



NZCCSS Submission on the Exposure Draft of the Natural and Built Environments bill

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The main focus of this submission is on governance of resources and access to affordable housing, recognizing the significant role of spatial planning for building, through access to land and intensification strategies.

NZCCSS wishes to be heard in person by the Select Committee

The New Zealand Council of Christian Social Services (NZCCSS) works for a just and compassionate society in Aotearoa New Zealand. In seeking to fulfil this mission, we are committed to: (a) giving priority to the poor and vulnerable members of our; society and (b) Te Tiriti O Waitangi.

NZCCSS member agencies work with and support those who are marginalized through low incomes and poverty, ill-health and disability and include services for families, whanau, fanau children, youth and older people. A major issue for member agency services is insecurity of housing or unaffordable housing. Access to affordable housing is critical to lifting families out of poverty and supporting the wellbeing of people and communities across Aotearoa New Zealand. Affordability and equity of access to housing are to be addressed through resource management legislation and housing policy.

This legislation is informed by social sector interests and by expert advice from the governance and resource management sectors. A Te Tiriti o Waitangi framework is applied across the spectrum of social and resource management fields, recognizing these are inter-related spheres of wellbeing.

This submission addresses specific sections of the Exposure Draft as well as additional material as outlined below.

The particular interest for NZCCSS is on housing, in keeping with the priority interests in community and intergenerational wellbeing. This means:

1. Ensuring a community approach to housing
2. Government facilitation of the role of Community Housing Providers' provision of housing and access to finance. This is to facilitate utilization of NGO land/ property for house building. NZCCSS interests are mainly in the not-for-profit sector of community housing.
3. In respect of social housing rental accommodation, members advocate for reinstatement of state provision of housing.
4. Equitable access to affordable housing and social housing

We include reference to climate change, with an orientation to Climate Justice and Just Transitions in keeping with church approaches to climate change.

In addition we support proposals from beyond our immediate sector for

5. Consideration of a National Co-governance Commission
6. Addressing Māori Rights, Interests and Obligations.
7. Integration of Climate Justice into resource legislation management and planning

We include reference to climate change from a climate justice perspective, and to the recent Climate Change Commission Ināia tonu nei: a low emissions future for Aotearoa, in-so-far as this is relevant to the Natural and Built Environment legislation.

Part 2. Purpose and Related Provisions

5. Purpose of this Act

Reference to Environment in Part 2 – expand as ‘environment and its ecological and social systems’ (so as to include more clearly the explanation in Part 1. 3 ‘environment means natural environment, people and communities, social, economic and cultural conditions ... p. 3)

(1) (b) Amend to a stronger framework for wellbeing of future generations:

... people and communities are to use the environment responsibly in recognition of the interdependence of humans with each other and with nature and to ensure the well-being of present generations and the wellbeing of future generations.

We support Te Oranga o Te Taiao in the Purpose of the legislation.

We recommend provision of a Te Reo Māori explanation of Te Taiao

And suggest an amended interpretation of Te Taiao as follows:

Te Taiao refers to the interdependent relationships between people, nature and all living entities, and the constructed environment. Te Taiao is sourced in whakapapa relationships between humans, nature and events. Te Taiao therefore encompasses obligations to uphold and enhance life-supporting ecosystems, and retribute for damage.

Include S. 6 in the Purpose (see below)

Include the Precautionary approach in the purpose of the legislation. The inclusion of a precautionary approach in the Purpose would strengthen this provision in the National Planning Framework (Part 3. S. 16).

6. Te Tiriti o Waitangi

- a. Firstly we propose that S. 6 be included in S. 5 and be included in the purpose of the act.
- b. ‘All persons exercising powers and performing functions and duties under this Act must give effect to the principles of te Tiriti o Waitangi.’

The principles give insufficient recognition of the kawanatanga – rangatiratanga governance agreements, and the concept of taonga in Te Tiriti of Waitangi. Principles are a Crown-prescribed interpretation that do not convey scope for customary law and authority.

Please amend to ‘give effect to Te Tiriti o Waitangi.’

7. Environmental Limits

While acknowledging the intent of biophysical limits for setting standards for ecosystem health we submit that this bottom-line approach fails to recognize aspirational goals for ecosystem health. This is an entrenched approach which would be transformed by setting mauri and ecosystem health standards, which are not referenced to levels of degradation and pollution; rather they would be measures of health

At a minimum we propose 7 (1) be amended to include:

- (c) mauri, as the living vitality of Te Taiao

8. Environmental Outcomes

The National Policy Statement – Freshwater Management 2020, Te Mana o Te Wai should be a primary reference for Environmental Outcomes. Te Mana o Te Wai provides for mauri and ecosystem health as the first priority, with water for human needs as the priorities that precede access to commercial allocation and discharges.

