

# Strategy and Planning Committee Agenda

## 11 August 2021



Meeting is held in the Council Chamber, Level 2, Philip Laing House  
144 Rattray Street, Dunedin

### Members:

Cr Gretchen Robertson, Co-Chair	Hon Cr Marian Hobbs
Cr Kate Wilson, Co-Chair	Cr Carmen Hope
Cr Hilary Calvert	Cr Gary Kelliher
Dr Lyn Carter	Cr Michael Laws
Cr Michael Deaker	Cr Kevin Malcolm
Mr Edward Ellison	Cr Andrew Noone
Cr Alexa Forbes	Cr Bryan Scott

Senior Officer: Sarah Gardner, Chief Executive

Meeting Support: Dianne Railton, Governance Support

11 August 2021 01:00 PM

<b>Agenda Topic</b>	<b>Page</b>
1. APOLOGIES No apologies were received prior to publication of the agenda.	
2. PUBLIC FORUM No requests to address the Committee under Public Forum were received prior to publication of the agenda.	
3. CONFIRMATION OF AGENDA Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.	
4. CONFLICT OF INTEREST Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.	
5. PRESENTATIONS Dr Ini-Isabée Gunn, Principal Advisor Ecology – Biosecurity and Biodiversity, Land Information New Zealand (LINZ) will update the Committee on the Otago Aquatic Programme.	
6. CONFIRMATION OF MINUTES The Committee will consider minutes of meetings a true and accurate record, with or without corrections.	3
6.1 <a href="#">Minutes of the 7 July 2021 Strategy and Planning Committee</a> The Committee will consider minutes of the previous meeting as a true and accurate record, with or without changes.	3

7.	OUTSTANDING ACTIONS FROM RESOLUTIONS OF THE COMMITTEE	7
7.1	<a href="#">Actions Register at 11 August 2021</a>	7
8.	MATTERS FOR CONSIDERATION	8
8.1	<a href="#">NATURAL AND BUILT ENVIRONMENTS ACT (NBA) EXPOSURE DRAFT SUBMISSION</a>	8
	This report is to inform the Committee of ORC's submissions to the Inquiry on the Natural and Built Environments Bill: Parliamentary paper.	
8.1.1	<a href="#">Attachment 1: NBA Exposure Draft - Otago Southland Councils Joint Submission</a>	10
8.1.2	<a href="#">Attachment 2: NBA Exposure Draft - ORC Submission</a>	27
8.1.3	<a href="#">Attachment 3: NBA Exposure Draft - ORC Submission - Appendix - Relief Sought</a>	35
9.	RESOLUTION TO EXCLUDE THE PUBLIC	43
9.1	<a href="#">Public Excluded Reason and Grounds</a>	43
10.	CLOSURE	



Minutes of a meeting of the Strategy and Planning Committee  
held in the Council Chamber  
on Wednesday 7 July 2021 at 1:00 PM

**Membership**

Cr Gretchen Robertson (Co-Chair)  
Cr Kate Wilson (Co-Chair)  
Cr Hilary Calvert  
Dr Lyn Carter  
Cr Michael Deaker  
Mr Edward Ellison  
Cr Alexa Forbes  
Hon Cr Marian Hobbs  
Cr Carmen Hope  
Cr Gary Kelliher  
Cr Michael Laws  
Cr Kevin Malcolm  
Cr Andrew Noone  
Cr Bryan Scott

**Welcome**

Chairperson Robertson welcomed Councillors, Mr Edward Ellison, Dr Lyn Carter, members of the public and staff to the meeting at 2:26 pm. Staff present included Sarah Gardner (Chief Executive), Nick Donnelly (GM Corporate Services), Gavin Palmer (GM Operations), Richard Saunders (GM Regulatory and Communications), Amanda Vercoe (GM Governance, Culture and Customer), Dianne Railton (Governance Support), Eleanor Ross (Manager Communications Channels), Sylvie Leduc (Senior Strategy Analyst) and David Cooper (Principal Engagement Advisor).

## 1. APOLOGIES

**Resolution: Cr Hope Moved, Cr Kelliher Seconded**

*That the apology for Cr Deaker be accepted. Dr Carter attended the meeting via electronic link.*

**Motion Carried**

## 2. PUBLIC FORUM

No public forum was held.

## 3. CONFIRMATION OF AGENDA

**Resolution: Cr Hope Moved, Cr Noone Seconded**

*That the late paper, Natural and Built Environments Act (NBA) Exposure Draft – Submission Process, be included on the agenda.*

**Motion Carried**

## 4. CONFLICT OF INTEREST

No conflicts of interest were advised.

## 5. CONFIRMATION OF MINUTES

**Resolution SP21-107: Cr Hope Moved, Cr Wilson Seconded**

*That the minutes of the meeting held on 12 May 2021 be received and confirmed as a true and accurate record.*

**Motion Carried**

## 6. ACTIONS

The Actions Register of the Strategy and Planning Committee were reviewed. Cr Robertson noted the action point South Dunedin/Harbourside Adaptation collaboration with DCC was overdue, and following discussion Cr Hobbs moved:

**Resolution SP21-110: Cr Hobbs Moved, Cr Calvert Seconded**

*That Chair Noone formally write to DCC requesting a discussion is held on the action point South Dunedin Harbourside Adaptation Programme.*

**Motion Carried**

## 7. MATTERS FOR CONSIDERATION

### 7.1. He Mahi Rau Rika Draft Significance, Engagement and Maori Participation Policy

*Cr Scott and Cr Wilson left the room due to a possible conflict of interest at 2:32 pm.*

The report was provided for approval from Council to commence a special consultative procedure for the draft He Mahi Rau Rika – Significance, Engagement and Māori Participation Policy. The draft policy is consistent with the ORC Strategic Directions and will make a public commitment to improve our partnership with iwi and engagement with the community. Richard Saunders (GM Regulatory and Communications) and Eleanor Ross (Manager Communications Channels) were present to speak to the report and respond to questions.

Richard Saunders advised that it is a statutory requirement to have a Significance and Engagement Policy. He said the draft policy would go through a consultation process and the document would be formally designed before coming back to Council for formal approval. Mr Ellison fully endorsed the policy, saying it is a necessary building block. Cr Robertson said it is good for ORC to have a clear policy that has been carefully crafted and thanked mana whenua, Aukaha and Te Ao Marama Inc for their contribution to the document.

#### **Resolution SP21-108: Cr Noone Moved, Cr Forbes Seconded**

*That the Strategy and Planning Committee:*

- 1) **Approves** Option 1 - the draft He Mahi Rau Rika - Significance, Engagement and Māori Participation Policy for consultation under Section 82 of the Local Government Act 2002.
- 2) **Appoints** Councillors Deaker (Chair), Wilson and Scott to hear any submissions and make recommendations to Council.
- 3) **Notes** that consultation is scheduled to commence on 19 July 2021 and will run for four weeks or 20 working days.
- 4) **Notes** the draft document is subject to a formal design process prior to being presented to Council for final adoption on 29 September 2021.

#### **Motion Carried**

**Cr Kelliher requested his vote against the motion be noted in the minutes.**

**Cr Laws requested his vote against the motion be noted in the minutes.**

*Cr Scott and Cr Wilson returned to the meeting at 3:06 pm.*

### 7.2. Natural and Built Environments Act (NBA) Exposure Draft - Submission Process

The report was to set the approval process for ORC's submission to the NBA exposure draft released by Government on 29 June 2021. Amanda Vercoe (GM Governance Culture and Community) and Sylvie Leduc (Senior Strategy Analyst) were present to speak to the report and respond to questions.

Sylvie Leduc advised that submissions are due on 4 August 2021 and said work will be done on an Otago and Southland joint submission as well as an ORC submission. Sarah Gardner said that the joint Otago and Southland submission would go through the Otago Southland Mayoral

Forum and advised that staff may also make a submission which would be more technical than a submission from Governance. There was discussion on the Strategy and Planning Co-Chairs approving the ORC submission, and Cr Robertson and Cr Wilson will send the Strategy and Planning Committee members some high-level questions for their input.

