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Environment Committee
Parliament Buildings
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By email: Environment@parliament.govt.nz

Hurunui District Council's submission on the National and Built Environment Bill

Introduction

1. This is a submission on the Natural and Built Environment Bill 2022 (NBE Bill) from the Hurunui District Council.
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 predominately 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 this submission.
4. HDC seeks to be heard in support of this submission.
5. HDC acknowledges the significant amount of work the Ministry for the Environment (MfE) has undertaken in developing the NBE Bill and thanks the MfE for the consultation opportunities leading up to the NBE Bill.

General comments

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 NBE Bill.
7. Notwithstanding our general support, HDC considers that a number of important amendments are required to ensure the NBE Bill is able to operate effectively and achieve the reform objectives.
8. Our submission provides comment and suggested amendments on the following matters:
 - Plan making timeframe
 - Public participation
 - Clarification of Bill's purpose
 - Compliance, Monitoring and Enforcement
 - Regional Planning Committee – composition and funding

Plan making timeframe

9. The NBE Bill provides a four-year period to make the new combined NBE plan, with two years to prepare the plan and two years to make decisions on submissions. For comparison, the most recent review of the Hurunui District Plan which included considerable internal and external resourcing, took approximately seven years from scoping to the plan becoming fully operative.
10. We acknowledge that the preparation of a combined plan will involve greater and shared resourcing but in the Canterbury context, it will also involve eleven local authorities and a range of environments. In addition, the mixed governance of the Regional Planning Committee (RPC) and the collaborative approach required is expected to take longer than through a single Council. HDC considers that given the scope and complexity of preparing the first combined plan for the Canterbury region, that the prescribed four-year plan making period is too short and unrealistic. We are concerned that this timeframe may lead to:
 - poor plan making decisions and poor on-ground outcomes which could endure for generations.
 - insufficient or less time for meaningful engagement with local communities.
 - increased pressure on the resource management industry.
 - insufficient technical input.
11. Given the change from an effects based system to an outcomes focused system, including the proposed consent notification provisions limiting the involvement of affected parties, HDC considers community engagement should be a crucial part of the plan making process. We anticipate that our local communities will be less inclined to engage and submit on a regional document compared to a local document. Therefore, we consider it important to provide meaningful engagement with all communities early to ensure their buy in from the beginning of the process. Adequate time needs to be provided at the start of the process to provide for meaningful community engagement.
12. The resource management industry is already experiencing staffing shortages regionally and nationally. The size, complexity, and challenges of creating the new NBE plans within a short timeframe may exacerbate the existing stress on the industry.
13. Technical input is crucial, and plans need to be based on robust technical evidence. Dependent on the technical area, we sometimes experience long delays in obtaining technical input, predominately due to the small market for some technical fields. If technical input is delayed and can't be provided within a time which allows the four-year plan making period to be met, this is likely to create a risk that plans will not be based on robust technical evidence. In such case, this is likely to lead to poor plan provisions and subsequently poor on-ground outcomes.
14. HDC is also concerned that the four-year plan making period has the potential to undermine engagement with Māori as in our experience, meaningful engagement with Māori takes time and is not well served by adherence to short timeframes. However, we consider it integral that mana whenua determine what plan-making timeframe is adequate from their perspective based on their resourcing.

Amendment requested

15. HDC request that the plan making period for every region's first NBE plans is extended from four years to six years, with three years from scoping to notification and three years making decisions on

submissions and the Plan becoming operative. As such, we request clause 2, schedule 7 be amended as follows:

2. Overview of time frames for development of first plans or full review

(1) The first plan in each region must be prepared within 4 6 years, in accordance with the following time frame:

(a) a plan must be notified within 2 3 years of a resolution by the regional planning committee to begin drafting a new plan; and

*(b) the resolution referred to in **paragraph (a)** must be made within 40 working days of a decision to adopt the applicable spatial strategy under Schedule 4 of the Spatial Planning Act **2022**; and*

(c) the submission, hearing, and recommendations processes that enable the regional planning committee to issue decisions must be completed within the remaining 2 3 years of the 46-year planning cycle.

