



Submission on Exposure Draft Natural and Built Environments Act

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Prepared for and on behalf of NZPI by

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Planning is a respected profession, essential to achieving a better New Zealand

Te Kokiringa Taumata | New Zealand Planning Institute (NZPI) is the voice of planning in New Zealand. It is the professional organisation representing this country's planners, resource managers, urban designers, and environmental practitioners. Planners have a critical role in shaping New Zealand's future by helping to develop solutions to key issues, such as population growth, infrastructure needs, pressure on natural resources and environments, demographic change and transport

Executive Summary

1. The Te Kokiringa Taumata | New Zealand Planning Institute (NZPI) welcomes the opportunity to present these submissions on the exposure draft of the Natural and Built Environments Act for consideration by the Select Committee. The NZPI notes the exposure draft is a small but important part of one of three proposed Acts to replace the present Resource Management Act. While our submissions focus on the exposure draft itself, they also relate to matters raised in the Parliamentary Paper which touches on planning functions and matters that are still works in progress. In recent years NZPI has made significant submissions calling for reform to NZ's planning systems. In that regard NZPI's view is consistent with its submission on the Resource Management Panel's (Panel) "Issues and Options Paper – Transforming the Resource Management System – Opportunities for Change". This submission is informed by that work.

2. The New Zealand Planning Institute is the home of planning in New Zealand, with 11 branches within New Zealand and overseas. Our growing membership of over 2800 members – mainly professional planning practitioners – are involved in strategic planning initiatives, implementation of urban and rural plans, consenting, plan-making, policy-analysis, at local, regional and national levels. Their practical knowledge and experience is of enormous value at times like these. We have surveyed members with a set of open-ended questions about aspects of the Exposure Draft NBEA. A small subset of responses is provided with this submission, and the full set of responses is available to be discussed with MfE officials. It is our submission that answers to those questions, and to the further questions raised by members in the survey, will assist in shaping and fine-tuning New Zealand's next generation planning system.

3. NZPI's submissions - in principle, in legislation, in practice and transition – are summarised:

- i. **NZPI submits that clear and consistent, and coherently implemented national direction will provide the strong resource management 'backbone' New Zealand needs, providing the support and direction essential at regional and local levels.**
- ii. **NZPI submits that an aspirational and forward-looking planning approach is needed to complement the NBA's focus on outcomes and limits, and to give purpose and objectives to the National Planning Framework**
- iii. **NZPI submits that mandatory national direction must be delivered within an appropriate National Policy/Planning Framework to ensure cohesion without the risk of conflicting environmental outcomes via:**
 - a. **Mandatory National Policy Framework supported with implementation practice documents and tools,**
 - b. **Mandatory National Environmental Standards, including environmental limits, on key natural resources to provide a nationally consistent approach to their management,**
 - c. **Mandatory requirement to review NPF provisions regularly**
- iv. **NZPI submits that the National Planning Framework is subject to independent review to ensure:**
 - a. **National Planning Framework is consistent with the purpose of the Act,**
 - b. **The National Planning Framework addresses and resolves conflicting outcomes to enable regional and district implementation.**

- v. **NZPI submits that Regional and District regulatory plans and plan making should be simplified:**
 - a. **through national guidance model plans focussing on outcomes,**
 - b. **by removal of appeal rights to plan changes required by national guidance so that regulatory instruments can be adapted more quickly,**
 - c. **by reviewing public input and decision-making processes in recognition of the outcome-oriented emphasis of planning reforms.**
- vi. **NZPI submits consent application processes should be simplified by:**
 - a. **getting the plan right and expanding permitted activity and outcome categories. We understand the NBEA intends this outcome,**
 - b. **setting triggers to reduce information and EIA requirements for activities and outcomes anticipated by the plan,**
 - c. **noting adverse effects assessment requirements will be balanced against outcome assessments,**
 - d. **exploring independent appointment of commissioners at a regional level.**
- vii. **NZPI submits in support of strengthened compliance, monitoring and enforcement practices by a mixture of national direction enabling more effective sanctions (punitive fines) and requiring reporting of the delivery of a range of outcomes.**
- viii. **NZPI submits in support of accreditation/registration for practitioners to improve the quality, practice and consistency of decision-making (policy development, plan making, and consent processing).**

4. In making this submission, NZPI's intent is to ensure that new Zealand has a coherent and workable planning framework and resource management legislation that can be implemented readily and effectively. NZPI values its close working relationship with MfE, and will be seeking to build and consolidate that as this legislation develops and as implementation approaches.

Introduction

5. The Te Kokiringa Taumata | New Zealand Planning Institute (NZPI) welcomes the opportunity to present these submissions on the exposure draft of the Natural and Built Environments Act for consideration by the Select Committee. The NZPI is a complex organisation that delivers training, networking, advocacy, real time planning news, mentoring, professional standards monitoring, accreditation of tertiary planning education and good practice guidance through the Quality Planning resource.

6. In recent years NZPI has made significant submissions calling for reform to NZ's planning systems. In that regard NZPI's view is consistent with its submission on the Resource Management Panel's (Panel) "Issues and Options Paper – Transforming the Resource Management System – Opportunities for Change". This submission is informed by and builds on the previous work NZPI has done and the positions it has developed on changes needed.