**Resolution SP21-109: Cr Noone Moved, Cr Hobbs Seconded**

That the Strategy and Planning Committee:

- 1) **Notes** this report.
- 2) **Notes** ORC is working with Otago and Southland councils to coordinate responses to resource management reform, including a potential joint submission on the Natural and Built Environments Act exposure draft.
- 3) **Agrees** for the review and approval of the ORC submission (joint or individual) to be done by the Co-Chairs of the Strategy and Planning Committee, before being submitted to the Select Committee on 4 August 2021.
- 4) **Notes** that a copy of the finalised submission will be brought to the Strategy and Planning Committee on the 11 August 2021 for noting.
- 5) **Notes** that this is the first opportunity to provide feedback on the exposure draft, and there will be further opportunities later in the year.

**Motion Carried**

**8. CLOSURE**

There was no further business and Chairperson Robertson declared the meeting closed at 3:26 pm.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date

**ACTION REGISTER – OUTSTANDING RESOLUTIONS OF THE STRATEGY AND PLANNING COMMITTEE AS AT 11 AUGUST 2021**

Meeting Date	Item	Status	Action Required	Assignee/s	Action Taken	Due Date	Completed (Overdue)
01/12/2020	OPS1016 Integrated Otago Trail Network Investigation	Completed	Conduct a Council workshop in 2021 to explore opportunities to support an integrated trail network for Otago.	General Manager Operations	Trail Network Workshop held on 12 May 2021.	01/09/2021	
01/12/2020	P&S1885 ORC Role in South Dunedin/Harbour side Adaptation collaboration with DCC	In Progress	Progress collaboration with DCC to deliver the South Dunedin/Habourside natural hazards adaptation programme as in Option 3 and report back to Council.	Chairperson	<p><b>26/01/2021</b></p> <p>Date to be set for initial meeting between Chair Noone, Mayor Hawkins and staff.</p> <p><b>6/05/2021</b></p> <p>Chair Noone advised he had spoken with DCC Mayor Hawkins who is waiting on a formal position from Councillors</p> <p><b>12/07/2021</b></p> <p>That Chair Noone formally write to DCC requesting a discussion held on the action point South Dunedin Harbourside Adaptation Programme</p> <p><b>04/08/2021</b></p> <p>Chair Noone wrote to the DCC and a meeting has been scheduled in the Mayor's office on Tuesday 31 August, which Cr Noone, Sarah Gardner and Gavin Palmer will attend.</p>	28/02/2021	<b>Overdue by: 156 days</b>

**8.1. Natural and Built Environments Act (NBA) Exposure Draft Submission**

<b>Prepared for:</b>	Strategy and Planning Committee
<b>Report No.</b>	SPS2138
<b>Activity:</b>	Governance Report
<b>Author:</b>	Sylvie Leduc, Senior Strategic Analyst
<b>Endorsed by:</b>	Gwyneth Elsum, General Manager Strategy, Policy and Science
<b>Date:</b>	11 August 2021

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**PURPOSE**

- [1] To inform the Committee of ORC's submissions to the Inquiry on the Natural and Built Environments Bill: Parliamentary paper.

**EXECUTIVE SUMMARY**

- [2] On 29 June 2021, the Government released an exposure draft of the Natural and Built Environments Act (NBA). The NBA will be the main replacement for the Resource Management Act (1991) (RMA), once enacted, and is central to the reform of the resource management system.
- [3] The exposure draft has been referred by Parliament to a Select Committee inquiry process. Public submissions on these matters closed on Wednesday 4 August 2021.
- [4] On 1 July 2021, the Strategy and Planning Committee held a workshop on the Government's reform programme, including the resource management reform. Discussions and comments at this workshop informed the preliminary assessment of the NBA exposure draft, and ORC's position on the proposal.
- [5] ORC's feedback was prepared with the further input of:
- ORC staff, including from the Strategy, Science, Policy, Consents and Natural Hazards teams, and
  - The Strategy and Planning Committee members.
- [6] ORC's views and feedback were shared with the planning teams of the ten councils in Otago and Southland who prepared a joint submission to highlight the concerns and views all councils shared. ORC also prepared an individual submission to complement the joint submission and highlight the matters which are of particular interest to ORC.
- [7] Both submissions are attached to this report. They were approved by the Strategy and Planning Committee Co-Chairs, in accordance with the decision made by the Committee on 7 July 2021.
- [8] The joint submission was signed by: Central Otago District Council, Clutha District Council, Dunedin City Council, Environment Southland, Gore District Council, Invercargill City Council, Otago Regional Council, Queenstown Lakes District Council, Southland District Council, and Waitaki District Council.



- [9] The Select Committee is expected to report back to Parliament in October 2021. ORC will have a second opportunity for feedback, when the full NBA bill is introduced to Parliament, along with the Strategic Planning Act Bill, in early 2022.

### **RECOMMENDATION**

*That the Committee:*

- 1) **Notes** the following submissions were made to the Inquiry on the Natural and Built Environments Bill: Parliamentary paper:
  - a. ORC's individual submission; and
  - b. The joint submission ORC is a signatory of, along with the other Otago-Southland Councils.
  
- 2) **Nominates** an ORC spokesperson to the Select Committee Hearing on the inquiry.

### **ATTACHMENTS**

1. NBA Exposure Draft - Otago Southland Councils Joint Submission [8.1.1 - 17 pages]
2. NBA Exposure Draft - ORC Submission [8.1.2 - 8 pages]
3. NBA Exposure Draft - ORC Submission - Appendix - Relief sought [8.1.3 - 8 pages]

**COMMENTS INQUIRY ON THE NATURAL AND BUILT ENVIRONMENTS BILL: PARLIAMENTARY PAPER  
OTAGO-SOUTHLAND COUNCILS' JOINT SUBMISSION**

This submission is from the ten councils of Otago and Southland regions:

- Central Otago District Council,
- Clutha District Council,
- Dunedin City Council,
- Environment Southland,
- Gore District Council,
- Invercargill City Council,
- Otago Regional Council,
- Queenstown Lakes District Council,
- Southland District Council, and
- Waitaki District Council.

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Contact person: Sylvie Leduc, Senior Strategic Analyst

### **Introduction**

Otago and Southland's councils thank the Environment Select Committee (Select Committee) for the opportunity to submit on the exposure draft of the Natural and Built Environments Act (NBA).

The signatories acknowledge that there is still a significant amount of work to be done on the design of the new legislative system, including drafting the balance of the NBA and the Spatial Planning Act (SPA) and the Climate Change Adaptation Act (CAA). There is also a considerable amount of work to be done to put in place necessary arrangements to enable an effective transition from the current system to the new one.

While we appreciate it was never intended that the exposure draft would contain all the detail that will be included in the final Bill, not being able to consider a comprehensive proposal, made up of the NBA, SPA and CAA, makes it challenging to comment on the draft NBA provisions.

In preparing this submission, signatories were supported by their planning teams, who provided technical input on the exposure draft and its possible implications.

This submission reflects the signatories' shared view on the proposal and may be supplemented by individual comments from each of the councils.

### **Overall position**

Councils have put significant investment in implementing the current resource management system, and these investments are ongoing. Many councils in the Otago and Southland regions have recently completed a review of their plans or have started a review process. The implementation costs of a new system will be substantial, especially in view of the more recent plan reviews. Depending on the timing of change, it is also likely to be disruptive to current work programmes and forward progress towards supporting additional housing capacity and work to implement the Government's freshwater package. Such costs and delays will only be worthwhile if the new resource management system brings significant improvements to the current system, which at this stage is uncertain.

In our view, to be effective, the new system needs to provide:

1. Strong directions and priorities that usefully guide decision-making at every level;
2. The ability to provide for local conditions, including the local environment, and local communities' aspirations
3. A strong monitoring, assessment and review process; and
4. Clear and unambiguous legislation.

The NBA draft, as it stands, does not give us confidence that the reform will meet these expectations, and enhance the effectiveness and efficiency of the resource management system.

The strong focus on environmental bottom-lines ("environmental limits"), and the weak requirement to "promote" environmental outcomes implies that environmental degradation will be tolerated down to bottom lines. This is against the stated reform's objective to "protect and restore the environment (...)".

In addition, the lack of focus on the built environment is unlikely to result in enabling good-quality urban development, which is also one of the key purposes of the reform.

We also note that many questions remain on the planning committee model that is being proposed, how it is going to work, and whether it is the most appropriate model.

### **Treaty Clause**

Before expanding further on our concerns with the exposure draft, we acknowledge the importance of a deep and significant partnership with mana whenua on resource management and offer our support in principle for the draft Treaty Clause, and the requirement to “give effect to”, rather than “take into account” te Tiriti o Waitangi.

