WYNN WILLIAMS

NZILA Conference – Regulatory Round-Up

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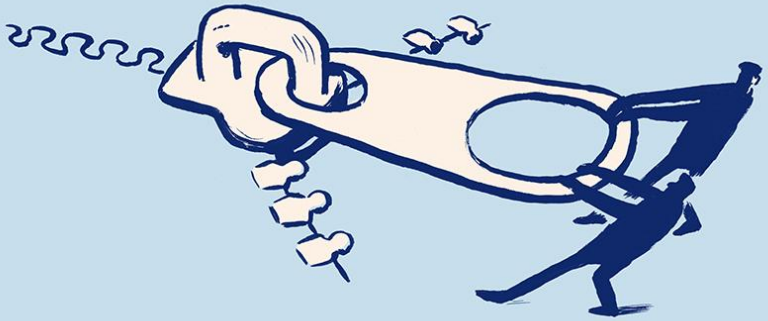
22 October 2026

OVERVIEW

- Local government reform
- New regulatory enforcement tools
- Alternative means to resolving enforcement action
- Proportionality in decision-making by regulators



LOCAL GOVERNMENT REFORM

New legislative framework:

- Natural Environment Act 2026
- Planning Act 2026

A new standardised system to simply local government regulation, with a clear national focus. Combined plans to include:

- Regional spatial plan
- Land-use plans
- Natural environment plan

Head Start Pathway

- Fragmentation and inconsistency in practice, capability, capacity, competency and priority
- Amalgamation of local authorities
- Back-stop process

A reduction in local authorities, but a national regulator for compliance and enforcement?

NEW REGULATORY ENFORCEMENT TOOLS

Adverse Publicity Orders

Publication of:

- Non-compliance
- Adverse environmental effects
- Penalties
- Specific information

Effective from 30 October 2026

Enforceable Undertakings

An undertaking to:

- Pay compensation to any person or take other action
- Pay compensation to regulators for remediation of adverse environmental effects
- Carry out restoration activities
- Implement measures to avoid or mitigate further offending

Effective from Specified Transition Date

Monetary benefit orders

An order to recover proceeds derived from non-compliance.

Effective from Specified Transition Date

ALTERNATIVE MEANS TO RESOLVING ENFORCEMENT ACTION

The public interest test requires consideration of alternative methods of responding to alleged offending.

The existing suite of compliance and enforcement tools, including:

- Revised scope of abatement notices
- Enforcement orders to revoke or suspend resource consents

Alternatives to prosecution:

- Diversion schemes
- Enforceable undertakings

PROPORTIONALITY IN DECISION-MAKING BY REGULATORS

Foundational provisions of the Planning Act 2026 and the Natural Environment Act 2026

- Procedural principles are core provisions of both Acts
- Requires any person exercising or performing a function, power or duty under the Acts to take all practicable steps to act in accordance with certain principles:
    - Act proportionately to the scale and significance of the matter to which the function, duty or power relates.
    - Act in a pragmatic way that supports practical solutions.
- A mandatory requirement.

Consideration of whether the enforcement response is commensurate with the seriousness of the alleged non-compliance already forms part of the approach taken by local authorities towards compliance and enforcement.

However, procedural principles may arguably allow collateral challenges to enforcement and compliance decisions by way of judicial review.

Clarity / Pragmatism / Success

Questions?

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