7. NZPI's positions and what changes are recommended - in principle, in legislation, in practice and transition - and how proposed reforms and the exposure draft delivers, are summarised in the following tables:

In Principle

NZPI Recommendation	NBEA Exposure Draft
Integrated and cohesive national direction including bottom lines	Broadly delivered in the proposed National Planning Framework and Environmental Limits section, but implementation detail is currently lacking.
Purpose to explicitly include Te Ao Māori and provide for partnership	Te Oranga o te Taiao to be upheld, including by protecting and enhancing the natural environment. But no clear mechanism for iwi and hapu implementation at local level.
Aspirational and forward-looking planning approach is needed to complement effects-based planning	Provides for outcomes. But limited aspiration. This could be provided in Regional Spatial Plans.

Legislation

NZPI Recommendation	NBEA Exposure Draft
Bring Treaty section 8 into purpose	Delivered.
Mandatory national direction delivered within a National Planning Framework to ensure cohesion without the risk of conflicting outcomes to implement matters of importance via: a. Mandatory National Policy Statements (NPS) supported with guidance practice documents and tools produced within 12 months of any new NPS, b. Mandatory National Environmental Standards (NES), including bottom-lines, on key natural resources to provide a nationally consistent approach to their management, c. Mandatory requirement to review NPS and NES every three years	Delivers a National Planning Framework. However no mechanism for managing conflicts, or for review.

<p>All national direction subject to direction and independent review by Parliamentary Commissioner for Environment (or equivalent Planning Commission) to ensure:</p> <ul style="list-style-type: none"> a. National Policy Framework consistent with the purpose of the Act, b. NPS and NES address and resolve conflicting outcomes and enable regional and district implementation, c. Collaboration of stakeholder government ministries and departments 	<p>Not delivered. Though Parliamentary Paper suggests using a board of inquiry or independent panel. Proposal to incorporate existing NPSUD, NPSFW without review inconsistent.</p>
<p>All Regional Strategic Plans required to be consistent with the National Policy Framework and to provide a regional spatial plan which:</p> <ul style="list-style-type: none"> a. contains direction for resource management and the delivery of objectives, b. maps key development and infrastructure projects, c. coordinates objectives and activities of partners and key stakeholders including iwi, Government and Local Government agencies d. integrates funding for central and local government agencies 	<p>Potentially to come with Strategic Planning Act. NZPI's focus and attention is function of both NBEA and SPA working together on the ground.</p>
<p>Simplify Combined plans and plan making:</p> <ul style="list-style-type: none"> a. through national guidance model plans, b. by removal of appeal rights to plan changes required by national guidance so that regulatory instruments can be adapted more quickly, c. by reviewing public input and decision-making processes 	<p>Delivers through combined regional and district regulatory plans. Detailed provisions to come. Significant transitional issues to be resolved.</p>
<p>Simplify consent application processes by:</p> <ul style="list-style-type: none"> a. getting the plan right and expanding permitted activity and outcome categories, b. setting triggers to reduce information and EIA requirements for activities and outcomes anticipated by the plan, c. reviewing adverse effects assessment requirements for discretionary activities 	<p>Detailed provisions to come.</p>
<p>Simplify consent processing by:</p> <ul style="list-style-type: none"> a. cutting down consenting assessment requirements by developing plans that are aimed at permitting anticipated outcomes, b. review public notification processes to enable appropriate participation in a cost-effective manner 	<p>Detailed provisions to come.</p>

Practice and Transition

NZPI Recommendation	NBEA Exposure Draft
<p>Strengthen compliance, monitoring and enforcement practices by a mixture of national direction enabling more effective sanctions (punitive fines) and requiring reporting of outcomes.</p>	<p>Detailed provisions to come. How compliance and enforcement will be achieved is critical to ensure full and effective</p>

	implementation of combined plans.
Improve the quality, practice and consistency of decision-making (policy development, plan making, and consent processing) by requiring accreditation/registration for practitioners.	Detailed provisions to come. This could include planning ethics and planning principles. NZPI notes Implementation Principles are what good planning practice is about. Practitioner registration is advised.
Transition. NZPI's focus on plan-making, plan review, consenting, evaluation, monitoring, compliance and enforcement, necessarily requires the preparation of a transition strategy between an RMA based system, to an NBEA/SPA based system. This would include transition provisions (including which plans apply and for what period); implementation guidelines (eg what comes first: NPF, RSS, Combined Plans?); training and accreditation for practitioners; capacity and capability building at all levels; funding for mana whenua.	No provision in exposure draft. Limited analysis in Parliamentary Paper. Legislation is only part of the journey. Greater emphasis on implementation and realistic timeframes for transition is critical.

8. This submission begins with an account of our main submissions and provides evidence and explanation justifying the package of reforms that NZPI considers to be essential to enable good and effective planning to occur in New Zealand. The second part introduces our survey specifically seeking member responses to a set of NBEA Exposure Draft implementation-oriented questions. Some indicative member responses have been highlighted to illustrate our main submissions.

Main Submissions

9. On the 13th of November 2019, the Minister for the Environment described the RMA's performance thus: "It costs too much, it takes too long and it has not protected the environment". Overall NZPI supports the need for resource management reform and have prepared this submission to highlight those aspects that are critical to ensure delivery of a simplified, easy to use planning framework for New Zealand. NZPI supports the overall intent to ensure spatial planning is achieved at a regional level, with strong environmental direction for those issues that matter for our local communities.