We note that the practical implications of this change are still uncertain and wish to see some clarification on the matter. We agree with the Resource Management Panel that guidance on how to implement te Tiriti should be developed. We would like confirmation that such guidance will be provided in the full Bill.

### **A lack of clear directions and priorities**

The NBA exposure draft does provide the purpose and direction that is needed for effective and efficient resource management; and to inform decision-making.

### ***Purpose of the Act***

As a foundation to the Act and to its implementation, the purpose section needs to be clear and unambiguous. As it is, the draft purpose of the Act falls short of these expectations and is likely to give rise to long and costly arguments and litigation, as planning processes will try to achieve a purpose many will interpret differently.

In particular:

- The definition of “Te Oranga o te Taiao” is ambiguous, and not limiting. “Incorporates” implies that there are components to the concept which are not listed in the definition. And as it is not a tikanga concept, it is likely to meet the same interpretation challenges as the concept of “Te Mana o te Wai” in the National Policy Statement for Freshwater Management (2020) (NPSFM);
- The term “uphold” is vague and lacks strength. Moreover, it is not appropriate to some of the elements of “Te Oranga o te Taiao” (“upholding the interconnectedness of all parts of the natural environment”);
- The health of the natural environment is also a concept open for interpretation;
- There is no priority or guidance over how conflicts between Te Oranga o te Taiao and the ability of people to support their needs should be managed.

Under section 5, environmental limits and environmental outcomes are the key two mechanisms by which the purpose of the Act is to be achieved. The direction to “comply with” environmental limits, and “promote” environmental outcomes seems to give precedence to environmental limits, relative to outcomes. For the Act to effectively change the focus of resource management from managing effects to achieving outcomes, there should be a higher emphasis on the environmental outcomes.

**Environmental outcomes**

Clause 8 (Environmental outcomes) should complement the purpose of Act and provide more detail over what needs to be achieved, and what resource management's priorities are. The current draft provides a long list of outcomes, between which conflict is inevitable. No clear priority between these outcomes is provided, unless it is implicit through their order; or through the list provided in section 13.

Although we acknowledge the intention of providing guidance on how conflicts will be resolved through the National Planning Framework and the Natural and Built Environments Plans (plans), a clear sense of priorities between outcomes within the NBA itself will make for a more efficient system, avoid lengthy and costly litigation on how conflicts should be resolved, and greatly assist decision-makers.

Given that, under draft section 13, the National Planning Framework is required to provide direction on only nine of the 17 environmental outcomes listed in section 8, the National Planning Framework is unlikely to provide appropriate direction to resolve key conflicts unless the Ministry for the Environment extends its scope to additional, discretionary, outcomes. In particular, guidance would be useful from government on how to enable urban development (section 8(k) and (l)) and protect highly productive land from inappropriate subdivision, use, and development (section 8(m)(iii)).

The National Planning Framework and plans could usefully provide guidance on how to resolve conflicts between outcomes if they were to translate the NBA's environmental outcomes into a set of mutually compatible outcomes adapted to the place they apply to. This would also better reflect the need for local place-based planning decisions to reflect the needs and values of the communities affected by them, and the variation that exists across New Zealand's regions, cities and districts.

**Enabling management of local conditions and aspirations**

We support the fact that national directions be required, rather than discretionary, on matters of national significance. We also support the setting of environmental limits at a central level. As demonstrated by the NPSFM, national bottom-lines set useful parameters to the engagement of local communities on objectives, policies and rules for their local environment.

Regions can have a large variation in climate, geophysical and ecosystem characteristics, and economic, social and cultural characteristics. The trade-offs, outcomes and limits prescribed in legislation can only be meaningful if they are adapted to the local environment and to local communities' aspirations.

The NBA exposure draft should provide adequately for the tailoring of provisions to local and regional communities and their environment:

- It should allow for plans to set environmental limits unless prescribed by the National Planning Framework (Section 7(2))
- It should explicitly provide for plans setting provisions, including environmental limits, which are more stringent than the National Planning Framework's provisions.

We note that Schedules 1 and 2 are currently placeholders, and that the exposure draft does not provide any indication of what community engagement will be expected as part of the preparation of both the National Planning Framework and plans. The growing importance given to national directions, and the regionalisation of plans, could curtail local communities' input in environmental

management if participation processes are not adequate. The processes set out in both Schedules 1 and 2 should ensure that there is adequate input from local and regional communities, on the decisions that affect them, and the places in which they live.

#### **Monitoring, assessment, and review**

We agree with the Resource Management Review Panel (Randerson Report) finding that under the current RMA the link between environmental monitoring and reporting and the assessment and review of plans has been weak. The evaluation and assessment framework for both plans and national directions should be strengthened. We note that the explanatory material released with the exposure draft recognises that the monitoring, assessment and review of the National Planning Framework have not been provided for in Parts 3 and 4 of the exposure draft, and that these matters will be part of the full Bill. We seek confirmation that the full Bill will set up a stronger monitoring and assessment framework that applies across the whole system.

As highlighted by the Resource Management Review Panel, the lack of clear goals and measurable outcomes has partially accounted for inadequate monitoring and oversight in the resource management system. Not requiring the National Planning Framework and plans to set clear and measurable environmental outcomes is likely to undermine future provisions on the monitoring, assessment and evaluation of plans and the National Planning Framework.

#### **Setting a clear and unambiguous framework**

It is difficult to understand from the exposure draft what the various planning instruments (National Planning Framework and plans) will look like, and how they will interact. The strength, format and level of specificity of the National Planning Framework's provisions are uncertain, especially when it comes to the "strategic goals", "vision", "direction" and "priorities" it must prescribe. Similarly, the level at which environmental limits will be set in the National Planning Framework is uncertain. Lastly, there no is clear provision on the relationship between national and regional rules. These are important matters, that need to be clarified to facilitate the implementation of the reform.

It is also important that the NBA integrates with the SPA and CAA. It remains to be seen how well the three pieces of legislation will integrate, and ultimately contribute to the achievement of the Government's reform objectives.

The language used in the Act should be clear and unambiguous. At present this is not achieved with terms such as "promote", "further", or "uphold" creating opportunities for misunderstanding and potential litigation. The relative weakness of these terms contribute to the Act not providing a strong sense of direction, and leaves many of its core concepts and provisions open for interpretation and challenge.

In addition, the draft deviates from the traditional RMA terminology, without providing a clear indication of what the change means (e.g. "marine environment" vs. "coastal environment"; or "matters" vs. "issues). Using terms which have been reviewed and interpreted by Courts over the years provides the benefits of case-law and some certainty over how commonly used concepts are to be interpreted. The purpose of this change from status quo is not entirely clear, and creates uncertainty and ambiguity.

**A lack of focus on the urban environment and urban form**

One of the stated objectives for the reform of the Resource Management system is to better enable development. However, there is little emphasis on urban development and urban form. Even though it is mentioned in Part 2 of the exposure draft, it is unclear how urban development is to be provided for in plans. Presumably, it is expected that such direction will be provided by the National Planning Framework. However, given the reform's objectives, and the housing crisis New Zealand is experiencing, the exposure draft could have been expected to provide for development more explicitly.

It is our understanding that regional spatial strategies will be instrumental in directing urban growth and development where it is most appropriate. The NBA exposure draft does not, however, draw an explicit relationship between regional spatial strategies and plans, in providing for urban growth.

The only focus of the sections addressing urban development is about quantity of supply, and there is no mention of the quality of the built environment, including the quality of housing, the liveability of new housing/mixed use areas, or the importance of good urban design to people and community wellbeing. These matters are of critical importance to councils and their communities and this should be reflected as a key outcome to be achieved in the NBA.

We note that the NBA seems to put more emphasis on urban development than on rural development. It is unclear whether rural development is to be enabled to the same degree as urban development, or whether rural development will be subjected to a more restrictive framework. The importance of development in small rural towns should be recognised in the NBA.

Lastly, Section 7 requires environmental limits to be prescribed for matters which relate to the natural environment. Consideration should be given to whether environmental limits could also be set in relation to the built environment and its link to human health.

