



MP for Te Tai Tokerau

Minister for Māori Crown Relations: Te Arawhiti

Associate Minister of Education

Minister of Corrections

Minister of Tourism

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Hon David Parker
Minister for the Environment
Parliament Buildings
WELLINGTON

Tēnā koe David

Scope of the Resource Management Act Review

I am writing to you in response to Cabinet's invitation to identify any specific issues relevant to the Ara Poutama Aotearoa (Department of Corrections) portfolio that fall within the scope of the Resource Management Act Review, to enable them to be considered as part of the review process.

Ara Poutama Aotearoa delivers essential public services which benefit society as a whole. Essential services should be enabled through special provision under the resource management system.

Ara Poutama Aotearoa Context

Ara Poutama Aotearoa utilises two RMA tools to enable its services:

- Designations – for all custodial sites (e.g. prisons and correctional facilities)
- Land use zones – for most non-custodial facilities (e.g. community corrections facilities)

In August I launched *Hōkai Rangī* – a new strategic direction for Ara Poutama Aotearoa. The strategy outlines my commitment to delivering better outcomes with and for people in the care of Ara Poutama Aotearoa and their whānau.

Hōkai Rangī will result in significant changes to the way Ara Poutama Aotearoa operates.

9(2)(f)(iv)

Designations will be the key enabler to allow development of 9(2)(f)(iv) and other initiatives which are being developed 9(2)(f)(iv)

9(2)(f)(iv) The designation provision in the RMA and the particular way they are currently implemented will likely act as a significant constraint to those changes occurring.

Ara Poutama Aotearoa Experience with Designations

All Ara Poutama Aotearoa custodial corrections facilities are designated, however *all* activities that are associated with the operation of prisons are not necessarily provided for within the designation purposes, nor does the underlying zoning necessarily make specific policy provision for prison facilities. Similarly, if the designation includes a constraint regarding prison population numbers or the types of activities which can be undertaken on site, which many do, an expensive and protracted process must be followed to allow prison capacity growth.

Activities which occur in prisons can evolve over time, and sometimes it is necessary to rely on the underlying zoning for such changes. Often flexibility is not provided for in the designation (and associated conditions), therefore triggering either consent requirements or the need to amend the designation. An example of this is rehabilitation and reintegration activities, where methods have evolved over time and continue to evolve today. Issues such as changing approaches to skills training to fit offender employment opportunities and methods of reintegration have sometimes meant designations are out of step.

While it is possible to seek an amendment to the purpose of existing designations to include new activities (such as non-custodial facilities), the lack of an appropriate policy base in the underlying zoning can lead to difficulties as Ara Poutama Aotearoa recently experienced in the recent Environment Court (the Court) decision on the proposed expansion to Waikeria Prison. The Court was strongly guided by the provision of the underlying zoning in its decision making. As a rural zone, it provided very little policy support for the expansion of the prison. It is for this reason that Ara Poutama Aotearoa recently successfully sought the inclusion of a "Corrections Zone" in the National Planning Standards. Ara Poutama Aotearoa now needs to advocate for inclusion of this zone within each applicable district.

It is also Ara Poutama Aotearoa's view that designation procedures have not kept pace with new methods of infrastructure delivery. For example the use of a PPP delivery model is constrained by increasingly prescriptive designation conditions prior to design being confirmed and a tendency towards an outcome-focussed approach through designation conditions. This results in a lack of flexibility in both ongoing operations and through subsequent design stages. The level of detail being sought in designations also limits the ability to achieve cost savings at the project procurement phase by reducing flexibility and innovation over design solutions.

When decisions are being made on new or amended designations, the local adverse impacts of essential services are commonly being allowed to surpass the wider benefits to society delivered by these services, with increasing RMA mitigation requirements impacting on the ability to deliver services. There is no express recognition of the wider significance of essential services or distinguishing between ecological bottom lines and development control trade-offs that need to be made across environmental, social, cultural and economic wellbeing. As a consequence, requiring authorities are faced with justifying the national and regional significance of a designation as part of each hearing, creating additional complexity and cost. This lack of recognition of national and regional interests is imposing additional costs that limit the efficiency of essential services and therefore their effectiveness in meet the changing needs of society.

Ara Poutama Aotearoa Experience with Integrated Spatial Planning

Mechanisms for producing a forward looking, integrated view of environmental protection, land use, and essential social infrastructure at a regional level are ineffective. There is limited provision for development of a regional spatial strategy in Regional Policy Statements, and the Spatial Plans developed outside the RMA framework lack necessary disciplines.

There is currently only limited recognition of Ara Poutama Aotearoa services in spatial planning, which is an essential social infrastructure needed to support growth (e.g. development and new growth areas) in Regional Policy Statements. This is resulting in challenges when establishing new sites, such as non-custodial community corrections facilities, where expansion of these services to support growth has not been anticipated and can generate significant public (NIMBY) opposition.

Spatial plans are also needed to safeguard the operation of existing sites, identify the scale of land use change, enable timely delivery of essential infrastructure to unlock new development opportunities and address reverse sensitivity issues. This would help ensure the costs of unlocking growth are known and planned for from an early stage.

Summary

To support necessary and positive development within the Ara Poutama Aotearoa portfolio **9(2)(f)(iv)** and associated societal benefits, the designation process should:

- Reflect the national and regional significance of essential public services, including social infrastructure such as custodial facilities, in recognition of wider societal benefits. Designations currently tend to be treated as application for specific projects with local impacts.
- Enable projects to be progressed through various infrastructure delivery models including PPPs. The application of very detailed designations conditions currently constrains use of this model and does not provide flexibility through design stages and ongoing operations.
- Recognise that activities within designations evolve over time and provide flexibility to accommodate such changes by not being overly constrained through scope/purpose or designation conditions.
- New or amended designations should not be constrained by underlying zoning.

Furthermore, the plan making process should recognise the value of long-term spatial plans that provides an integrated view of essential social infrastructure (e.g. Ara Poutama Aotearoa custodial and non-custodial sites), land use and environmental protection at a regional level. Spatial planning should safeguard the operation of existing sites, address reverse sensitivity issues and support new development of essential services.

Next steps

I understand that Ara Poutama Aotearoa staff are working with the Ministry for the Environment and other agencies to ensure that these issues are addressed in the course of the current review. I have asked them to focus particularly on assisting with advice on designation processes, which are vital to the integration of social infrastructure and land use policy.

Nāku noa, nā



Kelvin Davis
Minister of Corrections