16. We acknowledge that once the first NBE plan for each region has been prepared, any review is likely to take a shorter time than six years, so we would be supportive of any subsequent reviews having a lesser period. However, given the scope and complexity of preparing a first combined NBE plan, we recommend that the plan making time frame be a minimum of six years.

Public participation

17. HDC has serious concerns regarding the lack of public participation opportunities provided for in the NBE Bill. Public participation in the plan making process has been limited in the NBE Bill by:

- the limited two-year plan making period which will significantly limit public engagement at the start of the plan making process.
- plan making being removed from local authorities, with RPCs being responsible for the preparation of plans.
- initial plan engagement consultation being limited to major regional issues, as opposed to district or local issues.
- requiring evidence to be submitted with submissions.
- consent notification provisions have been designed to limit involvement of affected parties.
- removal of the consideration of the maintenance and enhancement of amenity values.

18. One of the stated objectives of the NBE Bill is to retain local democratic input. HDC has concerns about whether this will be achieved and questions whether a regional approach will adequately address local concerns and needs considering local variation that exists within regions. While we acknowledge that many topics could be addressed regionally (e.g. district wide matters such as height, recession plane, setbacks etc., protection of natural values and 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.

19. HDC considers that Statement of Community Outcomes (SCOs) will be a key way for councils and communities to input into and influence regional planning decisions on local places. In our opinion strong SCOs will improve local government involvement in, and accountability for NBE plans. However, we are concerned that SCOs are not given enough weight in the NBE Bill and as a result will not meaningfully influence the plan-making process.

20. We are concerned that the current plan making framework for the preparation of NBE plans does not provide the public with reasonable and genuine opportunities to engage in plan making. In our experience, not providing adequate engagement opportunities significantly reduces the quality of plans as members of the public possess considerable place-based knowledge that is not always available to experts and decision makers. The range of views the public bring to resource management matters enhances the ability to make well informed decisions.
21. While HDC sees the benefit in evidence being provided with submissions, in terms of speeding up the plan making process, we consider that it may also discourage some people in making submissions, given the short timeframes, scope and likely complexity of the combined NBE plan.

Amendment requested

22. As previously requested in paragraph 15, the plan making period for the first NBE plan is extended to six years to assist in ensuring adequate community engagement.
23. The scope of the RPC's engagement policy be broadened to include district and local issues, rather than being limited to major regional policy issues as currently proposed. As such, we request that clause 16, schedule 7 being amended as follows:

16 How engagement register and major regional, district and local policy issues to be notified

 - (1) *Within 12 months of a resolution being made by the regional planning committee referred to in **clause 2(1)(a)**, the committee must publicly notify –*
 - (b) *the major regional, district and local issues, for the purposes of public feedback.*
24. We strongly support the ability for councils to prepare SCOs and the flexibility for councils to determine their own processes for developing SCOs in section 645(1)(b).
25. We request that stronger weight be given to SCOs and request that section 107 of the NBE Bill be amended as follows:

107 Considerations relevant to preparing and changing plans

Matter to which regional planning committee must ~~have particular regard~~ give effect to -

 - (1) *In addition to the matters to be included in plans under **section 102, 103 and 105**, a regional planning committee must ~~have particular regard~~ give effect to –*
 - (a) *a statement of community outcomes prepared by a territorial authority or unitary authority; and [...]*
26. HDC also requests that the scope of SCOs is increased to provide ability for SCOs to prescribe when different provisions may be appropriate for different parts of regions. As a result, we request the following amendment to section 645(2).

645 Functions of territorial authorities and unitary authorities

 - (2) *The purpose of the statements of community outcomes is to record a summary of the views of a district or local community within the region and prescribe when provisions are appropriate for different parts of regions.*

Clarify the Bill's purpose

27. HDC is generally supportive of the purpose of the NBE Bill but considers that further clarity is required. While we welcome the introduction of te Oranga o te Taiao given it is a new concept in the resource management system, we consider that the definition and concept should be integrated into the purpose to ensure clarity on how it relates to the purpose and also strengthen and embed it in the purpose of the Bill. We understand that it has been indicated that guidance will be produced on

upholding te Oranga o te Taiao. We strongly support such guidance and request that it be prepared as soon as possible.