**Planning committees**

The proposal to move the responsibility for plan making from local authorities to planning committees raises many issues that need to be addressed before one can judge whether this model is appropriate or not. For example:

- The responsibility of "maintaining the plan" is not well defined and could be interpreted in different ways.
- The composition of the planning committee may raise issues with respect to its representativeness. Potentially, residents of rural, sparsely populated councils, will be "over-represented" relative to residents of larger cities and districts with high populations driven by the visitor economy.
- The draft NBA sections and explanatory material do not provide direction over how decisions will be made by the committee (consensus/majority).
- Similarly, there is no indication whether committee members are expected to have specific skills and competence, or if they will be appointed for their ability to bring in a local perspective to decision-making.
- The draft NBA does not clarify the organisational structure of the committee and its secretariat. Is it expected that secretariat officers will be made of employees seconded from councils? Or will

they be employed by the committee? Such questions result in uncertainty as to ongoing resourcing and skill requirements for local councils.

Lastly, we note that councils are expected to fund the secretariat. Beyond the likely challenges of designing a funding system that is equitable for all local authorities in the region, this removes councils' control over part of their budgets, as spendings will be authorised by a third party. This is likely to create practical challenges which need to be considered and addressed before this new model is confirmed.

In view of these challenges, and of the impact of this new model on local councils' resourcing and functioning, Otago/Southland councils would welcome an opportunity to engage with MfE on the planning committee model before the full bill is submitted to Parliament for first reading.

### **Transition**

The resource management reform will have a significant impact on local councils, and clear implementation timeframes and transition provisions will be critical for councils to plan ahead, and resource their future activities. The implementation process and transition timeframes should be developed as soon as possible, in consultation with local councils, mana whenua, and all other parties which will have functions under the Act.

They should be designed to keep momentum on ongoing planning work seeking to bring about positive change; and to coordinate with the local government reform.

### **RELIEF SOUGHT**

- 1) Develop direction on how to give effect to te Tiriti o Waitangi in the full Bill
- 2) Review Part 2 of the NBA to clarify the Act's purpose, and provide clear priorities and directions to guide decision-making
- 3) Consolidate and prioritise the outcomes set out in clause 8.
- 4) Require the National Planning Framework to address protection of highly productive land as an additional matter in section 13.
- 5) Require the National Planning Framework and plans to set clear priorities and measurable environmental outcomes for the matters and geographical areas they address.
- 6) Enable Planning Committees to:
  - a. Set environmental limits, even when not prescribed to do so through the National Planning Framework;
  - b. Set provisions, including environmental limits, that are more stringent than those in the National Planning Framework
- 7) Require appropriate community participation at both regional and local level in Schedules 1 and 2



- 8) Revise the draft, and clarify its terminology, to ensure that its provisions are clear and set out a clear planning architecture
- 9) Clarify how the NBA and other legislation will interact
- 10) Make more explicit provision on how plans will interact with regional spatial strategies for urban development
- 11) Recognise and provide for the importance of the quality of the built environment and the importance of quality housing and good urban design for people and community wellbeing; and consider setting environmental limits that relate to the built environment
- 12) Refine the planning committee model, in consultation with local councils, including those from Otago and Southland
- 13) Engage with local councils, including those from Otago-Southland, on the implementation of the new system, and on transition provisions
- 14) Design the implementation processes and timeframes to keep momentum on ongoing planning work seeking to bring about positive change; and to coordinate with the local government reform

Yours faithfully



Central Otago District Council      Tim Cadogan

Clutha District Council

A handwritten signature in blue ink, appearing to read 'B P Falk', followed by a long, horizontal, wavy flourish.

(Chairman, Regulatory and Policy Committee)

Dunedin City Council

A handwritten signature in blue ink, appearing to read 'Aaron Hawkins', with a stylized flourish at the end.

Aaron Hawkins  
**Mayor of Dunedin**

Environment Southland

A handwritten signature in black ink, appearing to read 'R A Phillips', with a stylized flourish at the end.

R A Phillips

Chief Executive

Gore District Council

*This submission reflects the views of Gore District Council's officers and has not yet been endorsed by the full Council.*

*Signed*

A handwritten signature in black ink, appearing to be 'TH', written in a cursive style.

*Tracy Hicks JP*  
**Mayor of Gore District**

- 8) Revise the draft, and clarify its terminology, to ensure that its provisions are clear and set out a clear planning architecture
- 9) Clarify how the NBA and other legislation will interact
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- 13) Engage with local councils, including those from Otago-Southland, on the implementation of the new system, and on transition provisions
- 14) Design the implementation processes and timeframes to keep momentum on ongoing planning work seeking to bring about positive change; and to coordinate with the local government reform

Yours faithfully



Invercargill City Council

Otago Regional Council

A handwritten signature in black ink that reads "Andrew Noble". The signature is written in a cursive style with a large initial 'A'.

Chairperson

Otago Regional Council

Otago-Southland Councils' Joint Submission on draft Natural and Built Environments Bill:



Mike Theelen  
Chief Executive  
Queenstown Lakes District Council  
04/08/2021

*This submission reflects the views of QLDC officers and has not yet been endorsed by full council.*



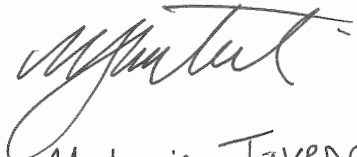
Southland District Council

A handwritten signature in black ink, appearing to be 'Gary Tong', written over a faint, light-colored signature line.

**Gary Tong, JP**

Mayor

Waitaki District Council



Melanie Taverdale  
Chair, Community, Culture and Regulatory  
Committee.

2/8/21.

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

**COMMENTS ON THE INQUIRY ON THE NATURAL AND BUILT ENVIRONMENTS BILL:  
PARLIAMENTARY PAPER  
OTAGO REGIONAL COUNCIL'S SUBMISSION**

This submission is from the Otago Regional Council. It supplements the joint submission from the Otago-Southland Councils.

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Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

## **INTRODUCTION**

The Otago Regional Council thanks the Environment Select Committee (Select Committee) for the opportunity to submit on the exposure draft of the Natural and Built Environments Act (NBA).

This submission supplements the joint submission from the Otago-Southland Councils (joint submission). It expands on some of the themes identified in the joint submission, and adds some more targeted feedback. Appendix 1 includes suggested revisions of the exposure draft to relieve the concerns expressed in both this submission, and the joint submission. Appendix 1 is not part of the joint submission.

## **OVERALL POSITION**

We share the position stated in the submission from the Otago and Southland Councils.

In particular, we are concerned that the exposure draft's focus on environmental limits, and the weak requirement to "promote" environmental outcomes implies that environmental degradation will be allowed down to bottom-lines. This is aggravated by the limitations imposed on planning committees' ability to set environmental limits. Otago is home to outstanding, near pristine, water bodies. Degrading their water down to the current national bottom lines set in the National Policy Statement for Freshwater Management (NPSFM) should not be tolerated.

We are in support of the overall architecture of the new system. We believe that the Climate Change Adaptation Act, which will put in place mechanisms for managed retreat, is a needed piece of legislation. We also support the development of regional spatial strategies, as a method to improve the integration of environmental planning, land use planning, and infrastructure provision.

The NBA exposure draft demonstrates an attempt to better achieve integrated environmental management, and to better manage cumulative effects. We support these efforts, and believe that the draft could be improved to deliver on both.

Natural hazards have significant impacts on our people and communities and the built environment, as highlighted again by recent events both in New Zealand and overseas. The NBA will be a key piece of legislation to manage the exposure to natural hazard, and the associated risks. As it stands, the NBA exposure draft's provisions on natural hazard risk management are inadequate and should be reviewed.

The significant changes to how ecosystems must be managed and provided for in the NBA exposure draft are overall positive and go in the right direction, even though they could be further improved.

In particular, and in relation to more than just ecosystem management, we are concerned with the "enabling" nature of the NBA exposure draft on offset and compensation. Such mechanisms need to be used with care, as they could have irreversible effects if badly managed. We are not certain that provision for offset and compensation should be made in the NBA, and would like the NBA to take a more cautious approach on this matter.

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

**COMMENTS ON THE NBA EXPOSURE DRAFT****Integrated environmental management**

As stated above, the NBA exposure draft and extended proposal make positive changes to better deliver integrated environmental management.