10. NZPI's submissions aim to improve that performance, while adding to the Minister's list a number of practice related concerns that must also be improved. The new planning system must be designed to minimise the need for litigation and legal interpretation. Its various functions and requirements must be transparent and clear so that an informed member of the public can readily understand it. And it must clearly provide for outcomes-based planning.

These submissions focus on specific concerns NZPI has with the Exposure Draft NBEA (which includes the Parliamentary Paper).

Integrated and cohesive national direction including bottom lines

11. The current suite of separate NPS's will in practice not provide an integrated national direction and will create difficulties for practitioners making sense of them at local and regional level whose job it is to figure out how to reconcile conflicting priorities. The existing NPS's and NES's should not be incorporated into the proposed National Planning Framework without a statement in the Act describing a process or approach for assessing conflict and managing it.

12. The NPF that sets out the measurable environmental limits is essential in enabling regional and local decision-making where natural resources are subject to cumulative damage, decay and loss. A good example relates to wetland areas – these have different importance for forestry, freshwater, biodiversity and productive lands – each of which has its own set of national direction policies – many of which are in conflict with each other. The wetland example is a good one to address.

13. An aspect of implementation that is unclear is whether the NPF level of guidance concentrates on policy rather than outcomes or methods, with RSS (Regional Spatial Strategies) focussing on regional outcomes, and Combined Plans focussing on regulation. No doubt those practicalities will emerge as the reforms progress. Countries like the UK and Scotland have integrated planning management systems we can learn from – especially in regard to implementation and the relationship between national and local level requirements.

14. NZPI submits that clear and consistent, and coherently implemented national direction will provide the strong resource management 'backbone' New Zealand needs, providing the support and direction essential at regional and local levels.

Aspirational and forward-looking approach needed to complement outcomes-based planning

15. NZPI notes that the list of draft environmental outcomes lack any statement of higher level aspiration that are typical in similar National Planning Frameworks in Australia, Scotland, England

and Ireland. Those NPF's or their equivalents include broader national economic development, environment and social goals – made up of lower level outcomes - which are to be achieved through enabling and regulatory mechanisms and tools.

16. For example the Ministerial foreword to Scotland's National Planning Framework (which sets out a long-term vision for development and investment across Scotland over the next 20 to 30 years), describes the kind of overarching framework that NZPI believes New Zealand's resource management system needs as part of national guidance to complement the current effects-based regime. Scotland's ministerial foreword states:

“The central purpose of the Scottish Government is to make Scotland a more successful country, with opportunities for all to flourish through increasing sustainable economic growth. This, Scotland's Third National Planning Framework - NPF3 - is the spatial expression of the Government Economic Strategy, and of our plans for infrastructure investment. It is about our ambition to create great places that support sustainable economic growth across the country. NPF3 is a strategy for all of Scotland - championing our most successful places and supporting change in areas where, in the past, there has been a legacy of decline. It builds on the success of our city regions and will help to transform our towns. It highlights opportunities for rural development that will strengthen our communities. And it sets out an ambitious agenda to secure investment in the unique assets of our coast and our islands. NPF3 brings together our plans and strategies in economic development, regeneration, energy, environment, climate change, transport and digital infrastructure to provide a coherent vision of how Scotland should evolve over the next 20 to 30 years. In turn, this vision will help to inform our future policies and prioritise investment decisions.”

17. NZPI suggests New Zealand and its planning system needs this kind of vision to help explain and justify these reforms, as part of a public policy process, and to set the scene for its detailed provisions.

18. NZPI submits that an aspirational and forward-looking planning approach is needed to complement the NBA's focus on outcomes and limits, and to give purpose and objectives to the National Planning Framework.

Mandatory national direction delivered via National planning/Policy Framework (NPF)

19. Combined plans will likely be required to state all regional or district objectives, then the policies, followed by any methods or rules used to implement the policies. Among the matters that must be considered in plan development is consistency with regional strategies and other statutory documents including the proposed NPF. As currently provided for in the RMA, each National Policy Statement is only required to state the objectives and policies of that particular NPS, and there is no requirement to consider consistency or conflict with other NPS's, nor is there any requirement to provide guidance on implementation.

20. NZPI notes and acknowledges that high quality guidance has sometimes been produced (e.g. guidance from MBIE in the case of the NPS on Urban Development Capacity). However the production of guidance is erratic and often much later than needed by practitioners and all too often in response to the emergence of the unintended consequences that arise due to the experimental and untested nature of recent national direction.

21. NZPI is concerned by a pattern where guidance material has been produced AFTER the gazetting and implementation of a national policy statement. This practice inevitably leads to questions about the quality of the policy design in the policy statement.

22. This submission is intended to inform the designers of these reforms that implementation and transition needs careful attention, so that we learn from our recent national direction history, and don't presume that subsequent guidance can be relied upon to solve problems that emerge through rapid drafting and insufficient review and testing prior to enactment.

23. NZPI submits that mandatory national direction must be delivered within an appropriate National Policy/Planning Framework to ensure cohesion without the risk of conflicting environmental outcomes via:

a. Mandatory National Policy Framework supported with implementation practice documents and tools,

b. Mandatory National Environmental Standards, including environmental limits, on key natural resources to provide a nationally consistent approach to their management,

c. Mandatory requirement to review NPF provisions regularly

National direction subject to independent review

24. NZPI recognises the concentration of policy expertise amongst the MfE staff whose job it is to prepare NPS proposals, but we have frequently expressed concern about the absence of practitioner experience in the NPS development process and the preparation of legislation reform. NZPI notes there have been regular attempts by Ministers of the Environment to legitimise an ability to intervene and to increase their powers to regulate and to direct territorial authorities to rewrite sections of their statutory planning documents for example. There have been many submissions to the effect that the Minister should not have unfettered powers to intervene – that there should be appropriate checks and balances in place.

