

## Select Committee report on the inquiry on the Natural and Built Environments Bill: Parliamentary paper

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3 November 2021

On 1 November 2021 the Environment Committee released its report on its inquiry on the parliamentary paper on the Natural and Built Environments Bill 2021 (Bill). The Committee recommended that the Government proceed with the development of the Bill with proposed redrafting of certain provisions.

The key aspects of the Natural and Built Environments Act (NBA) which, will be the primary replacement for the Resource Management Act 1991 (RMA), are set out in our article [Highlights from the proposed Natural and Built Environments Act](#). Those aspects include:

- A new purpose which focuses on the concept of Te Oranga o te Taiao
- Implementation of a new national planning framework (NPF)
- The introduction of environmental limits and outcomes
- A framework for natural and built environments plans (NBE plans)
- A central role for iwi/Māori and improved recognition of Te Tiriti o Waitangi.

The Select Committee has largely left the Bill intact, proposing limited actual drafting changes. The Select Committee has however signalled that further work is required in a number of important areas, such as the purpose including the concept of Te Oranga o te Taiao making further amendments likely.

### The key recommendations proposed by the Select Committee are:

- **Te Oranga o te Taiao:** The Select Committee supports the inclusion of this concept in the Bill's purpose but recommends that further work be undertaken to better define and support this concept in the legislation including, through engagement with iwi and Māori groups.
- **Purpose:** The Select Committee recommends amendments to:
  - reflect that environmental limits have priority in the new system
  - require the protection of the natural environment through more directive language
  - give more prominence to the built environment to link the purpose of the NBA more clearly to outcomes for housing, infrastructure and cultural heritage
  - require the NPF to provide high level direction on the effects management hierarchy.
- **Te Tiriti o Waitangi:** The Select Committee recommends the inclusion of further direction in the NBA on how the principles of Te Tiriti o Waitangi are to be given effect to, including local government's role in the partnership. The Select Committee suggests that consideration be given to what role the NPF could have in giving additional expression to the principles of Te Tiriti o Waitangi and how persons operating under it can give effect to the principles.
- **Environmental limits:** Environmental limits are a central feature of the new system and must be prescribed in the NPF, with the ability for some local variation in plans. The Select Committee recommends amendments to:
  - clarify that limits could only be set for the purposes of protecting the ecological integrity of the natural environment, and/or human health
  - require the Minister to set environmental limits in the NPF for the six mandatory matters in the NBA (air, biodiversity, coastal waters, estuaries, fresh water, and soil) rather than solely allowing delegation of those decisions to planning committees when they formulate NBE plans
  - establish clear principles and criteria that the Minister or decision-maker must have regard to when setting environmental limits
  - include the use of transitional limits and environmental targets to provide an incentive to improve environmental health or quality rather than viewing environmental limits as an acceptable environmental state in the long term.

- **Outcomes:** To assist in achieving the purpose of the NBA, the NPF and all NBE plans must promote the environmental outcomes listed in the NBA, subject to environmental limits. The Select Committee recommends amendments to:
  - consolidate and rationalise the outcomes
  - remove the differing qualifying or directive terms used in the exposure draft to refer to outcomes, such as “protect”, “significant”, “reduce”, and “restore” and to specify that there is no hierarchy among the outcomes
  - clarify that the NPF and NBE plans are not limited to addressing the identified outcomes, and can also cover a range of matters to help achieve the purpose of the NBA
  - provide further direction on how conflicts between outcomes are to be resolved, including the insertion of principles and other substantive decision-making requirements to assist decision-makers in resolving conflicts between outcomes.
  
- **The National Policy Framework:** The tool in the NBA that the Government would use to provide integrated strategic direction on the management of the environment, and consistent regulation. The Select Committee:
  - recommends amendments to expand the purpose of the NPF to include furthering the purpose of the NBA, assisting in resolving conflicts between environmental matters, including between outcomes, and setting environmental limits and strategic direction
  - considers strong checks and balances on the process for establishing an NPF should be included, such as requirements for public consultation and a board of inquiry process
  - recommends further policy work be undertaken to establish what regulations should be contained in the NPF and suggests that the NPF include the types of provisions and functions currently provided for by national policy statements and national environmental standards under the RMA
  - recommends that the NPF have mandatory content on all outcomes listed in the NBA
  - recommends strengthening the conflict resolution provisions in the NPF, including by requiring the Minister to have regard to the extent to which it is appropriate for conflicts to be resolved at a national level by the NPF, or at a regional level by NBE plans.
  
- **Natural and Built Environment plans:** These plans would provide a scheme of policies, rules, objectives, and processes for managing a regional environment. The Select Committee:
  - supports having one plan per region but acknowledge “that creating regional plans that combine district and regional functions from different councils will be a significant undertaking”
  - emphasises the importance that NBE plans provide ways for decision-makers to resolve conflicts relating to a region’s environment and recommends the inclusion of a specific requirement for NBE plans to help resolve conflicts between competing outcomes
  - recommends clearly setting out the substantive role for local authorities in place-based planning, and how the planning committee and local authorities should engage with communities when preparing the plan.
  
- **Terminology:** The Select Committee:
  - recommends that, where appropriate, the Bill carry over relevant definitions already defined under the RMA, to ensure existing case law is retained in the new system
  - recommends clear drafting with consistent verbs wherever possible and appropriate.

The Select Committee's report will inform further policy development on the reform. Other components of the Bill that are not included in the exposure draft are currently being considered by the Ministerial Oversight Group before inclusion in the full Bill. Meanwhile, the Strategic Planning Act (SPA) Bill will be developed in parallel, while the consultation for the Climate Adaptation Act (CAA) Bill will be separate.

It is anticipated that complete Bills for the NBA and SPA will be introduced to Parliament in 2022 with a second opportunity for public feedback before the Bills are enacted. It is intended these Bills will be enacted this parliamentary term.

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