The new planning architecture is one of these positive changes. Notwithstanding the issues identified in the joint submission, we generally support:

- The development of a National Planning Framework, that provides integrated direction on matters of significance and matters where national consistency is desirable;
- The introduction of Regional Spatial Strategies as a new planning instrument. Even though they may not resolve all the issues and conflicts relating to the integration of land use planning, environmental planning and infrastructure, we believe they will make a positive contribution in resolving some of the trade-offs at a local and regional level.
- The consolidation of regional policy statements, regional plans and district plans into one National and Built Environment Plan (plan) for each region. In our view, this will allow the effective management of the current cross-boundary issues, especially across regional and district matters.

We also support the greater emphasis given in the NBA on ecological integrity as a holistic concept guiding the setting of environmental limits and environmental management, as we believe it will promote a more holistic and integrated approach to managing the environment and ecosystems.

The holistic view promoted through “ecological integrity” is however undermined by section 8, and the long list of environmental outcomes that split the environment into many, discrete parts. Such a list detracts from a truly holistic approach to environmental management and leads to an impoverished view of the environment and its constituent parts.

As a telling, and significant, example, section 8 is providing a limited and limiting picture of catchments and water bodies, by only providing for, and separating, water quality, soil quality, and the natural character of water bodies. Catchments and water bodies are complex systems where ecosystems, hydrology, soil, water quality, and natural processes, interact closely. Separating these elements as if they were independent, and overlooking not only hydrology but also the natural processes that form and shape New Zealand’s landscapes and water bodies fails to effectively promote integrated catchment management.

**The management of cumulative effects**

Managing cumulative effects has been an outstanding challenge in resource management. The true test of NBA’s performance will be its effectiveness in addressing cumulative effects effectively.

Many of the key provisions that will address cumulative effects (allocation, and consenting process) have not been included in the NBA exposure draft. We note however, and support, the requirement that planning committees consider cumulative effects, under sections 18 and 24.

In our view, environmental limits will be one of the main mechanisms to manage cumulative effects, even though the link between environmental limits and cumulative effects could be made clearer in section 7 (see Appendix 1). The requirement that these limits must be complied with is appropriate and should not be weakened. We think it is fitting that the necessity to comply with limits is highlighted in Part 2.

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

**Environmental outcomes**

We would like to reinforce the joint submission's comments on environmental outcomes and participation from local communities. The opportunities a shift to an outcome-based resource management system offers have not been fully embraced by the NBA exposure draft. Setting environmental outcomes at a regional or local level could be an invaluable mechanism for planning committees to engage with local communities, articulate their aspirations in plans, and clarify the objectives of resource management in the region.

**Implementation principles should apply across the board**

Through their position in Part 3, we understand that the section 18 implementation principles only apply to the implementation of the National Planning Framework and not to its development. All these principles are entirely appropriate to the development of the National Planning Framework. Elevating them to Part 2 would strengthen government's accountability, and usefully guide the drafting of Schedule 1 (Preparation of national planning framework).

**Natural hazard risks are not appropriately addressed**

New Zealand has a long history of natural disasters. Given our situation at the edge of the ring of fire, and the frequency of severe rainfall events (among many other factors), we know that we will continue to experience natural disasters, with possible devastating effects on people and communities.

Like the RMA, the NBA will be at the heart of natural hazard risk management, as decisions on land development, on flood protection, and on infrastructure development will be made under the Act. It is therefore essential for the NBA to set a robust framework on natural hazard risk management. The draft sections of the NBA fall short of these expectations.

The precautionary principle is often at the centre of natural hazard risk management. The NBA exposure draft defines the precautionary approach as *"an approach that, in order to protect the natural environment if there are threats of serious or irreversible harm to the environment, favours taking action to prevent those adverse effects rather than postponing action on the ground that there is a lack of full scientific certainty"*. This definition excludes from the precautionary approach effects on people and communities, and on the built environment. This in effect excludes natural hazard risk management from the scope of the precautionary approach required under sections 18 and 24. We are concerned that this may signal a willingness to compromise people's safety and sense of security for the sake of enabling development. The NBA should require the adoption of the precautionary approach for the management of natural hazard risks.

The lack of emphasis on natural hazard risk management is noticeable in other sections of the NBA. The purpose of the Act focuses on Te Oranga o te Taiao, or the health of the environment, and on individual and community wellbeing. It does not promote individual or community resilience. "Health and safety", which is being provided for through the well-being definition, is not an equivalent to resilience. Natural hazard risks do not impact on people's health and safety only – they can impact on the security of lifeline services, on people's and communities' economic security etc. Resilience should be recognised and promoted through section 5.

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

Section 8 seems to conflate natural hazards and climate change. These are vastly different in nature, and should be addressed separately. Section 8(p) should be split to provide separate guidance for natural hazards and the effects of climate change.

National guidance and direction is very much needed on natural hazard risks. We support the requirement for the National Planning Framework to address natural hazard risk management. We note however that section 8 promotes the reduction of “significant” natural hazard risks without defining what “significant” means.

### **Ecosystem management**

The NBA significantly improves the framework for managing and protecting ecosystems. We particularly support the inclusion of ecological integrity as a central component in the NBA exposure draft.

We also support the requirement to take a precautionary approach when defining environmental limits to protect ecological integrity.

Note that section 8 (outcomes) reiterates the concept of “areas of significant indigenous vegetation and significant habitats of indigenous fauna”, with this concept commonly applied to terrestrial ecosystems. Given terrestrial and aquatic ecosystems are often connected and share similar values, appropriate management will often be across all these ecosystems. The NBA should therefore promote an integrated management of ecosystems, and avoid setting distinct management mechanisms for terrestrial and aquatic ecosystems.

### **Offset and compensation**

We oppose the definition of “mitigate” which sets a policy direction that is, in our view, too enabling. Firstly, it is inappropriate to set policy direction in a definition. Secondly, even though offset and compensation are sometimes appropriate, these two mechanisms need to be used with caution; and should not be allowed to manage effects on rare or critically endangered ecosystems. Offset and compensation should not be considered as part of a consent or a rule unless it is specifically provided for in policies in the National Planning Framework or the plans. The current definition implies that offset and mitigation can be enabled in consents, irrespective of the policy framework these consents implement.

Appendix 1 suggests the deletion of the definition. In the event the definition was retained, we recommend revising it as follows:

*“mitigate, in the phrase “avoid, remedy, or mitigate”, includes to offset or provide compensation if that is ~~enabled~~—*

*(a) ~~provided for by a provision in the national planning framework or in a plan; or and~~*

*(b) ~~as a consent condition proposed by the applicant for the consent”~~*

### **Matters covered by the National Planning Framework**

Section 13 lists the environmental outcomes the National Planning Framework must provide direction on. It is unclear how these outcomes have been selected and identified as “the matters for which

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

direction is most needed". The explanatory material released with the exposure draft does not provide a clear rationale and refers back to the Randerson's Panel's recommendations, even though section 13 differs significantly from the Randerson's Panel's recommendation. The latter took a more comprehensive approach by recommending that the national planning framework identify "features and characteristics that contribute to enhancing the quality of natural and built environments" and "targets to achieve continuing progress towards achieving the outcomes specified in [section 8]".

The joint submission identified the need to address the protection of highly productive land along urban development. In the same vein, we note that section 13 requires the national planning framework to address "the quality of [...] freshwater, coastal waters, estuaries and soils" but not the "protection and sustainable use of the marine environment" or the natural character of the coast, surface water bodies and their margins. It is difficult to separate these outcomes in practice, and all will need to be addressed to provide meaningful direction in the National Planning Framework.

National direction on the protection of mana whenua values and interests should also be considered.

Lastly, section 13 requires direction on "the ongoing provision of infrastructure services". "Infrastructure" is a broad term, which encompasses nationally significant infrastructure (e.g. national grid, large scale electricity generation) and local infrastructure. It is unclear why local infrastructure should be a matter of national significance, or a matter for which national consistency is desirable. Having national direction on regional and local infrastructure has the potential to undermine regional spatial strategies, and plans, in their management of regions' infrastructure.

### **Planning committees**

Notwithstanding the issues and concerns expressed in the joint submission, we support the establishment of planning committees to lead the development of plans in principles. It is an opportunity for councils to resolve cross-boundary issues at the front-end of the planning process, and save the time and costs involved in hearings, mediation and appeals to resolve conflicts between councils' resource management objectives and functions.

We reiterate that this new planning committee model raises many questions and challenges that need to be addressed before the full Bill is adopted. In our view, the new model needs to ensure that:

- Committee members take a regional perspective, allowing for a well-balanced consideration of all relevant matters and communities;
- Committee members have sufficient resource management competence to make informed decisions on the NBA and
- They have the ability to take into account local voices
- Funding is equitable.

