



Hon Chris Bishop
Minister for Resource Management Reform
Parliament Buildings
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By email: chris.bishop@parliament.govt.nz

29 January 2026

Dear Minister

At the time you announced your intention to remove the governance level of regional councils, you also announced a rapid review of regional council statutory functions, with a view to identifying which of those functions might better be delivered by central government. Given the importance of regional councils in the current environmental management system – and my statutory role to report to Parliament on the effectiveness of that system – I asked to contribute to the review.¹

The first stage of that review, described as an initial light touch assessment, has now been completed and has recommended an odd collection of miscellaneous functions as candidates for centralisation, subject to a more detailed phase two analysis. Officials have advised you and Hon Simon Watts that resource management and biosecurity functions can instead be considered as part of separate and ongoing reform initiatives.

I am writing to you directly to raise a number of concerns you may wish to consider that could prove useful as you move forward. I clearly misunderstood the nature of the review. It is designed to fit a timetable that cannot give serious consideration to what is at stake for environmental management, given both the replacement of the Resource Management Act, and the announced decision to remove regional councillors.

I had thought that the rapid review process, while rapid, would still engage a comprehensive examination of regional council functions. Unfortunately, its scope was limited in two ways:

1. Resource management and biosecurity functions are to be considered through other processes. I am not convinced that their respective ongoing reform

¹ The nature of my interest is grounded in section 16 of the Environment Act, which provides, *inter alia*, that I should keep under review the system of agencies established to manage the environment, and under section 16 (1)(b) “investigate the effectiveness of environmental planning and environmental management carried out by public authorities”.



processes will be able to undertake a first principles review of the relevant functions. With respect to biosecurity, I understand that MPI is already drafting an amendment bill. As far as regional resource management functions go, the earliest any review of where particular functions should lie is likely to be well after the Planning and Natural Environment Bills have been enacted. By then, if the proposed approach proceeds as envisaged, the Combined Territories Boards (CTBs) will be well advanced in recommending whatever they propose despite the fact that central government will not have clarified its view of what functions should sit where.

2. For those functions that were covered by the rapid review, the question asked was what might be 'centralised'. This implied that anything that wasn't going to be centralised could be localised, i.e. conducted below the level of the region at a territorial authority level. A comprehensive first principles review should also ask what functions should **not** be fragmented and therefore should continue to be delivered at least at the regional level.

In my view, there are at least four functions that do not make sense at a level below that of the region (or at least a catchment). They are:

- catchment management to secure water and soil outcomes (including flood management)
- the management of pests and weeds and the protection of biodiversity
- compliance and enforcement of environmental regulations, and
- monitoring of and reporting on the state of the environment.

Determining regional governance arrangements, without a good sense of what functions should be conducted at what level and how, is to place form before function. It risks sub-optimal and perverse outcomes. If done poorly, the ultimate cost will fall to the Crown and it could be expensive.

Finally, while I see a political benefit in local mayors making decisions (through CTBs) about local functions, they lack the right incentives and knowledge to make decisions in respect of the functions I have identified above (and maybe others). Most of the regional functions they are being asked to consider sit well beyond their current mandates and most have no experience of them.

While unitary councils could provide an attractive solution, there is a real risk that even there CTBs will present you with proposals for many more unitary councils than the 17 regional entities you currently have. That could pose serious problems for functions, such as catchment management, that must not be fragmented. It would also run counter to the simplification your resource management reforms hope to deliver.



In my view, central government needs to be clear in its own mind about what functions must continue to be operated at the regional level (or elevated to the centre) and only then consider what the best governance arrangements for them might be.

I recommend that you slow down your current local government reorganisation process to give you time to complete a comprehensive review of what functions are best performed at what level, so that you can provide clear direction on what must continue to reside at regional or national level.

I would welcome a meeting with you to discuss these issues further.

Yours sincerely

Rt Hon Simon Upton

Parliamentary Commissioner for the Environment
Te Kaitiaki Taiao a Te Whare Pāremata

Cc Hon Simon Watts, Minister of Local Government