Therefore 8 (a) should be inserted as:

- (a) That Te Mana o Te Wai, as provided for in the National Policy Statement – Freshwater Management 2020 is the reference for all environmental outcomes

On the basis that tikanga Māori is not confined to rights, and rather, is ordered by ancestral relationship and obligation we propose amending 8 (i) as:

- (i) protected customary rights and obligations and whakapapa relationships with waterways

Housing

In respect of housing supply 8 (l) we refer to the Housing and Urban Development Consultation, and the value of consistency across housing and Te Taiao legislation and therefore identify specific matters in respect of this bill.

The following issues are relevant to the NBE Exposure Draft provisions and for planning:

- We need to build communities with houses, as well as affordable houses, social housing and state houses.
- Access to land and the cost of land are major impediment to affordable housing.
- Government as partner and enabler in house provision.
- *Provide homes that meet people's needs*
 - Māori housing –focus on Māori led house provision (with consideration of a Māori Housing Authority)
 - Pacific housing needs a dedicated strategy
 - Accessible housing for people with disabilities
 - Homes for multigenerational living – especially, though not exclusively for Māori whanau and Pacific fanau.
- Explicit requirements for 'more affordable house building and rentals are in locations that are well connected to jobs, services, schools and community facilities (p. 33). Affordability needs to be defined – it should be linked to an agreed percentage of disposable household income (i.e 30%) being spent on either rent or mortgage payments.
- Regulation to support 'Universal design' in urban development projects,
- Policy for affordable housing in spatial planning is integrated across Natural and Built Environment Act, Strategic Planning Act and Climate Change adaptation Act.
- Housing supply include criteria for low carbon building, renewable energy systems, low water use building. These support intergenerational wellbeing goals.

In the light of these considerations we propose amending 8 (l) to:

Housing supply is developed to—

- (i) provide affordable, social and transitional housing and with supportive infrastructure, access to public transport, civic organizations, schools and community services
- (ii) That all housing, both affordable and 'housing of choice' be built to standards of universal design, and in accordance with zero carbon goals
- (iii) meet the diverse and changing needs of people and communities including for accessibility for disabled people, for intergenerational living and for older people with access to older people's services
- (iv) Support self-determining Māori housing aims. Self-determining Māori housing aims include:
 - a. Ensure more investments for local Iwi, Hapū and NGO providers to increase Māori leadership in a comprehensive housing responsiveness by Māori for Māori.
 - b. Barriers to building on Te Ture Whenua land and Māori owned land be removed (while access to finance is one barrier, there are land-related barriers such as rural land categories and sewage requirements which are generally intended to protect agricultural land, but which also prevent consents for papakāinga housing)
 - c. That water infrastructure and water supply to marae, customary and urban papakāinga, Māori land owners, be provided at no charge.
 - d. That barriers to building on Te Ture Whenua land be removed (while access to finance is one barrier, there are land-related barriers such as rural land categories and sewage requirements which are generally

intended to protect agricultural land, but which also prevent consents for papakāinga housing).

(p) in relation to Natural Hazards and Climate Change

This statement needs clearer guiding principles. Replace 8 (p) (i) and (ii) with:

- 8 (p)
- i. Recognize that climate change and biodiversity are inter-related and inter-dependent issues which to be addressed across all resource planning decisions
 - ii. Integrate with Climate Change Response (Zero Carbon) Act 2019, Climate Change Adaptation legislation (2022), Climate Change budgets and all resource management planning to be aligned with 1.5 degrees warming. *(Need discussion on detail for NBE Act)*
 - iii. Resource planning support sustainable food growing through initiatives such as regenerative agriculture
 - iv. That the National Planning Framework facilitate investment in renewable energy
 - v. Criteria based decisions on water allocation be introduced including emissions-reducing development, Just Transitions, renewable energy investment (See proposals for consenting guidelines in attached Ka Māpuna Summary. P. ?)
 - vi. Priority be given to Nature-based solutions to enhance and restore biodiversity and ecosystems (wetlands, soil, regenerative agriculture, native forests).
 - vii. Tikanga Māori lens be applied to distributional aspects of resource management, access to jobs, Māori business opportunities, afforestation.

Part 3. National Planning Framework

10. Re integrated direction on:

(d) Climate Change, including the Climate Change (Zero Carbon) Act 2019, the forthcoming Climate Adaptation Act, and the Government response to the Climate Change Commission advice on Carbon Budgets, consistent with the overall 1.5degree limit to global warming.

12 Environmental Limits.

Add section 8 (a) as proposed above re Te Mana o Te Wai.

13. Topics the National Planning Framework must include:

Correspondingly S. 13, add 8 (a) Te Mana o Te Wai and amendments as proposed in S. 8.

