

10 February 2025

Hon Simon Watts
Minister for Energy and Minister of Local Government
Parliament Buildings
Wellington

Dear Simon

Briefing for Incoming Minister

Congratulations on your appointment as Minister for Energy and Minister of Local Government. We look forward to working with you on these issues as well as in your capacity as Minister of Climate Change. This short briefing outlines key elements of the energy and local government portfolios that require your urgent attention.

The Environmental Defence Society (**EDS**) is a charitable, not-for-profit environmental NGO which was established in 1971. It is comprised of lawyers, scientists and other professionals who use their skills to seek better environmental outcomes in Aotearoa New Zealand. EDS is on the moderate end of the green spectrum and is focused on working within the system to achieve positive change. We work in three main areas: environmental policy, litigation and events. With respect to policy, our attention is currently focused on resource management reform (including associated institutional and local government reform), oceans reform and energy.

Energy

New Zealand needs to transition away from energy derived from fossil fuels. This will require significant investment in, and development of, renewable electricity generation and transmission infrastructure. It will also require modernisation of the energy market to support this transition. It is vital that these workstreams occur at pace, but it is equally important that they occur strategically and within ecosystem constraints. Climate change and biodiversity loss are dual crises. Electricity generation and transmission infrastructure must be built in the right places, at the right scales, and with the right conditions to maximise benefit to New Zealand's economy and natural environment.

To achieve this, an energy strategy is needed. It needs to do the following.

- Guide how and by when the country transitions to renewables across the energy system (including a rapid electrification of industry and transport). It must include a clear strategy for managing peak demand and supply issues.
- Outline the importance of new, and upgrades to existing, infrastructure, and guide how this will occur within environmental constraints. Core to this will be a clear link to a framework for spatial

planning, which should identify environmental constraints and direct infrastructure into appropriate places to minimise risk to the natural world.

- Prioritise community, household and business scale renewable generation, including rooftop solar.
- Guide the future use of oil and gas in New Zealand, including carefully managing declining gas reserves (eg prioritising its use in electricity peaking), and the potential phasing out of large industrial users such as Methanex.
- Align with advice from the Climate Change Commission in relation to new non-renewable electricity generation.
- Make clear the role to be played by carbon capture, utilisation and storage in the energy transition. This technology should not be used as a reason to delay the transition away from fossil fuels.
- Guide the future of offshore wind and how conflicting (and synergistic) uses of the natural environment will be managed. Although the Offshore Renewable Energy Bill currently before the House is a good start (subject to changes we have pointed out in our submission on the Bill), it fails to provide a strategic framework for prioritising renewables relative to other activities like seabed mining. As such, the system does not provide adequate investment certainty to renewables proponents. To ensure optimal use of marine space, a framework for marine spatial planning is needed to ensure that different activities are located in appropriate places relative to each other, and relative to environmental constraints.
- Adjust market settings to ensure they do not create perverse incentives for under-investment in renewables and maintaining fossil fuels. This should include creating incentives to support households and businesses to be part of the transition.

Local government

Effective local government will be essential for the future wellbeing of the country. A key reason for this is its place in the system for managing natural and physical resources, which is currently centred around the Resource Management Act 1991 (RMA). The RMA is subject to a three-phase programme of deep reforms which will culminate in the repeal and replacement of the Act.

It is not yet clear what replacement legislation will look like. But the kinds of problems that the reforms are attempting to solve will not be able to be achieved through legislative change alone. Many issues with the RMA have arisen from its implementation, including by local government.

Although we are firmly of the view that local government should remain at the heart of a future system (subsidiarity is important), some institutional change will be needed to improve environmental outcomes. In particular:

- Incentives provided by local short-term political priorities (and “duelling economic and environmental mandates”)¹ have contributed to decisions having poor environmental outcomes, notably for freshwater and biodiversity protection. Local democracy and the risk of regulatory capture remains a weak point in the RMA system that requires more proactive and independent safeguards. Some of this can be achieved through resource management reform, but will also necessitate a broader rethink of the roles played by different institutions (including councils), and the checks and balances they provide. We would be happy to discuss options for strengthening independence in the system.
- There is a significant democratic deficit in local government, meaning that councils and their decisions are not necessarily reflective of their communities or the environmental values they hold. Democratic accountability for environmental outcomes needs to be strengthened. This requires better engagement in elections and council processes, but also a strengthened system for gathering and communicating environmental data and information, which enables communities to hold elected representatives to account.
- The system by which local government is funded requires urgent attention. This is for more systemic reasons than just the well-known fiscal constraints facing councils in their capacity as three waters providers or in places where urban growth pressures (and therefore capital investment in new infrastructure) are high.
- One problem is that councils are frequently faced with unfunded mandates from central government, including when it comes to implementing national direction under the RMA. Another is that the core funding mechanism of rates is vulnerable to politics, meaning that councils often face challenging political conversations when prioritising investment in environmental versus other things. Environmental functions (including monitoring) have been persistently underfunded. As you will be aware, the fiscal burden of climate change adaptation will also overwhelm councils.
- Some councils are also very small, with limited ratings bases, and their viability can be questioned. And some of these are responsible for managing very large and important natural environments, which do not correlate with the size of their rating base.
- There is a strong case for expanding the fiscal toolkit of councils. There is also a need for structural reform and/or boundary changes, to achieve economies of scale, and better reflect communities and environments that need to be managed in a more integrated way. A sensible approach would be to unitise councils at a broadly ‘regional’ level, defined by biophysical and community characteristics, alongside mechanisms to retain meaningful input from more localised communities.
- The relationship between central and local government needs attention. Central government would benefit from a more durable presence at place. More formal mechanisms for inter-agency cooperation and alignment across tiers of government would also be desirable.

¹ Resource Management Review Panel *New Directions for Resource Management in New Zealand* (June 2020) at 427.

Local government is in need of reform for broader reasons than just environmental ones. These have been identified in numerous reports, including the 2023 *Future for local government* (which recommended careful structural reform) and several reports from the Productivity Commission (which recommended changes to funding and financing mechanisms).² But it is vital that local government reform is well aligned with resource management law reform, given councils' future responsibilities for implementation of this critical system.

The structure and function of local government needs to occur hand in glove with a rethink of why we have an Environmental Protection Authority and where its roles might usefully expand to complement or strengthen those of councils (notably with respect to compliance monitoring and enforcement, state of the environment monitoring, and national-level consenting).

We look forward to working with you in your new roles.

Ngā mihi nui



Gary Taylor CNZM QSO
Chief Executive
Environmental Defence Society

² See *The Future for Local Government He Piki Tūranga, He Piki Kōtuku* (Wellington, June 2023); Productivity Commission *Local Government Funding and Financing* (2019); Productivity Commission of New Zealand *Better urban planning* (2015); Productivity Commission *Local Government Insights* (2019); Infrastructure New Zealand *Integrated Governance, Planning and Delivery: A Proposal for Local Government and Planning Law Reform in New Zealand* (2015); Infrastructure New Zealand *Building Regions: A Vision for Local Government, Planning Law, and Funding Reform* (2019) and Local Government New Zealand *A Blue Skies Discussion about New Zealand's Resource Management System* (2016).