25. NZPI submits there is little point in requiring an over-arching National Policy Framework which provides for integrated and coordinated environmental limits and outcomes, if such a framework can be changed to suit the political agenda of an incoming government. NZPI submits that proposals to change resource management national direction need to be subject to independent review.

26. NZPI notes its submissions for the NPS on Highly Productive Lands went to the Ministry for Primary Industries, while those for Freshwater Management went to MfE, and those for NPS Urban Development Capacity went direct to MBIE. These kinds of arrangements should be expected and anticipated in the preparation of the NPF. It will fall to planners to interpret the intent of NPF policy, and its effect in RSS's and Combined Plan provisions, and to determine applications for resource use.

27. NZPI submits that the MfE officials tasked with preparing the NPF must engage with the planning profession and those involved at the coalface. Practitioner robust examination and independent challenge will be essential to ensure that the overall purpose of the Act is met by the whole package of national guidance, and that individual components of national guidance are capable of being put into practice. Where conflicts exist between the elements of national direction the NBA must provide a clear methodology for how those conflicts are resolved. The current

approach of NPS development and a lack of clear national direction for how to manage conflicts results in poor planning outcomes.

28. Further NZPI submits that some sort of independent authority is needed. This could be a Planning Commission or an extended role for the office of the Parliamentary Commission for the Environment. We note that the Parliamentary Paper suggests using a board of enquiry or an independent panel for independent review purposes.

29. NZPI submits that the National Planning Framework is subject to independent review to ensure:

a. National Planning Framework is consistent with the purpose of the Act,

b. The National Planning Framework addresses and resolves conflicting outcomes to enable regional and district implementation.

Simplify Combined plans and plan making

30. NZPI notes that good regulatory planning processes begin with a good plan and good implementation. NZ's district planning, in the absence of national direction, began with around 80 entirely different district plans. There have been major changes – including Auckland's Unitary Plan and the Christchurch plan review.

31. A core issue is councils reinventing the same wheel when they review their district plans which adds considerable expense for both the councils and for organisations seeking nationally consistent provisions. NZPI support the intent of the NBA in establishing the NPF to provide consistent limits, outcomes and standards for those matters which are truly national in context, for example, earthworks, noise, vibration, telecommunications, temporary activities. It can also be addressed by requiring more efficient sharing of resources/ unitary plans that cross territorial boundaries.

32. With hindsight NZPI considers that the recent National Planning Standards process was a missed opportunity to develop a model district plan, and model regional plan provisions. Important and distinctive local matters – such as the heritage urban landscapes in Oamaru, Napier and Devonport – can be managed with character overlays. NZPI notes that MfE are now looking to develop a model NBEA Combined Plan and we strongly support that initiative.

33. NZPI submits that there is huge public interest in planning matters that affect their local environment or community. Aspects of the current planning system, including its focus on effects rather than outcomes, have made it difficult and frustrating for members of the public to understand and engage with. NZPI submits that regional spatial planning, and the combined NBA plans will likely attract more public interest and attention because of their focus on outcomes, and this changed attention and engagement should be welcomed and facilitated. NZPI supports a formal review of public participation, appeal rights and decision-making related to plan-making, consent application, and consent processing, in order to achieve a better balance between environmental outcomes, public participation and the quality of decision-making.

34. NZPI submits that Regional and District regulatory plans and plan making should be simplified:

a. through national guidance model plans focussing on outcomes,

b. by removal of appeal rights to plan changes required by national guidance so that regulatory instruments can be adapted more quickly,

c. by reviewing public input and decision-making processes in recognition of the outcome-oriented emphasis of planning reforms

Simplify consent application processes

35. Despite more than 90% of all resource consent applications are non-notified and processed within statutory timeframes, and despite more than 50% of new homes not requiring resource consent (because they are permitted uses), years of tinkering and stream-lining the Resource Management Act have added complexity and process to what is arguably the engine-room of NZ's resource management system: Schedules I and IV.

36. Among the many changes and complexities that have been introduced into district plans by the layering of reforms is a proliferation of activity types (permitted, controlled, restricted discretionary, discretionary, non-complying). Coupled with an increasingly onerous information and EIA requirements for quite simple activities that - despite being envisaged by the plan/zone - because a rule or threshold is exceeded - trigger assessment requirements across a whole range of matters. There is also costly complexity in the consideration needed for notification and limited notification. NZPI is aware of the relative simplicity of the British town planning system where neighbours are consulted, and the merits of their comments and suggestions considered by assessing planners. The emphasis there is on successful outcomes and permitted uses.

37. NZPI also considers it worth exploring independent appointment of hearing commissioners, potentially as regionally-based panels administered by either Env't Ct or the EPA. This would avoid the widespread perceptions that Councils stack their panels to get the decision they want, plus where commissioners are paid by the council and therefore create a perception that they are not wholly independent, particularly if the council is in effect their only client/source of income.

