

Recommendation 2.23 – steps for collaborative plan and policy making

This note maps the collaborative plan-making proposals in the RLA Bill¹ against the seven plan-making steps set out in recommendation 23 of the Forum's second report, and highlights points of difference.

Step 1 – Initiate collaborative process

- While iwi authorities can appoint a person to represent the views of tangata whenua (proposed Cl 40(1) of schedule 1), they are not otherwise involved in appointment of Collaborative Stakeholder Group (CSG) members [It is unclear whether this may be prescribed by an iwi participation agreement].
- The Bill proposes a process for setting terms of reference (proposed clause 41 of schedule 1) but does not propose a process for selecting the CSG Chair.

Step 2 – Collaborative policy development

- The Bill does not refer to the principles of collaborative freshwater management or the requirement for technical experts to participate in accordance with the Environment Court's Expert Witness Code of Conduct.

Step 3 – Translate policy into plans

- The CGS reports to the council who publically notify the report then prepare the propose policy statement or plan giving effect to the consensus position (proposed clauses 34 &35 to schedule 1). The Council then publically notifies the proposed policy statement or plan (proposed clause 48 of schedule 1) rather than the CSG working with the council to translate its consensus into a draft plan which the council notifies.
- The Council must seek advice from iwi on the draft plan, unless there is an iwi participation agreement in place (proposed clause 46 of schedule 1) in which case the terms of that agreement will determine the process for iwi involvement.
- The Council prepares a s32 evaluation report of costs and benefits – rather than costs and benefits being considered by the CSG through its process (proposed clause 47 of schedule 1).

Step 4 – Submission and hearing process

- No specific provision is made for mediation, though this would not be precluded (proposed clause 52 to schedule 1).
- The CSG can appoint a member to attend hearings and assist the Panel (proposed clause 52 to schedule 1).
- The provisions of schedule 1 related to making submissions are not proposed to be amended. Accordingly, the council can submit on the proposed plan. While it is not prescribed, it would be standard practice for the Council to provide evidence in support of the proposed policy statement or plan.

Step 5 – Draft decision

- There is no requirement for the Review Panel to release a draft decision.
- The review panel reports to the Council including any changes (proposed clause 53(4) of schedule 1). Changes can only be made where needed to:
 - ensure consistency with the consensus position
 - satisfying sections 4 and 5 of the RMA or other enactments
 - to address matter not considered by the collaborative group or the Council.

Step 6 – Final decision

- The Council accepts or rejects recommendations of the Review Panel. The involvement of iwi is not required (proposed clause 54 of schedule 1) [It is unclear whether this may be prescribed by an iwi participation agreement].

Step 7 - Appeals

- Appeals by rehearing to the Environment Court are provided for if the council deviates from the recommendations of the review panel, except where required to give effect to sections 4 and 5 of the RMA or other enactments (proposed clause 59 of schedule 1).

¹ Specifically the addition of a new Part 4 to schedule 1 (see pages 132-149 of the RLA Bill).