The relationships of the planning committee with the other organisations carrying out functions under the NBA need to be clarified: will planning committees have the power to dictate how plans will be implemented to councils? Will they have powers to delegate their role to individual councils? What will their role be in terms of the implementation and evaluation of plans? These matters need to be addressed in consultation with councils, before the full Bill is released.

With respect to funding, the exposure draft indicates that local authorities must fund the secretariat. Some central government funding could be considered, to recognise the nation-wide benefits of an effective regional plan. Moreover, having all councils of a region participate will raise practical and administrative challenges, and require lengthy discussion across councils. Depending on councils'



Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

funding policies, it may also result in an inequitable system. Funding at the regional level would likely be more practical and equitable.

Section 24 states what planning committee must consider when making decisions. It draws a relatively comprehensive list of matters for consideration. There is however a noticeable gap, in that it does not require consideration of the submissions or community feedback received as part of the plan-making process. Such a requirement would foreshadow Schedule 2 and its consultation requirements, and recognise the importance of local and regional communities' participation in resource management.

#### **Definitions that lack certainty**

We note that some definitions in the interpretation section of the draft lack certainty and should be revised. In particular:

- The phrase “as the context requires” significantly undermines the definition of “environment” in the exposure draft. It adds unnecessary uncertainty, and raises the question of when “environment” should be interpreted differently from its definition;
- The definition of “precautionary approach” deviates from commonly-used resource management terms, by the use of “harm” and “serious”. It is unclear how these differ from the more commonly-used “effects” and “significant”.

We also note that the exposure draft has retained the phrase “avoid, remedy or mitigate”. In itself, this sentence does not provide any clear direction of how adverse effects should be managed. The Supreme Court established that “avoid” should be interpreted as meaning “prohibit”, in *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014]. As a result, “avoid” now prevents consideration of mitigation or remediation options. The use of the term “avoid” could be reassessed, to allow for the development of clear policy directions which still leave some flexibility to how these policies will be implemented.

#### **RELIEF SOUGHT**

See **Appendix 1** for suggested revisions

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

**MAKING THE SYSTEM MORE EFFICIENT**

Increasing the system's efficiency is an important goal. It should not come at the cost of the system's effectiveness in managing cumulative effects and achieving environmental outcomes. A degree of scrutiny is unavoidable when making plans, or when considering resource consent applications, for robust decision-making.

Having a clear and robust planning framework, at both the central and regional levels, is essential to achieve a more efficient, and an effective system. In particular, plans could be required to set out consent information requirements, and to whom consent applications should be notified (if they need to be notified). A greater use of the controlled activity status, with fewer requirements linked to their assessments, could also contribute to a more efficient system.

We generally support the Randerson's panel's recommendation to limit appeals to the Environment Court in the plan-making process, as appeals add significant cost and time to the plan-making process.

Enhancing the availability of key information to the public (e.g. allocation information), through enhanced systems and processes, will also be useful

We have reviewed Appendix 2 to the Parliamentary Paper. Some of the examples listed are vague and difficult to make sense of. However, we note that

- Requiring written submission rather than oral could deter people from participating in the process
- Design guidelines could be counter-productive as they will add a level of scrutiny and could stifle architectural innovation.

**CONCLUSION**

We appreciate having the opportunity to provide feedback on the NBA exposure draft, and would welcome any further opportunity to engage on the reform in advance of the release of the full Bill.

Yours faithfully



**Chairperson**

**Otago Regional Council**

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

**APPENDIX 1 – RELIEF SOUGHT****PART 1- PRELIMINARY PROVISIONS****3 Interpretation**

In this Act, unless the context otherwise requires, —

**areas of significant indigenous ecosystem value** [Placeholder]

**environment** means, as the context requires, —

- (a) the natural environment;
- (b) people and communities and the built environment that they create;
- (c) the social, economic, and cultural conditions that affect the matters stated in paragraphs (a) and (b) or that are affected by those matters

~~**environmental outcomes** means the outcomes provided for in section 8~~

~~**mitigate**, in the phrase “avoid, remedy, or mitigate”, includes to offset or provide compensation if that is enabled —~~

- ~~(a) by a provision in the national planning framework or in a plan; or~~
- ~~(b) as a consent condition proposed by the applicant for the consent~~

**precautionary approach** is an approach that, in order to protect the natural environment if there are from significant or irreversible adverse effects, or risks, threats of serious or irreversible harm to the environment, favours taking action to prevent those adverse effects or risks rather than postponing action on the ground that there is a lack of full scientific certainty

**4 How Act binds the Crown**

[Placeholder.]

**PART 2- PURPOSE AND RELATED PROVISIONS****5 Purpose of this Act**

(1) The purpose of this Act is to ~~enable~~—

- (a) enhance Te Oranga o te Taiao ~~to be upheld~~, including by:
  - (i) maintaining or improving the ecological integrity of the natural environment
  - (ii) ensuring the natural environment supports human health
  - (iii) enhancing the mana and mauri of the natural environment~~protecting and enhancing the natural environment; and~~
- (b) enable people and communities to use the environment in a way that supports the well-being and resilience of present generations without compromising the well-being and resilience of future generations.

(2) To achieve the purpose of the Act, —

- (a) use of the environment must comply with environmental limits; and
- (b) outcomes for the benefit of the environment must be promoted; and
- (c) any adverse effects on the environment of its use must be avoided, remedied, or mitigated, as context requires.

~~(3) In this section, **Te Oranga o te Taiao** incorporates —~~

- ~~(a) the health of the natural environment; and~~
- ~~(b) the intrinsic relationship between iwi and hapū and te taiao; and [Moved to section 7.0]~~
- ~~(c) the interconnectedness of all parts of the natural environment; and [Moved to section 7.0]~~
- ~~(d) the essential relationship between the health of the natural environment and its capacity to sustain all life. [Moved to section 7.0]~~

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

**6 Te Tiriti o Waitangi**

All persons exercising powers and performing functions and duties under this Act must give effect to the principles of te Tiriti o Waitangi

**7.0 Management Principles**

[Relevant persons must]—

- (a) promote the integrated management of the environment:
- (b) Recognise and have regard to:
  - (i) the interconnectedness of all parts of the natural environment; and
  - (ii) the essential relationship between the health and of the natural environment and its capacity to sustain life
- (b) recognise and provide for:
  - (i) The intrinsic relationship between iwi and hapū and te taiao
  - (i) the application, in relation to [te taiao], of [kawa, tikanga (including kaitiakitanga), and mātauranga Māori]:
- (c) ensure appropriate public participation in processes undertaken under this Act, to the extent that is important to good governance and proportionate to the significance of the matters at issue:
- (d) promote appropriate mechanisms for effective participation by iwi and hapū in processes undertaken under this Act:
- (e) recognise and provide for the authority and responsibility of each iwi and hapū to protect and sustain the health and well-being of [te taiao]:
- (f) have particular regard to any cumulative effects of the use and development of the environment:
- (g) take a precautionary approach.

**7 Environmental Limits**

- (1) The purpose of environmental limits is to ~~protect either or both of the following:~~
  - (a) protect
    - (i) the ecological integrity of the natural environment;
    - (ii) ~~the~~ human health;
  - (b) avoid any further degradation of the natural environment
- (2) Environmental limits must be prescribed—
  - (a) in the national planning framework (see **section 12**); or
  - (b) in plans, ~~as prescribed in the national planning framework~~ (see **section 25**).
- (3) Environmental limits may be prescribed—
  - (a) qualitatively or quantitatively;
  - (b) at different levels for different circumstances and locations.
- (4) Environmental limits may be formulated as—
  - (a) the minimum biophysical state of the natural environment or of a specified part of that environment;
  - (b) the maximum amount of cumulative harm or stress that may be permitted on the natural environment or on a specified part of that environment.
- (5) Environmental limits must be prescribed for the following matters:
  - (a) air;
  - (b) biodiversity, habitats, and ecosystems;
  - (c) coastal waters;
  - (d) estuaries;
  - (e) freshwater;
  - (f) soil.
- (6) Environmental limits may also be prescribed for any other matter that accords with the purpose of the limits set out in **subsection (1)**.
- (7) In setting environmental limits, the Minister and planning committees must apply a precautionary approach.
- (8) All persons using, protecting, or enhancing the environment must comply with environmental limits.
- (9) **In subsection (3)(a), biophysical** means biotic or abiotic physical features.

