

HURUNUI DISTRICT COUNCIL

P.O. Box 13 | Amberley | 7441 | 66 Carters Road | Amberley | 7410
Phone 03 314-8816 | Fax 03 314-9181 | Email info@hurunui.govt.nz
Web hurunui.govt.nz | facebook.com/HurunuiDistrictCouncil
Skype [hdc_customer_services](https://www.skype.com/en/customer-services) | twitter.com/hurunuidc



Committee Secretariat
Environment Committee
Parliament Buildings
Wellington

By email: en@parliament.govt.nz

3 August 2021

Hurunui District Council's Submission on the Exposure Draft of the Natural and Built Environments Bill

Introduction

1. Hurunui District Council (HDC) thanks the Environment Select Committee for the opportunity to provide comment on the exposure draft of the Natural and Built Environments Bill (NBA).
2. The Hurunui District is located in North Canterbury. We have approximately 12,558 residents and cover an area of 8,646 km² spanning from the east coast across to the Main Divide. The Hurunui District is predominantly rural land interspaced with small service towns. Our economy is primarily reliant on primary production and tourism.
3. HDC fully supports the Canterbury Mayoral Forum submission and provides further specific comment in relation to the views of HDC, in the attached submission.
4. HDC seeks to be heard in support of this submission via video conference.
5. HDC would value the opportunity to work with Ministry staff on any matters arising from this submission.
6. HDC is in general agreement that the Resource Management Act 1991 (RMA) has underperformed in the management of key environmental issues and supports the government's five objectives for reform and the intent of the exposure draft.

Key themes of this submission

7. There are several key themes in this submission on the content of the exposure draft:
 - Integration of the legislative framework
 - Transitional arrangements and implementation
 - Recognising Te Tiriti o Waitangi
 - Role of local democracy and opportunities for local input
 - The need to address the built environment

- Lack of clear priorities
- Schedule 2: Preparation of natural and built environments plans
- Recommended inclusions

Integration of the legislative framework

8. We acknowledge that there is still a significant amount of work to be done on the proposed new legislative framework, including drafting the remainder of the Natural and Built Environment Bill (NBA) and drafting the Spatial Planning Act (SPA), Climate Change Adaptation Act (CAA) and the National Planning Framework (NPF). However, it is difficult to comment on specific components of the exposure draft without the wider context of the full provisions of the NBA and related Acts.
9. While we understand the rationale behind consulting on an exposure draft of the NBA was to inform the development of the legislation, much of the detail that supports the NBA remains to be set via the NPF which makes it difficult to provide meaningful input at this stage. We therefore request that local councils, including HDC are closely engaged in the development of the NPF and that a requirement to this effect be included in Schedule 1: Preparation of national planning framework of the NBA.
10. HDC supports the proposal to introduce consolidated national direction in the form of an NPF and the intention to resolve conflicts between existing and new forms of national direction via the NPF.
11. As previously outlined, HDC supports the five objectives for reform but believe that how well the NBA meets these objectives will be largely dependent on how the NBA integrates with the proposed SPA and CAA and the development of the proposed NPF.
12. We understand from Clause 22(1)(d) of the NBA that although the relationship between NBA plans and regional spatial strategies is still to be clarified, that it is intended that regional spatial strategies will be treated as the higher order planning document, which is the same approach as the current planning system. We support this intention and consider that a requirement that NBA plans either 'be consistent with' or 'give effect' to regional spatial strategies is the appropriate legal weighting. Given that regional spatial strategies will be a higher order document than NBA plans, HDC considers that the development of regional spatial strategies before NBA plans would be the most efficient way to ensure strategic integration across the region.
13. It is likely that regional spatial strategies will include aspects such as identifying areas suitable for development and areas that should be protected. Therefore, clarity is sought on the relationship between environmental limits and the SPA and whether or not environmental limits will inform the development of regional spatial plans or vice versa.

Transitional arrangements and implementation

14. We note that the NBA does not address the transitional process. This is of particular interest as the NBA and the RMA have explicitly different purposes. HDC believes the success of the NBA and the new resource management system as a whole, will be largely dependent on how well the transition to and implementation of the new system is planned for, managed and resourced. We request that local councils including HDC, are closely engaged with on transition and

implementation arrangements and that the Government commits adequate resourcing to support transition.

