 111 and relying solely on development contributions under the LGA as the source of revenue for environmental mitigation and improvement</p>	<p>Further investigation is required before financial contributions are removed as Future Proof understands it is still used by its partner councils to cover costs which cannot be collected using development contributions. The Future Proof partner councils have submitted in more detail on this issue.</p>	<p>Oppose the removal of financial contributions unless there is very good reason to do so and there are no financial implications for local authorities</p>

<p>Clause 91: gives the Environment Court clear ADR powers to resolve differences without resorting to formal Environment Court hearings</p>	<p>Future Proof supports this proposal.</p>	<p>Retain the concept</p>
<p>Clause 105 (new section 360D) contains a wide range of proposed ministerial powers which would be implemented through Regulations using and Order in Council process.</p>	<p>Oppose the provisions. They could be used to permit or prohibit certain rules relating to uses that Central Government wishes to see and prohibit a local authority from making specific types of rules which are appropriate for its local area.</p>	<p>Delete Clause 105 – new Section 360D. Rely on the Ministers ability to achieve most of the outcomes sought through other proposed amendments eg national policy statements.</p>