38. NZPI submits consent application processes should be simplified by:

a. getting the plan right and expanding permitted activity and outcome categories. We understand the NBEA intends this outcome,

b. setting triggers to reduce information and EIA requirements for activities and outcomes anticipated by the plan,

c. noting adverse effects assessment requirements will be balanced against outcome assessments

d. exploring independent appointment of commissioners at a regional level

Strengthen compliance, monitoring and enforcement practices

39. Feedback from practitioners is unequivocal on this. Considerably more investment is needed across the board in environmental compliance, monitoring and enforcement. Authorities are criticised for not adequately resourcing these functions as they are seen as not being "cost-effective". Many argue that squeaky-wheel/neighbours-at-war scenarios attract most attention.

40. A strong theme in member feedback is that better practice ensues from restricting the number of conditions of consent to the few important ones, and then monitoring those consistently. Where the consent holder self-monitors, but subject to independent assessment, then the monitoring fees are reduced accordingly. There is strong support for centralised reporting of compliance and monitoring on the basis that what is measured is what is important (ie not just numbers of consents processed in statutory timeframes).

41. NZPI submits in support of strengthened compliance, monitoring and enforcement practices by a mixture of national direction enabling more effective sanctions (punitive fines) and requiring reporting of the delivery of a range of outcomes.

Improve decision-making by requiring registration for practitioners

42. NZPI does not support S18 – Implementation Principles. In our experience these are best practice or ethical matters. Putting them in any planning statute as proposed is inviting legal challenge on any and every planning decision – because these “principles” are open to interpretation and will vary from situation to situation.

43. There is considerable anecdotal evidence that unqualified practitioners are the cause of multiple problems with the consenting process, which often start with the poor quality of applications lodged with Council. Registration can be a means of recognising and encouraging applications prepared by planners vs those prepared by builders and surveyors.

44. The Royal Town Planning Institute has such a system, and some Australian States are also introducing one, where it is contributing to an improvement in the quality of planning, and as a result the public’s confidence in the planning system.

45. In previous surveys, NZPI notes the comments of many planners experienced in overseas jurisdictions who consider New Zealand has long needed planner accreditation/registration. Many argue that it would force employers to provide the time and resource for focusing on legislation. The status of being MNZPI is not recognised by some practitioners, managers or the judiciary in some cases. Some sort of formal recognition would give greater incentive for planners to conduct the required training and go through an enhanced membership process – which can test more rigorously for competencies as well as practical experience.

46. Registration/Accreditation assists government control for desired outcomes by ensuring accredited planners are educated in these desired outcomes and why, and how to balance these outcomes against potential effects of these outcomes. Further, while the ethics and principles of good planning and planning decisions could be stated in reforms, these should not be able to be tested or examined in court processes as they will vary from case to case.

47. NZPI submits in support of accreditation/registration for practitioners to improve the quality, practice and consistency of decision-making (policy development, plan making, and consent processing).

Survey

NZPI conducted an open-ended survey of its membership to explore views and ideas about aspects of the NBEA Exposure Draft. Over 300 members participated – about 50% work in private sector, 30% in local government – and from across the country. The questions emphasise the implementation implications of reform proposals. NZPI considers that the designers of these reforms need to be very clear about how their policy proposals will be put in practice on the ground. How they will actually work, and what further support or requirements may be needed.

Several hundred responses have been analysed to prepare these submissions. Survey responses from a very valuable set of responses to the current proposals and NZPI is happy to share this information with MfE officials.

This section sets out key questions asked and indicative examples of member responses that reflect the transition and implementation challenges ahead as the profession tries to make out how the NBA will work and deliver on the expectations.

Q6: The Bill's purpose is framed around upholding Te Oranga o te Taiao. The Bill's description of Te Oranga o te Taiao incorporates: the health of the natural environment; the intrinsic relationship between iwi and hapū, and te Taiao; the interconnectedness of the natural environment; and the essential relationship between the health of the natural environment and its capacity to sustain all life. Thinking about your work in resource management, what do you think this means for implementation?

- “The fact that this is framed as "incorporates" leaves it open for other factors to also be considered. There may also be an issue with how "protection" as set out in the purpose is enabled through upholding Te Oranga o te Taiao. This is because the relationship between between iwi and hapu and te taiao (Cl.5(3)(b), as I understand, it is not always one of protection; it includes use elements that may not necessarily "protect". This could mean a quite different approach than under the RMA where policy and rules generally where more protective and restrictive for ecologically important areas. I note the difference of this term to Te Mana o te Wai in the NPSFM and consider this will have implications that apply to that NPS. Possibly a watering down (no pun intended) of the priority to put the needs of the waterbody first. Obviously depending if this remains under the NPF and whether reference back to Part 2 is part of future decision making. (1 of 169 responses)

Q8: Thinking about your work in resource management, what do “you think needs to be done to improve mana whenua engagement in resource management (e.g. processes, behaviours/beliefs)

- “Look I think this is going to be a really tough area to navigate. Engagement varies across New Zealand, there is no one size fits all and I don't think you can impose a process or system on mana whenua engagement, they need to develop it themselves. This needs to be funded and guidance provided. That said a few examples are Ngai Tahu and how they engage through an intermediary who vets and takes things through to a kaumatua; Kīngitanga as an example of unity and delegating one voice to speak and Hauraki Gulf forum has elected iwi representatives who speak on behalf of all the groups represented as another option.” (1 of 173 responses)

Q9: The Bill proposes a switch from 'effects based' to 'outcomes based' planning. Are you well informed on what 'outcomes-based' planning means?