28. We note that the purpose requires the upholding of te Oranga o te Taiao, with the word 'uphold' being used. The word 'uphold' is new in the planning context and given it is not defined in the NBE Bill, we have concerns that the use is unclear, is open to varying interpretations, and is therefore likely to lead to litigation. We request to reduce ambiguity, that either further clarification is given such as 'uphold' being defined in the NBE Bill or that a familiar term in the planning context, such as 'gives effect to' or 'recognise and provide for' be used in place of 'uphold.'
29. In regard to the reference to 'promotes outcomes for the benefit of the environment' in the purpose of the Act, we request further clarification be provided on the intent of this clause and consider that stronger language than 'promote' is required, to ensure that outcomes that benefit the environment are not something that are just encouraged.

Compliance, monitoring and enforcement

30. HDC is strongly supportive of the retention and strengthening of compliance, monitoring and enforcement provisions and powers outlined in Part 11 of the NBE Bill.
31. Section 783(1)(g) requires that a local authority must monitor permitted activities that have effect in the region or district. It is unclear whether all or only certain permitted activities must be monitored and dependent on this, this could potentially impose a heavy workload on local authorities. We request that section 783(1)(g) is amended to outline which permitted activities will need to be monitored.
32. In terms of cost recovery of permitted activity monitoring, our interpretation of Section 781(2) is that local authorities as NBE regulators can only recover costs of any investigation, supervision, and monitoring of an adverse effect on the environment. In this case, we question how costs of permitted activity monitoring is recovered where there is no adverse effect. Dependent on the extent of permitted activities requiring monitoring and the extent to which such monitoring involves an adverse effect, there may be substantial time and costs borne by local authorities. We request that the NBE Bill clarifies who pays for permitted activity monitoring which does not involve an adverse effect.

Regional Planning Committee (RPC) – composition and funding

33. The provisions relating to membership. Support, and operations of regional planning committees in Schedule 8 of the NBE Bill raises several questions and uncertainty for HDC. In some cases, we need further clarification to determine the implications on us before we can provide an opinion.
34. As outlined in schedule 8, clause 2, we support the ability for all local authorities to be represented and the criteria outlined in schedule 8, clause 3(2)(b) to consider regional, district, rural and urban representation when making composition arrangements. However, we consider that weighting on the membership of the RPC should not be purely based on different populations of the individual local authorities. We are of the opinion that weight should also be given to the land area of individual local authorities. Therefore, we request that schedule 8, clause 3(2)(d) be amended as follows:
 - (2) *The composition agreement must ensure that, having regard to the purpose of this Act and the purpose of the Spatial Planning Act 2002 –*
 - (d) *in the case of a region with multiple local authorities, the local authority membership of the committees has been agreed with consideration of the different populations and land*

areas of the individual local authorities and the desirability of applying some weighting in respect of that.

35. We note that the NBE Bill does not provide any direction on who can be appointed a member of the RPC and as such, membership could include elected members, council officers, or independent experts. Our initial preference on who the representative for local authorities should be is either an elected member or a representative elected by the community, to ensure stronger accountability back to communities. However, we acknowledge that there are several practical implications and uncertainties such as the time demand on members of the RPC and the training involved. We therefore support that the NBE Bill does not prescribe who is required to be a member of the RPC.
36. Regardless of who the members of the RPC are, we consider that all members must have sufficient skills and knowledge to be able to make decisions on technical matters. We therefore request that training should be required to ensure that RPC members are sufficiently qualified and understand their role and function as an RPC member. As such, we recommend that schedule 8 be amended to prescribe a minimum level of training and criteria for membership of the RPC. We also request that the cost of training RPC members should be provided by central government.
37. In regard to the funding of the RPC, there is significant uncertainty on the overall costs to local authorities. While we understand that the NBE Bill cannot resolve this, we strongly request that the overall costs of plan making to councils and therefore communities do not exceed the existing costs due to the intent of moving to a regionalized planning approach increasing efficiency.
38. We are available and happy to provide any further information or answer any questions about our submission.

Yours sincerely



Marie Black
Mayor (on behalf of Hurunui District Council)