14. Strategic Direction

14.(a) ... change to within environmental limits, ecosystem and community health and wellbeing

9 (b) the wellbeing of present and future generations interdependent with ecosystem health and with 1.5degrees climate change goals and pathways to a zero carbon economy

Further provisions for National Planning and Regional Planning

This part of the submission is on proposals for additional provisions for the legislation. These provisions are not covered in the exposure Draft.

1. Resourcing.

Full resourcing needs to be provided in every region to enable hapū and iwi Māori to fully participate in, and contribute to, resource governance and management processes.

2. Mana Whakahaere Councils and Regional Rūnanga

Under the National Planning Framework and the proposed Regional Joint Planning Committees, a system of representation of communities of interest needs to be designed and included in the legislation

An outline of a proposal for mana whakahaere engagement and representation is given in summary here.

It is comprised two layers for iwi and hapū, and Māori landowners/organisations to fit with the regional planning system.

1. Catchment level Mana Whakahaere Councils are associations of iwi and hapū and Māori landowners – building on associations which are already formed in many communities. The collaborating hapū are those with relationships with the waterways of the catchment, proposed to be confirmed and recorded in a registry.
2. A regional layer of fourteen Te Oranga o Te Taiao Rūnanga to correspond with and feed into the fourteen Joint Planning Committees. An electoral college process by Mana Whakahaere Councils provides for elected representatives to an appointments committee to the regional Rūnanga.

A system of catchment Mana Whakahaere Councils and regional Te Oranga o Te Taiao Rūnanga allows for decision-making and implementation in their catchment contexts.

Iwi Post-Settlement Governance Entities would continue to stand in their own mana and their settlement mechanisms would not be undermined.

3. A National Co-governance Commission

This discussion of a national Commission is pursued on the basis that law-making is the domain of central government and rangatiratanga needs to have a corresponding authority alongside that of the Crown. Furthermore, law-making is the arena for entrenching customary law and tikanga and in which Te Tiriti o Waitangi can be reinforced constitutionally.

The scope of a Commission may be broad and comprehensive, involving monitoring and auditing, a new system of allocation and a pricing regime for the commercial use of water, a role in Māori interests in geothermal development, and integration with associated legislation. Or a minimal Commission could be limited to monitoring and auditing functions.

The Commission may oversee a registry of mana whenua who have rights, interests and responsibilities at the catchment rohe level. This would determine the relevant mana whenua groups to consult with when decisions are being made about a particular freshwater body.

The Commission would integrate the Climate Change Response (Zero Carbon) Amendment Act 2019, Local Government Acts, Taumata Arowai – Water Services Regulator Act 2020 and other associated legislation.

A Commission could be enacted through the Natural and Built Environments legislation, or in separate enabling Te Mana o Te Wai / Te Oranga o Te Taiao statute is to provide a legislative framework for the system which encompasses rangatiratanga and co-governance.

4. Allocation and Māori Rights, Interests and Obligations

Recognition of Māori rights, interests and obligations is a crucial and outstanding matter for hapū, iwi, Māori landowners. It is intrinsically tied to allocation and the need for a revised system of allocation. First-in-first served is well documented as excluding Māori.

Furthermore it is linked to the imperilled state of waterways and to biodiversity loss. Under the RMA there has been overallocation of water, waterways have declined, biodiversity loss has not been allayed.

This needs to be rectified in the Natural and Built Environment legislation. At this stage the Exposure draft does not include provision for Māori rights, interests and obligations. This failure should be addressed through the Natural and Built Environments legislation in accordance with the guidance of the Waitangi Tribunal.¹

Recommendations to encompass implementation of a Commission and Māori rights, interests and obligations :

1. Include a provision in the bill for Māori rights, interests and obligations, explicitly stating that nothing in the Act will be a barrier to addressing Māori rights, interests and obligations.

¹ Waitangi Tribunal *The stage 2 report on the National Freshwater and Geothermal Resources claim* (Wai 2358, 2019) at xxi.

2. Establish a Steering Group of recognised experts, such as that recently established for the Māori Health Authority to establish a Te Mana o Te Wai Commission in a rangatiratanga framework (a co-governance body).
3. The Steering Group will be mandated to address Māori rights, interests and obligations in partnership with the Crown to be implemented alongside the Natural and Built Environments Act and associated Spatial Planning and Climate Adaptation legislation. The Commission, or a specialist Working Group will co-design a new national allocation system in support of Te Mana o Te Wai provisions, and for equitable access of Iwi, hapū, Marae access to water resources for cultural purposes and to support development aspirations.

NZCCSS recognizes that housing and resource management are systemic and inter-related issues. They include the multiple dimensions of social, environmental, cultural and economic wellbeing. Given the longevity and investment dimensions of housing provision, housing along with the integrity of Te Taiao are intrinsic to intergenerational wellbeing

Thank you for the opportunity for engagement the Natural and Built Environments legislation

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