- “The aspirations of the approach for 'outcomes based' planning is understood. The approach is similar to those in Ireland and Hong Kong. This approach seeks to move the NZ planning system to one that aspire and deliver good outcomes which promote wellbeing, however there is a lack of detail (including in the Bill) of how the three replacement Acts will interact is lacking. We are asked to comment on the Natural and Built Environment Exposure Draft in the absence of full knowledge of how the NBEA will interact with the Strategic Planning Act (SPA). The strategic outcomes are currently unclear and it will be the combined set of Exposure Drafts that will inform complete consultation. There is a concern that responses may have been different if more complete information was available. The process appears very rushed.” (1 of 118 responses)

Q10: Thinking about your work in resource management, do you have examples where 'outcomes-based' planning is already being implemented?

- “I think the NZCPS and NPS's are examples of outcome-based planning. While the RMA was effects based, it was still setting out the outcomes/objectives that people understood were to be achieved. Likewise in promoting outcomes it is still going to be necessary to manage adverse effects of activities.”
- “Many plans (and particularly RPSs) have in part tried to be outcomes based but it generally unravels at the implementation stage. This in large part is probably due to the RMA being consents dominated where the focus is on the adverse effects and very little focus on outcomes.” (2 of 125 responses)

Q11: In your experience, what processes do you think need to change in order to shift from effects to outcomes planning?

- “Get rid of everything other than permitted activity rules and look at whether activities achieve the outcomes, and modify and manage them accordingly. Needs strong objectives and policy frameworks.”
- “Clear and unambiguous outcomes in the NBEA, followed up with clear and unambiguous national policy direction through the national policy framework (NPF). NBEA plans should not be promulgated until the NPF is complete and speaks to all outcomes in the NBEA.” (2 of 137 responses)

Q12: The Bill lists a number of environmental outcomes. Do you think others should be added. Do you think some are not necessary?

- “Part 8 differs quite significantly from Appendix 1 to the Randerson report with in my view some questionable language eg. 'protected, restored or improved' cf 'enhancement of features and characteristics.....' With both the exposure draft and the R Report I have difficulty with the terminology of 'natural and built' environments; these are terms are confusing as to 'environments and land use types' and the appropriate management thereof. Environmental outcomes sought should be aligned to natural, urban and rural environments and the productive management thereof. Outcomes should be identified in a more objective manner than the terminology used in e.g 8(k) a housing supply is developed to', and (m) in relation to rural areas, development is pursued. My view is that Section 8 is poorly drafted and that the matters as addressed in the subparagraphs will likely conflict with each other /end up in a great mishmash of conflicting outcomes.” (1 of 123 responses)

Q13: What practical planning process would work to resolve competing outcomes?

- “Hierarchical lists of which outcomes should be given more weight, including the degree to which more weight should be given. Previously granted consents could be reviewed in order to demonstrate how outcomes have previously been weighted.”
- “The resource consent process is currently sufficient however can be overly complex and timely. A streamlined, simplified resource consent process or similar could resolve competing outcomes. A flow-chart or checklist of sorts of whether environmental outcomes and limits apply and then an assessment made against those specific points. Guidance will need to be developed as to how to resolve competing outcomes, such as at the moment the NPS-UD and proposed NPS-productive land. How do we address providing further housing and development in areas with productive soils?”
- “These competing outcomes have to largely be resolved at the national planning framework level (ideally) or at the regional natural and built environment plan level with a clear link to the spatial strategy. Example being housing supply (l) versus protection of highly productive land (m). Otherwise the new act will not resolve any of the issues that have been identified with the current RMA. In terms of practical planning process, there has to be a process through which these outcomes can be engaged with the communities that will be affected.” (3 of 124 responses)

Q14: The Bill has an explicit “use within environmental limits” approach. The National Planning Framework will be able to specify limits, and set out processes so that Councils can set local limits. Do you have any comments on the purpose of environmental limits, how they are to be formulated and for what topics?

- “Setting limits is resource intensive and have limited application. I think there is too much use of limits. To date very few limits have been effectively set. They take a long time to get data, never enough staff to implement. and you are always playing catch up. Also totally ineffective for a lot of environmental concerns which have a more spatial element to them like flooding and protection of productive soils and things that are affected by multiple land uses (like stormwater quality).”
- “Generally, providing environmental limits is challenging as no one site/waterbody environment is the same, but range of limits could be developed with staging over time. This requires an understanding of land and water rehabilitation/remediation. To implement such change you will need consent/authority to implement the improvements. If the Bill and limits goes too hard, it will turn off parties from wanting to implement changes (i.e. they might surrender their consents, and do the minimum to avoid any consent/authority). The additional issue with environmental limits, is you need really good baseline data of the state of the environment, and ongoing monitoring. I don't think we have this monitoring data up to scratch as an evidence based position to inform well-founded legislation.” (2 of 118 responses)

Q16: What process would you suggest for Councils to set local limits (or targets) and how would the public participate?

- “In the main, the limits relate to matters that should be set at a national level, i.e. in the NPF rather than at the local level. Any limits not set in the NPF then the NPF needs to set clear direction on how they are to be set on a local level. We don't need a repeat of the RMA with different processes and tools being adopted around the country due to a lack of national direction.”

