

23 June 2025

Committee Secretariat
Finance and Expenditure Committee
Parliament Buildings
Wellington

RegulatoryStandardsBill@parliament.govt.nz

Regulatory Standards Bill

Tēnā koutou

1. The Kāpiti Coast District Council (Council) appreciates the opportunity to make comment to the Finance and Expenditure Committee on the Regulatory Standards Bill (the Bill). We have three substantive points of feedback as follows.

What in the Bill applies to local government: it's complex

2. Local government is regulated by some 150 pieces of legislation, with three – the Local Government Act 2002, Local Government (Rating) Act 2002, and Local Electoral Act 2001, critical to its existence.
3. While the Bill's sub-clause 4(d) of the definition of public entities would apparently exclude the regulatory instruments created by local authorities, this Bill:
 - a. Provides for all new statutory and regulatory instruments to be subject to the Bill's principles. After 10 years, all previously existing Acts and regulations must be reviewed against the principles.
 - b. Given this universal application to all central government regulation, it is very likely that, by default, the principles will become the standard expectation against which all regulation, including those held by local government, will be measured.
4. Council would **request** that this inconsistency in the coverage and treatment of local authorities, and these instruments of secondary legislation, be further clarified in the Bill.

What is and isn't in the Bill and the principles: Te Tiriti

5. The most glaring omission from the Bill and the principles is Te Tiriti. Council is **not supportive** of this intent or change.
6. As a founding document for our country, for it to be left out of a Bill that's purpose is to guide development of all other laws, is incomprehensible.
7. For local government, which has Te Tiriti as a requirement under its own mandating legislation, its absence creates a significant interpretive dilemma. Under the Local Government Act, local authorities must be cognisant of the Treaty and identify the impacts that their decisions will have on Māori. If Te Tiriti is not included in, or seen as part of the Regulatory Standards, local government is left with an inconsistent framework as to how it might undertake its responsibilities which are all governed by Acts subject to the principles of the Bill.
8. If Te Tiriti is not considered within this Bill as a critical part of responsible law making in Aotearoa New Zealand, yet the Local Government Act requires its inclusion in all considerations, local government entities not only have competing requirements, but are also opened up to legal risk and challenge.
9. Council **recommends** that a principle relating to Te Tiriti and the regulatory system, be included in the Bill.

Responsible regulation in practice

10. Under the Bill, regulatory standards are equated with eleven principles of *responsible regulation* (cl.6(1)). Council is concerned that the principles, while relatively pragmatic and well defined, will not alone provide the regulation our sector needs to efficiently deliver to our communities.
11. While Council acknowledges the requirements of clause 6(i)(vi)¹ may provide some additional discipline, it is currently unclear how the principles will abate the financial and practical impacts sudden legislated policy shifts for example Three Waters, Local Water Done Well, and Resource Management and other regulation, for example Speed limit rules, have on our communities.
12. Good law making requires cognisance of the impacts of practical implementation, including the risk of unintended consequences, which can only be achieved through the Crown and its agents:
 - a. Engaging early and fulsomely with the sector concerned, through co-design, working parties, and/or exposure drafts. The bland catch-all of clause 6(h), "that those affected by the legislation have been consulted" does not meet this need. To identify and investigate all potential adverse and unintended consequences and review the policy accordingly, meaningful inter-action and engagement with those impacted by the regulation needs to be undertaken to a greater level than 'consulted' with allows. The Select Committee process is not designed nor a suitable mechanism for this level of interaction.

¹ 6(i)(vi) all potential adverse consequences of the legislation (including any potential legal liability of the Crown or any other person) that are reasonably foreseeable:

- b. Council would not like to see this become a tick-box exercise and contentious issues inadvertently passed down for councils to grapple with our communities and stakeholders. Nor resulting costs passed through to Council and rate payers.
 - c. Being genuinely willing to adjust regulation in light of feedback on impact, cost, and implementation, with cost to the sector as well as the Crown or agency properly assessed through thorough cost/benefit analysis.
13. Supporting this, Council believes a further principle should be added requiring Bills to have an implementation pathway and evaluation clause against which Select Committees may periodically (at least every five years) gauge performance of the regulation. If this is not to happen, it is hard to see the usefulness of the Bill's requirements.
14. Clause 6(2) of the Bill provides for regulation to be incompatible with one or more of the principles, providing the incompatibility "is justified to the extent that it is reasonable and can be demonstrably justified in a free and democratic society." We do not consider this clause to be appropriate, and if kept, needs to be tightly managed through stronger accountability provisions for both ministers and public entities. discretion of Ministers and public entities to use this clause will need to be actively monitored by Parliament to avoid habitual use of this 'get-out-of jail' free card, as has occurred with Bill of Rights assessments.
15. Council **supports the intent of the principles** stated in clause 6 of the Bill but **recommends** that the engagement provisions and assessment of impacts are strengthened and a further principle requiring all regulation to include an implementation pathway and evaluation clause added.
16. Council thanks the Committee for this opportunity to raise these points, and notes that it fully supports the Submission from Taituara on the Bill.

Yours sincerely



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