15. In terms of implementation, we are aware that the implementation principles in Clause 18 are at an indicative stage but are concerned that the current drafting is relatively vague and some of the current terminology used is subjective. For example, while we support the intention of Clause 18(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:'*, what this translates to in practice is unclear and subjective. We therefore recommend that the wording of Clause 18 is strengthened or further clarified to reduce the risk of many and varied interpretations.
16. As previously outlined, HDC are of the opinion that regional spatial strategies should be created before NBA plans. Therefore, we recommend that the NPF is developed first followed by the SPA and regional spatial strategies which would then inform 'first generation' NBA plans.

Recognising Te Tiriti o Waitangi

17. We strongly support the strengthened role of mana whenua in the proposed new resource management system. We also support the requirement in Clause 6 of the NBA of 'giving effect' to the principles of the Te Tiriti o Waitangi, compared to the requirement under the RMA to 'take into account' those principles.
18. We echo the concern raised in the Canterbury Mayoral Forum submission regarding mana whenua's current lack of resourcing and recommend that consideration should be given to Government funding to support mana whenua participation in processes conducted under the NBA.
19. The shift from the current requirement in the RMA 'to take into account' the principles of Te Tiriti o Waitangi will result in a significant change in approach. To ensure that the higher threshold of 'give effect to' is met, clear direction and guidance should be provided on how 'to give effect to' the principles of Te Tiriti o Waitangi.

Role of local democracy and opportunities for local input

20. The NBA does not provide adequate information on what roles and functions local authorities will play. While we acknowledge that there are significant details yet to be worked through, HDC are concerned that the process outlined in the NBA of the creation of regional NBA plans and the establishment of regional planning committees, will result in the loss of local representation, accountability, place-based knowledge and limit the involvement of local elected members in decision making. We question whether the exposure draft will achieve the Government's reform objective of improving system efficiency and effectiveness and reducing complexity, while retaining appropriate local democratic input.
21. While we agree in principle that a single, regional plan is likely to be easier for regular users of plans, especially professionals who work with several district and regional plans, it is uncertain whether using a single regional plan will be less complex, especially for lay people. The uncertainty largely stems from the fact that it is unclear what the contents of NBA plans will be and how these plans will look. While Clause 22 of the NBA provides some details on the contents of a NBA plan, it is still unclear whether NBA plans will essentially bring together individual chapters from district

plans into one plan or whether there will be more of a blank canvas approach. In either case, the need for the NBA plans to address regional and local matters, will likely result in a lengthy plan which may be challenging to navigate.

22. We have concerns whether a regional approach will adequately address local concerns and needs considering the local variation that exists within regions. While we acknowledge that many topics could be addressed regionally (e.g., natural hazards, district wide matters, protection of natural values, rural land use), it is important that identified character areas within different districts continue to have bespoke provisions. For example, there are two areas within the Hurunui district (Mt Lyford and Hanmer Springs) which are subject to design standards. Both design standards have been reviewed via recent plan changes, so it is considered important that these standards continue to be applied to these areas to ensure the character of these areas are maintained. In our opinion, it is critical that the planning system must appropriately consider local variations within regions. We are in support of Clause 22(e) which appears to give districts within regions the ability to promote outcomes that are significant to a district, in addition to those provided for in Clause 8.
23. We consider that the proposed regional planning committee structure under Clause 23 of the NBA may significantly reduce the opportunity for local input into plan making and decision-making. As the NBA is drafted, the possibility that a local authority may not secure representation on its own regional planning committee is of concern. Although further work is required on the practicability of the planning committees, we note that ensuring equitable opportunities for local authorities to contribute to decision making will be important. We also request that further clarification is provided on the process for nominating and/or appointing the representative from each local authority.
24. HDC agrees it is appropriate for planning committees to have the ability to set regional or local environmental limits and are therefore supportive of Clause 12(2)(b).