- “One of our worries, discussing this in house, is that there seems to be very little provision for public engagement in the limit or plan setting process in the draft that has been released so far. Here in Canterbury we have been through collaborative processes, for example recently with limit setting for the Waimakariri district. In my view these collaborative processes have been very successful, but it does take a lot of time and resourcing to make sure that the public have time to understand the issues and provide thoughtful input, and have a relevant voice in the outcomes. To undertake this process on all of the issues across New Zealand will be hugely time and resource hungry, and will leave a level of uncertainty where these limits are not yet in place.” (2 of 101 responses)

Q17: Part 3 of the Bill requires a National Planning Framework (NPF) to be prepared by the Minister to provide national direction on matters of national significance or where national consistency is desirable. The NPF may direct that provisions must be given effect through plans; regional spatial strategies, or through direct legal effect. Do you have any comments on the Bill’s proposals for national direction to be enabled through a National Planning Framework?

- “This is a whole new basis for our planning system. Central government, beyond what, given the age of the RMA, is a mere handful of NPSs and NESs, has little or no experience in planning or writing plans and yet it is to provide the bedrock on which all other plans will be based. It is their lack of experience which is leading them to create such ambitious legislation.”
- “It is concerning that the minister is required to prepare the National Planning Framework which provides national direction on matters of national significance or where national consistency is desirable. This means ... decided at the whim of whatever political party is in power at the time. The National Planning Framework should not be prepared by the Minister - perhaps a panel made up of representatives from the regional planning committees shall make the National Planning Framework.”
- “Please make sure that the National guidance is prepared IN ADVANCE of any other regional/planning work. Those national directives must be made clear in advance of any new plans being prepared, otherwise a new focus on resource management will not be achieved - rather it will just be a carry-over of business as usual.” (3 of 113 responses)

Q18: What templates or processes do you think would work well so that regional spatial plans and combined plans inter-relate and give effect to national direction?

- “A hell of a lot of time is spent in appeal negotiations on regional policy statements and plans on re-wording national direction. It would be much easier if plans started with all the national direction (via national policy statements) as the starting content, and policies developed from there. To be effective regional spatial plans will need to be within the context of a national spatial strategy, and be based on realistic scenarios re infrastructure needs and so on. This will require more background research and work than may be apparent.”
- “Start at the beginning - set the overall direction with the NPF and then publish RSS and policy guidance documents that support the delivery of the NPF by providing finer detail on key matters; leaving local issues to be planned and managed in detail at the local level.”
- “Consistent template, structure etc (as directed by National Planning Standards) would help in the first instance. Should remove the need to further interpret national direction wherever possible to minimise both the lag time to give effect to national direction and the risk that councils interpret national direction inconsistently.” (3 of 85 responses)

Q19: Clause 18 of the Bill sets out Implementation Principles which relevant people must adopt when carrying out planning activities provided for in the Bill. These principles include (in summary): promoting integrated management; providing for the application of Mātauranga Māori; public participation; effective participation by iwi; have particular regard to cumulative effects; take a precautionary approach. How would you suggest these principles be given effect – for example by planning staff of a local Council?

- “They are very broad principles that will be interpreted differently across the country. There should be more specific provisions and national direction on the requirements of these principles.”
- “I think these are a catch all of things the law writers don't know what to do with ie they are a mixed bag of expectations - and some will not be achieved without an associated change to the LGA. There is nothing in the list that focuses on efficient implementation - I think these would sit better in the national planning framework - where they could be expanded to mean something useful in terms of implementation.”
- “I consider these to all be core activities competent Planners should be skilled in, they are fundamental to the profession and its training needs. We should not need a plethora of other methods or processes if Planners step up to lead here.”
- “Perhaps we need to understand more about why clause 18 is framed in the way it is and what its legal effect is intended to be, in order offer constructive comment. If it is to articulate a duty on functionaries under the Act like sections 18A, 30, and 31 of the RMA, then so be it. If however they are to act as additional matters that can be litigated if people consider the relevant people are not giving them due observance, it does not bode well for an efficient and streamlined process under the NBA.” (4 of 95 responses)

Q21: How do you suggest public participation can occur in implementing the new legislation?

- “This is an issue that the profession already struggles with, particularly that it does a large amount of consultation that engages the same very small slice of the community repeatedly rather than getting a representative or informed range of views. Issues that depend on public opinion at large would be best handled in the National Planning Framework, so that councils can specialise in more targeted local or stakeholder engagement.”
- “What is wrong with the present public participation? Nothing. The issue is the appeal rights. Decisions on plans made at a local level should not be able to be challenged on anything other than points of law. Decisions on applications for resource consent should be subject to appeals where the full proposal and decision can be reviewed - but there should be strict limits on alterations to a proposal that can be made after the application is made. Currently we have some appalling practices that need to be eliminated if we are to get greater efficiencies and effectiveness of plans. The desire for the plans to be outcomes focussed should assist here.” (2 of 88 responses)

Q22: Government intends that the 100 or so statutory RMA plans currently in existence should be replaced with 14 plans whose contents are set out in Clause 22 of the Bill, and that appointed regional planning committees will be set up to make and maintain the new combined plans. These requirements represent a significant departure from the status quo. Do you think current RMA plans could or should form the basis of new combined plans, or do you think each plan should start from scratch?

