

Submission

**Natural and Built Environments Act
Exposure Draft Bill**

August 2021

WAIPĀ DISTRICT COUNCIL SUBMISSION ON

THE NATURAL AND BUILT ENVIRONMENTS BILL – EXPOSURE DRAFT

INTRODUCTION

Waipa District Council (the Council) welcomes the opportunity provided by Parliament's Environment Select Committee, to provide comment on exposure draft of the Natural and Built Environments Bill (NBA).

GENERAL COMMENTS

- 1 The Council supports the Government's commitment to replace the out-dated Resource Management Act (1991) with new legislation. The Council also appreciates being able to provide comment on this early release of a draft bill. It does acknowledge that much work has still to be done on compiling the detail of the draft bill before it is again made available for public comment in early 2022.
- 2 The Council supports the focus on the long term and an integrated planning approach. It also supports the prominence of Te Tiriti o Waitangi and a Māori world view in the purpose of the NBA.
- 3 The Council acknowledges the obvious attraction of the NBA being a single piece of legislation for protecting the natural environment while managing and regulating resource use to ensure that any adverse effects from natural resource use are not unsustainable and compromise future generations. As with the RMA, there is however, a fundamental tension between these two aspects and as has been pointed out by the Government, the overriding purpose of the NBA should be protection of the biophysical environment.
- 4 The Council is concerned that the NBA, like the RMA, does not include the ability to set robust proactive environmental protection measures. Currently it only sets passive controls like minimum/maximum environmental limits, so like the RMA takes a reactionary stance. It is therefore, not clear that the NBA will adequately ensure natural environmental protection and whether such limits may just lead to a race to the bottom.
- 5 The Council accepts the NBA's description of the natural environment as all-encompassing. It does however note that while this concept is non-spatial, the concept of the built environment is by contrast, physical and spatial. Since much of the work of Council is in regulating the interaction between these two aspects, it will

be important for the NBA to be clearer in its provisions, as to how the terms ‘natural environment’ and ‘built environment’ are defined and expressed spatially. Particularly in managing land use activities as expressed in the various land use zones (mapped spatially) and their associated rule provisions in district plans. A key aspect in this regard is clarity around the use of terms like ‘natural areas’, ‘rural areas’ and ‘urban areas’.

- 6 The Council is in general support of the Taituarā submission on the NBA, and in particular, the point that Government needs to engage more closely with local government on the reform programme and transitioning to a new system. Alignment and integration with the Strategic Planning Act (SPA) and the Managed Retreat and Climate Change Adaptation Act (CAA).
- 7 The Council is in support of the comprehensive LGNZ submission on the NBA, particularly in the need to uphold the key principles outlined in their submission.
- 8 Due to the short period of consultation, the views expressed here reflect the limitations of time and lack of opportunity for wider consideration by the Council and its staff. The comments made below are limited to bullet points on key aspects of the NBA. We have not been able to engage with Mana Whenua/Iwi, or our wider community.

SPECIFIC COMMENTS

Definitions

- 9 There is a need for clarity on terms like: *Built Environment, concept of Te Oranga o te Taiao, mana whenua, ecological integrity, soil, urban form, urban areas and rural areas*. It will be important for consistency with terms used in current legislation and national direction.

Purpose

- 10 As pointed out in the overall comments, the NBA needs to be clearer regarding its overriding purpose being protection of the natural environment.
- 11 Environmental limits and environmental outcomes. If the legislation is to be truly outcomes focused it is considered important to prioritise and proactively focus on environmental outcome goals and objectives over environmental limits or (bottom lines). What gets decided and set at a national and local level also needs careful consideration.

- 12 More thought is required on achieving an outcomes approach and what gets priority over what.
- 13 Section 7(3): We submit that it should be made clearer that “parts of the environment” could include spatial parts of the environment, not just elements of the environment.
- 14 Section 8: These outcomes include outcomes for the natural environment and built environment. These can sometimes be conflicting. Section 8 does not clearly prioritise or provide any guidance on how these should be prioritised. The lack of direction could mean continued complication in decision-making. A question to be asked is whether “environmental” is the correct term: better to state “natural environment” and “development”?
- 15 Section 8(d): This doesn’t cover the protection, restoration or improvement of indigenous vegetation and habitats generally (only “significant” ones). There’s no reference to considering the integration of various habitats throughout the country, which is important for some species, e.g. birds.

National Planning Framework

- 16 The Council supports the National Planning Framework (NPF) as providing for national consistency, priority setting, integration, reconciling outcomes and cohesive regulation.
- 17 Council would like the NPF to really focus on removing the development tensions and focus on plan making and allowing activities if outcomes are met, with less emphasis on notification decisions and contentious hearings.
- 18 It will be important to clarify what does an outcome based plan look like compared with an effects based plan.
- 19 The purpose of the new Act emphasises the establishment of environmental limits. The proposed clause 12 makes it discretionary for environmental limits to be set out in the national planning framework. Given the importance of environmental limits in achieving the outcome of the Act, should it not be mandatory to set them in the national planning framework?
- 20 Natural and Built Environment Plans - Needs to be clear that the new one plan per region will be prepared jointly by local authorities in the region on a collaborative basis. It is acknowledged that this process will take some time and a transition processes will be required.

- 21 Section 22 Content of Plans - It is not clear what “significant” means and is not clear what priority should be given to conflicting environmental outcomes. Should it contain mandatory spatial plans?
- 22 Section 24(2)(c) “have, or known to have” contradicts the precautionary principle. Despite clause 24(3), it should still be “likely to have”. It should also consider the effects of the plan in conjunction with existing activities/surrounding plans i.e. not consider the plan in a silo.



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