**8 Environmental outcomes**

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

To assist in achieving the purpose of the Act, the national planning framework and all plans must contribute to achieving ~~promote~~ the following environmental outcomes:

- (a) the mana and mauri of the natural environment are protected and restored;
- (b) ecological integrity is protected, restored, or improved;
- (c) the quality of air, freshwater, coastal waters, estuaries, and soils is protected, restored, or improved;
- ~~(b) ecological integrity is protected, restored, or improved;~~
- ~~(d) areas of significant indigenous ecosystem value are protected, restored, or improved;~~
- (e) the natural and dynamic processes that shape landscapes and water bodies are recognised and provided for;
- (c) outstanding natural features and landscapes are protected, restored, or improved;
- ~~(d) areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected, restored, or improved;~~
- (e) in respect of the coast, lakes, rivers, wetlands, and their margins,—
  - (i) public access to and along them is protected or enhanced; and
  - (ii) their natural character is preserved;
- (f) the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu, and other taonga is restored and protected;
- ~~(g) the mana and mauri of the natural environment are protected and restored;~~
- (h) cultural heritage, including cultural landscapes, is identified, protected, and sustained through active management that is proportionate to its cultural values:
  - (i) protected customary rights are recognised;
- (j) greenhouse gas emissions are reduced and there is an increase in the removal of those gases from the atmosphere;
- (k) urban areas ~~that~~ are well-functioning and enabling of responsive to growth and other changes, including by—
  - (i) enabling providing for a range of economic, social, and cultural activities; and
  - (ii) ensuring ~~a resilient an urban form with that responds/adapts to growth needs and provides~~ good transport links within and beyond the urban area;
- (l) ~~a housing supply that is developed to—~~
  - ~~(i) provide choice to consumers; and~~
  - (ii) contributes to the affordability of housing by providing choice to consumers, including for lower cost housing; and
  - (iii) meets the diverse and changing needs of people and communities, including affordable and quality housing for those whose needs are not met by the market; and
  - (iv) supports Māori housing aims;
- (m) in relation to rural areas, development ~~is pursued that—~~
  - (i) enables a range of economic, social, and cultural activities; and
  - (ii) contributes to the development of adaptable and economically resilient communities; and
  - (iii) promotes the protection of highly productive land from inappropriate subdivision, use, and development;
- ~~(n) the protection and sustainable use of the marine environment;~~
- (o) ~~the ongoing provision of~~ infrastructure services to support the well-being and resilience of people and communities, including by supporting—
  - (i) the use of land for economic, social, and cultural activities;
  - (ii) an increase in the generation, storage, transmission, and use of renewable energy;
- (p) Natural hazard risks are reduced and resilience to natural hazards is improved ~~in relation to natural hazards and climate change,—~~
  - ~~(i) the significant risks of both are reduced; and~~
- (q) Climate change risks are reduced and the resilience of the environment to ~~natural hazards and~~ the effects of climate change is improved

### 8.1 Priorities

In implementing clause 8, the national planning framework and all plans must give priority to:

1. First, protecting, restoring and improving the mana, mauri and ecological integrity of the natural environment;
2. Second, improving the resilience and health of people and communities;
3. Third, enabling infrastructure, land use and development which:
  - a. Support the reduction of greenhouse gas emissions
  - b. Supports housing affordability; and
  - c. Enhance the amenity values of urban areas

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

**PART 3 - NATIONAL PLANNING FRAMEWORK****9 National planning framework**

- (1) There must at all times be a national planning framework.
- (2) The national planning framework—
  - (a) must be prepared and maintained by the Minister in the manner set out in Schedule 1; and
  - (b) has effect when it is made by the Governor-General by Order in Council under section 11.

**10 Purpose of national planning framework**

The purpose of the national planning framework is to ~~further~~ achieve the purpose of this Act by providing integrated direction on—

- (a) how Part 2 of the Act will be achieved
- (b) the management of
  - (i) \_\_\_\_\_ matters of national significance; or
  - (ii) matters for which national consistency is desirable; or
  - (iii) matters for which consistency is desirable in some, but not all, parts of New Zealand.

**11 National planning framework to be made as regulations**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make the national planning framework in the form of regulations.
- (2) The regulations may apply—
  - (a) to any specified region or district of a local authority; or
  - (b) to any specified part of New Zealand.
- (3) The regulations may—
  - (a) set directions, policies, goals, rules, or methods;
  - (b) provide criteria, targets, or definitions.
- (4) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

**12.0 Content of national planning framework**

- (1) The national planning framework must –
  - (a) Set objectives and policies to provide direction on:
    - (i) integrated management of the natural environment
    - (ii) how the well-being of present and future generations is to be provided for within environmental limits;
    - (iii) how the outcomes set out in section 8 are to be promoted, and how conflicts between these outcomes will be resolved;
  - (b) For the matters listed in section 10(b)
    - (i) prescribe environmental limits as set out in clause 7; or provide direction on how environmental limits should be prescribed in plans, if relevant; and
    - (ii) State environmental outcomes that give effect to section 8 and
    - (iii) Set out objectives, policies, or methods (including rules) on how to achieve compliance with environmental limits and promote the stated outcomes
  - (c) Describe the method by which the effectiveness of the national planning framework will be assessed.
  - (d) Clause (1)(b)(i) of this section only applies where environmental limits are required under section 7(5).
- (2) The national planning framework may prescribe environmental limits that have not been provided for in the national planning framework, if deemed necessary to achieve the purpose set in section 7(1).

**Environmental limits**

- (1) ~~Environmental limits—~~
  - (a) ~~may be prescribed in the national planning framework; or~~
  - (b) ~~may be made in plans if the national planning framework prescribes the requirements relevant to the setting of limits by planning committees.~~

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

- ~~(2) Environmental limits may be prescribed—~~  
~~(a) qualitatively or quantitatively;~~  
~~(b) at different levels for different circumstances and locations.~~

**13 Topics Matters that national planning framework must include**

- (1) The national planning framework must set out provisions ~~directing the out-comes described in as required in~~ section 12.0(1)(b) on the following matters—
- (a) The management and control of activities impacting on:
    - (i) Freshwater, coastal water, estuaries and soils;
    - (ii) Air quality;
    - (iii) Ecological integrity and areas of significant indigenous ecosystem value;
    - (iv) Outstanding natural features and landscapes
  - (b) Urban development
  - (c) The reduction of greenhouse gas emissions
  - (d) The reduction of natural hazard risks; and resilience to natural hazards
  - (e) The management of the impacts of climate change
  - (f) The provision of nationally significant infrastructure and their services
  - (g) The protection of highly productive land.
  - ~~(a) section 8(a) (the quality of air, freshwater, coastal waters, estuaries, and soils); and~~
  - ~~(b) section 8(b) (ecological integrity); and~~
  - ~~(c) section 8(c) (outstanding natural features and landscapes); and~~
  - ~~(d) section 8(d) (areas of significant indigenous vegetation and significant habitats of indigenous animals);~~  
~~and~~  
~~(j) section 8(j) (greenhouse gas emissions); and~~
  - ~~(k) section 8(k) (urban areas); and~~
  - ~~(l) section 8(l) (housing supply); and~~
  - ~~(m) section 8(m) (infrastructure services); and~~
  - ~~(n) section 8(n) (natural hazards and climate change);~~
- (2) The national planning framework may also include provisions on any other matter that accords with the purpose of the national planning framework, including a matter relevant to an environmental outcome provided for in section 8.
- ~~(3) In addition, the national planning framework must include provisions to help resolve conflicts relating to the environment, including conflicts between or among any of the environmental outcomes described in section 8.~~

**Strategic directions to be included**

~~The provisions required by sections 10, 12, and 13 must include strategic goals such as—~~

- ~~(a) the vision, direction, and priorities for the integrated management of the environment within the environmental limits; and~~
- ~~(b) how the well-being of present and future generations is to be provided for within the relevant environmental limits.~~

**15 Implementation of national planning framework**

- (1) The national planning framework may direct that certain provisions in the framework—
- (a) must be given effect to through the plans; or
  - (b) must be given effect to through regional spatial strategies; or
  - (c) have direct legal effect without being incorporated into a plan or provided for through a regional spatial strategy.
- (2) If certain provisions of the national planning framework must be given effect to through plans, the national planning framework may direct that planning committees—
- (a) make a public plan change; or
  - (b) insert that part of the framework directly into their plans without using the public plan change process; or
  - (c) amend their plans to give effect to that part of the framework, but with-out—
    - (i) inserting that part of the framework directly into their plans; or
    - (ii) using the public plan change process.