- “The current plans should be the basis for many of the provisions in the new combined plans. However this may need to be at a high level as each district / region may have a different current approach and the NPF and environmental limits will direct outcomes.”
- “Ideally I think start from scratch but I don't think that is realistic. For plans which have been recently reviewed it would be such a waste.”
- “Each plan should get at least a rewrite into the new format to make the plans usable to the public. It should be up to each region to decide how much and which parts of the legacy plans to reuse. But producing a consistent plan within a few years should be a higher priority than trying to remain consistent with old plans.” (NB: this was a polarising question. 3 of 113 responses)

Q23: What process or guidance could be prepared to guide the development of each plan?

- “NBEA plans should not be promulgated until the national direction through the NPF is formulated and complete. This is critical to ensure the resolution of conflicting outcomes is first dealt with at the national level.”
- “Much like when the RMA was introduced, we may need to go through a transitional plan period where existing documents are cobbled together. That would enable time for regional spatial planning to be put in place to inform the first generation of the new plans.”
- “Probably need to start with national direction being available and clear. That will reduce duplication or wasted work.”
- “As much process guidance as possible!! I think the preparation of model RSS and NBA plans as proof of concept would be sensible.” (4 of 82 responses)

Q24: Thinking about National Direction, Regional Spatial Strategies, and Combined Plans what hierarchy would assist development of each type of plan, and what data, map or information should be in each type of plan?

- “In summary: 1. The region should be the basis for planning. National direction should be interpreted and integrated at this level. 2. Constraints mapping is essential. 3. Land-use planning should continue on the basis of zones and overlays. 4. Other standards and targets may need to be applied on the basis of catchments, sub-catchments, constraints areas, or airsheds (etc).”
- “National Direction should sit above regional direction. All combined plans should include the details arising from national direction so as to avoid the need to consider multiple documents/policies/strategies for each project.”
- “National direction should be set first, followed by regional spatial planning and then combined plans. The setting of national direction is critical to avoid multiple regions having to relitigate trade-off discussions.”
- “If mana whenua is to be a focus - definitely a mapping system and information for various iwi/hapu, the associated areas and IMPs should form part of all plans - so anyone, anywhere, can easily and quickly identify these upfront.”
- “National direction needs to cover the minimum expectations to be applied across all plans. The Regional Spatial Strategies need to implement the national direction across the region in a spatial manner and contain the maps of general land typing, growth and protection. The Combined Plans should have all the rules, zoning, maps, etc and apply at the local level.” (5 of 79 responses)

Q25: What public process and public participation would be appropriate for the development of Combined Plans and Regional Spatial Strategies?

- “Public participation remains important and should be the foundation of any plans or strategies. A process similar to that for the development of the Auckland Unitary Plan is probably a good fit in terms of efficiency and time.”
- “Public must be able to make comment, but it will be important that it is clear what people are supposed to be commenting on so that the process is actually worthwhile, rather than trying to relitigate things that have been set at the National level. Therefore the scope must be very clear.”
- “For combined plans, a similar process to that of current district plans. For regional spatial strategies, more workshops that enable stakeholders to have input on potential future development or infrastructure proposals.”
- “You have to take the community of interest with you on the planning journey. The conversations do need to be carefully managed.” (4 of 79 responses)

Q26: Plans are required to resolve conflicts between or among any of the environmental outcomes required by Section 8. How can a Plan resolve conflicts? Give examples of plans that do this.

- “To the extent possible conflicts first need to be resolved at the national level through the NPF. Where this cannot be done the NPF needs to set clear direction on how it is to be achieved at the local level. We do not need different councils/regions tackling the problem differently around the country due to lack of national direction.”
- “Plans can't resolve all conflicts, this is done at the consenting stage. A plan therefore needs to have a range of activity classes. In our experience, the current range generally works, subject to limits to deal with cumulative adverse effects. I have serious concerns about only having permitted and prohibited rules, which is the example given in the Parliamentary Paper.”
- “I don't think they can - all they can do is set up the process to weigh evidence. The hierarchies in the RMA are helpful in that they establish a 'pecking order' of sorts; if the new Act has a long list of competing values, it is going to be very difficult to resolve conflicts.” (3 of 71 responses)

Q27: One of the outcomes required is "the ongoing provision of infrastructure services" addressing the "coordination of infrastructure with development" issue that has been identified in reviews of the current planning system. Thinking of plan-making and consenting please outline how you think this outcome could be implemented on the ground using the proposed NPF, Regional Spatial Strategy and Combined Plan statutory tools.

- “Future infrastructure provision will be important so it will need to be informed by data. This data will need to be fed through the Spatial Strategy but will be a very local level piece of information due to the needs of each locality. All development will need to be carried out with provision of infrastructure needs in mind so perhaps this could be one of the things that must be taken into account within a Combined Plan - in order to do x, you must show that there is sufficient capacity within the infrastructure to support this, or propose how you will improve the infrastructure to support that activity.”
- “Better strategic planning and development contribution planning.”
- “This outcome could be implemented by insisting that for future development areas identified in spatial plans/combined plans include a clear statement about each area must

have in the way of certain/consented infrastructure before development can start occurring. A corollary of this is that current limits of infrastructure need to be reflected in zone provisions.”

- “Identifying future infrastructure requirements and showing proposed locations/corridors on RSSs. Then carrying these through to combined plans maps. Ensuring that there are strong requirements in combined plans for appropriate infrastructure to be in place before commencing residential development. National-level guidance on expectations around who should pay for infrastructure required due to growth would be beneficial for greater consistency and certainty.” (4 of 71 responses)

ENDS