Lack of clear priorities

25. We support the introduction of environmental limits to improve outcomes for the natural environment and the intent of shifting from managing adverse effects to promoting outcomes for the benefit of the environment. While we support each of the extensive list of environmental outcomes outlined in Clause 8, we are concerned that there is no prioritisation given which may create a number of conflicts between different outcomes and between outcomes and environmental limits. The NBA directs that the NPF and NBA plans must each include provisions to 'help resolve conflicts relating to the environment, including conflicts between or among any of the environmental outcomes described in section 8.' While we support the intention of the NPF and NBA plans resolving conflict, without the current detail of the NPF, it is difficult to provide any comment on whether the NPF will successfully resolve conflicts. We recommend that the relationship between environmental limits and outcomes be clarified, and that clear guidance be included in the NPF on how to resolve conflicts between environmental limits and outcomes, including where trade-offs may be appropriate.

Addressing built environment

26. While HDC supports the focus on the natural environment in the NBA and the introduction of environmental limits, we are concerned with the lack of focus on the built environment. We note

that one of the objectives of the Government's reform was to 'better enable development within environmental biophysical limits including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure.' However, the term of *Te Oranga o te Taiao* used in Clause 5: Purpose of this Act provides a focus on the natural environment and there is no reference to the built environment in Clause 5 which seems to be at odds with the Government's objective of enabling development. We recommend amending Clause 5(1) to recognise enabling development within the built environment.

Schedule 2: Preparation of natural and built environments plans

27. We note that Schedule 2 of the NBA has been left blank and still needs to be developed. HDC considers it important that local authorities are able to provide policy and technical input into the drafting of their region's NBA plan and request that this is reflected in Schedule 2. HDC would be supportive of a process similar to the 'Specified Development Project process' under the Urban Development Act 2020, and in particular the following steps in the process:

- The Planning Committee for each region prepares draft NBA plan for their region, with input from local authorities, as outlined above (further details around timing, content etc. should be included)
- Minister approves the release of the draft NBA plan for each region (the Minister approves the release of the draft NBA for public consultation).
- Submissions open to the public and public gets the opportunity to submit on the draft NBA. HDC considers that the current planning system is difficult for lay people to navigate and participate in and sometimes favours the views of experts. Therefore, HDC considers it important that appropriate opportunities for communities to participate meaningfully is provided in Schedule 2. We recommend making it easier for people to submit by accepting submissions in any form, similar to engagement processes under the Local Government Act, rather than the prescribed and restrictive nature of the RMA (i.e., submissions must be written in accordance with Form 5).
- Independent Hearing Panel (IHP) considers submissions:
 - Planning Committee reports on the public submissions and recommends responses to IHP.
 - IHP hears submissions.
 - IHP considers NBA plan and submissions.
 - IHP makes recommendations to the Minister, noting where it disagreed with the recommendations of the Planning Committee and why.
 - The Minister accepts recommendations or asks the IHP for further advice or reconsideration.
- Minister reviews the NBA plan recommended by the IHP and approves the plan.

Recommended inclusions

28. We acknowledge that the NBA does not contain a full list of definitions in Clause 3: Interpretation and that the full Bill will have a more complete set of definitions. However, we consider that the following terms should be defined in the Bill:

- *Te Oranga o te Taiao* used in Clause 5 should be defined in Clause 3 for completeness and further guidance should be provided on the meaning of the concept and how it will work in practice.
- Given the title of the Bill, a definition of 'built environment' should be developed and added.
- The term 'mitigate' is defined in terms of the phrase 'avoid, remedy or mitigate,' but 'avoid' and 'remedy' are not. These terms should also be defined for completeness.

- In regard to Clause 8: Environmental outcomes, the meaning of 'to assist' and 'promote' is considered subjective and should be clearly defined.
- While we support Clause 8(m) which is an outcome in relation to rural areas, we consider that this should also reference reverse sensitivity as the activities around productive rural land as well as the protection of productive rural land should both be considered.

Conclusion

29. Thank you for the opportunity to provide this submission.

30. For any clarification on points within this submission, please contact Kelsey Bewley at 03 314 0048 or kelsey.bewley@hurunui.govt.nz.

Yours sincerely

A handwritten signature in black ink that reads "Marie A Black". The signature is written in a cursive, flowing style.

Marie Black
Mayor (on behalf of the Hurunui District Council)