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

- (3) ~~In the absence of any direction provided under clause (2) of this section, planning committees must make a public change to give effect to the provisions of the national planning framework plans must give effect to;~~
- (4) Amendments required under this section must be made as soon as practicable within the time, if any, specified in the national planning framework.

**Application of precautionary approach**

~~In setting environmental limits, as required by section 7, the Minister must apply a precautionary approach.~~

**17 [Placeholders]**

[Placeholder for other matters to come, including—

- (i) the role of the Minister of Conservation in relation to the national planning framework; and
- (ii) the links between this Act and the Climate Change Response Act 2002.]

**17.1 [Placeholders]**

[Placeholder for review requirement on the national planning framework.]

**Implementation principles**

~~[Placeholder for implementation principles. The drafting of this clause is at the indicative stage; the precise form of the principles and of the statutory functions they apply to are still to be determined. In paras (b) and (e), the terms in square brackets need to be clarified as to the scope of their meaning in this clause.]~~

~~[Relevant persons must]—~~

- ~~(a) promote the integrated management of the environment;~~
- ~~(b) recognise and provide for the application, in relation to [te taiao], of [kawa, tikanga (including kaitiakitanga), and mātauranga Māori];~~
- ~~(c) ensure appropriate public participation in processes undertaken under this Act, to the extent that is important to good governance and proportionate to the significance of the matters at issue;~~
- ~~(d) promote appropriate mechanisms for effective participation by iwi and hapū in processes undertaken under this Act;~~
- ~~(e) recognise and provide for the authority and responsibility of each iwi and hapū to protect and sustain the health and well-being of [te taiao];~~
- ~~(f) have particular regard to any cumulative effects of the use and development of the environment;~~
- ~~(g) take a precautionary approach.~~

**PART 4 NATURAL AND BUILT ENVIRONMENTS PLANS****19 Natural and built environments plans**

There must at all times be a natural and built environments plan (a plan) for each region.

**20 Purpose of plans**

The purpose of a plan is to ~~further achieve~~ the purpose of the Act by providing a regulatory frame-work for the integrated management of the environment in the region that the plan relates to.

**21 How plans are prepared, notified, and made**

- (1) The plan for a region, and any changes to it, must be made—
- (a) by that region’s planning committee; and
- (b) using the process set out in Schedule 2.
- (2) [Placeholder for status of plans as secondary legislation.]

**22 Contents of plans**

- (1) The plan for a region must—
- (a) state the environmental limits that apply in the region, whether set by the national planning framework or under section 25; and
- (b) state the issues that are of significance to the region and its constituents districts;



Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

- (c) ~~state environmental outcomes for the region or any of its parts that give effect to the outcomes stated in section 8 and in the national planning framework;~~
- (d) ~~identify any land or type of land in the region for which a stated use, development, or protection is a priority~~
- (e) ~~state the objectives and policies that provide integrated direction on how;~~
- (i) ~~compliance with environmental limits will be achieved~~
- (ii) ~~stated environmental outcomes will be promoted and how conflicts between these outcomes will be resolved; and~~
- (iii) ~~issues of significance identified under (b) will be addressed~~
- (f) ~~state the rules and other methods to implement the policies~~
- (g) ~~state the method by which the effectiveness of plan will be assessed.~~
- (h) ~~include anything else that is necessary for the plan to achieve its purpose (see section 20).~~
- (i) ~~[placeholder for additional specified plan contents]; and~~
- (2) ~~The plan for a region must—~~
- (a) ~~give effect to the national planning framework in the region as the framework directs (see section 15); and~~
- and
- (c) ~~promote the environmental outcomes specified in section 8 subject to any direction given in the national planning framework; and~~
- (b) ~~[placeholder] be consistent with the regional spatial strategy; and~~
- (e) ~~identify and provide for—~~
- (i) ~~matters that are significant to the region; and~~
- (ii) ~~for each district within the region, matters that are significant to the district; and~~
- (3) ~~The plan may set rules which are more stringent than rules in the national planning framework, unless the national planning framework specifies otherwise~~
- (4) ~~[placeholder: policy intent is that plans must generally manage the same parts of the environment, and generally control the same activities and effects, that local authorities manage and control in carrying out their functions under the Resource Management Act 1991 (see sections 30 and 31 of that Act)]; and~~
- (g) ~~help to resolve conflicts relating to the environment in the region, including conflicts between or among any of the environmental outcomes described in section 8; and~~
- (h) ~~[placeholder for additional specified plan contents]; and [Moved]~~
- (i) ~~include anything else that is necessary for the plan to achieve its purpose (see section 20). [Moved]~~
- (2) ~~A plan may—~~
- (a) ~~set objectives, rules, processes, policies, or methods;~~
- (b) ~~identify any land or type of land in the region for which a stated use, development, or protection is a priority;~~
- (c) ~~include any other provision.~~

### 23 Planning committees

- (1) A planning committee must be appointed for each region.
- (2) The committee's functions are—
- (a) to make and maintain the plan for a region using the process set out in Schedule 2; and
- (b) to approve or reject recommendations made by an independent hearings panel after it considers submissions on the plan; and
- (c) ~~to set any environmental limits for the region that the national planning framework authorises the committee to set (see section 7).~~
- (3) Provisions on the membership and support of a planning committee are set out in **Schedule 3**.

### 24 Considerations relevant to planning committee decisions

- (1) A planning committee must comply with this section when making decisions on a plan.
- (2) The committee must have regard to—
- (a) any cumulative effects of the use and development of the environment;
- (b) any technical evidence and advice, including mātauranga Māori, that the committee considers appropriate;
- (c) whether the implementation of the plan could have effects on the natural environment that have, or are known to have, significant or irreversible adverse consequences:

Inquiry on the Natural and Built Environments Bill – ORC submission

2 August 2021

- (d) the extent to which it is appropriate for conflicts to be resolved generally by the plan or on a case-by-case basis by resource consents or designations
  - ~~e) Community feedback received as part of any consultation, including consultation required under Schedule 2.~~
  - (3) The committee must apply the precautionary approach.
  - (4) The committee is entitled to assume that the national planning framework furthers the purpose of the Act, and must not independently make that assessment when giving effect to the framework.
  - (5) [Placeholder for additional matters to consider.]
  - (6) In subsection (2)(d), conflicts—
    - (a) means conflicts relating to the environment; and
    - (b) includes conflicts between or among any of the environmental outcomes described in **section 8**.
- 25 Power to set environmental limits for region**
- (1) The planning committee may:
    - ~~(a) Prescribe environmental limits that have not been provided for in the national planning framework, if deemed necessary to achieve the purpose set in XXX~~
    - ~~(a) Prescribe environmental limits that are more stringent than the ones prescribed in the national planning framework~~
  - ~~(2) This section applies only if the national planning framework specifies an environmental limit that must be set by the plan for a region, rather than by the framework; and (b) prescribes how the region’s planning committee must decide on the limit to set, (2) The the planning committee must—~~
    - ~~(a) decide on the limit in accordance with the prescribed process; and~~
    - ~~(b) set the limit by including it in the region’s plan.~~
  - ~~(3) The planning committee must set environmental limits for the matters listed in section 7(5) if the national planning framework does not prescribe limits for these matters~~
  - ~~(4) The planning committee must not set an environmental limit that is less stringent than the corresponding environmental limit in the national planning framework~~

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under [section 48\(1\)](#) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 48(1) for the passing of this resolution</b>
<i>Minutes of the 12 May 2021 public-excluded Strategy and Planning Committee meeting</i>	<p>To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information— would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied – Section 7(2)(c)(i)</p> <p>To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information— would be likely otherwise to damage the public interest – Section 7(2)(c)(ii)</p> <p>To maintain legal professional privilege – Section 7(2)(g)</p> <p>To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i)</p>	<p>Section 48(1)(a) - Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds:</p> <p>(a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p>

This resolution is made in reliance on [section 48\(1\)\(a\)](#) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by [section 6](#) or [section 7](#) of that Act or [section 6](#) or [section 7](#) or [section 9](#) of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public.