

## Exposure Draft Natural and Built Environments resource legislation Briefing

Betsan Martin, 10 July 2021

E ngā kaitātari me nga rangatira, tēnā kōutou

### Introduction

Submissions on the Exposure Draft of the Natural and Built Environments legislation are due **4 August**.

Link to information and draft Natural and Built Environment bill to replace the RMA.

[https://www.parliament.nz/resource/en-NZ/PAP\\_112017/9dc086f746eacef36a4b75ab6602f67f2ffe1e2e](https://www.parliament.nz/resource/en-NZ/PAP_112017/9dc086f746eacef36a4b75ab6602f67f2ffe1e2e)

Minister Parker plans to pass the legislation early in 2022. It comes from the recommendations of Randerson's 2020 Review '[New Directions for Resource Management](#)'.

In addition the Strategic Planning Act and Climate Adaptation Act will be associated legislation. These are being drafted by Ministry for Environment.

Alongside resource management reform, the Three Waters (drinking, waste, stormwater) are being taken out of regional councils, under Taumata Arowai. Three Waters is managed through Dept Internal Affairs. How does this fit with the new Natural and Built Environment legislation administratively and in policy? There is overlap – the source of water under MFE and water services under DIA? Some Councils have invested in infrastructure upgrades and some have not, so equity for Councils in the buy-back of water services is an emerging issue  
<https://mailchi.mp/democracyproject/political-roundup-the-democratic-and-equity-deficits-in-the-three-waters-reforms?e=f088de57a8>

A Māori peak body collective (NZ Māori Council, FOMA, Kahui Wai) and Iwi Leaders worked with MFE and Ministers to have input into the legislation. While the focus may appear to be on water quality, the heart of the issue is governance and rangatiratanga. An important reference for resource legislation is the Stage 1 and 2 Waitangi Tribunal Freshwater & Geothermal recommendations (See p. 3 for brief summary)

The Minister's political interests, importantly are in retaining and strengthening integration of ecological health of waterways and land systems, and development – hence 'Natural and Built' environment bill.

In a nutshell problems with the RMA – to be solved in the new laws:

- a. Lack of national direction – too much power in regional councils and poor implementation at that level.(widely recognized as partly due to inadequate resourcing – funds and capacity)
- b. Shocking state of water – and getting worse
- c. Too many Plans (over 100) and lack of national consistency in Planning.
- d. Speed up access to land for housing

### The current proposals:

- Overall direction is development within environmental limits
- The new legislation (NBE Act) proposes more national direction through a National Planning Framework. This means more centralized systems for planning, with more powers for Minister to set limits nationally. Plans for environmental limits etc are to replace consents as means to achieve limits for water quality
- Design and implement a simplified and more amalgamated system of planning, through 14 Joint Planning Committees – with representatives from Central Govt (Conservation), Local Govt and Mana Whenua.
- The intent is to focus on outcomes

### Submission Notes:

- There is not yet design of a system of representation for the new planning system
- The Waitangi Tribunal recommendation of a national co-governance body is not included.
- Māori Rights and Interests are not included in the exposure draft, yet this with a new system of allocation is a vital component of reform.

Proposals for these should be included in submissions – a diagram below gives a proposal for structure and representation.

### Opportunities, Limits, Questions re Exposure Draft

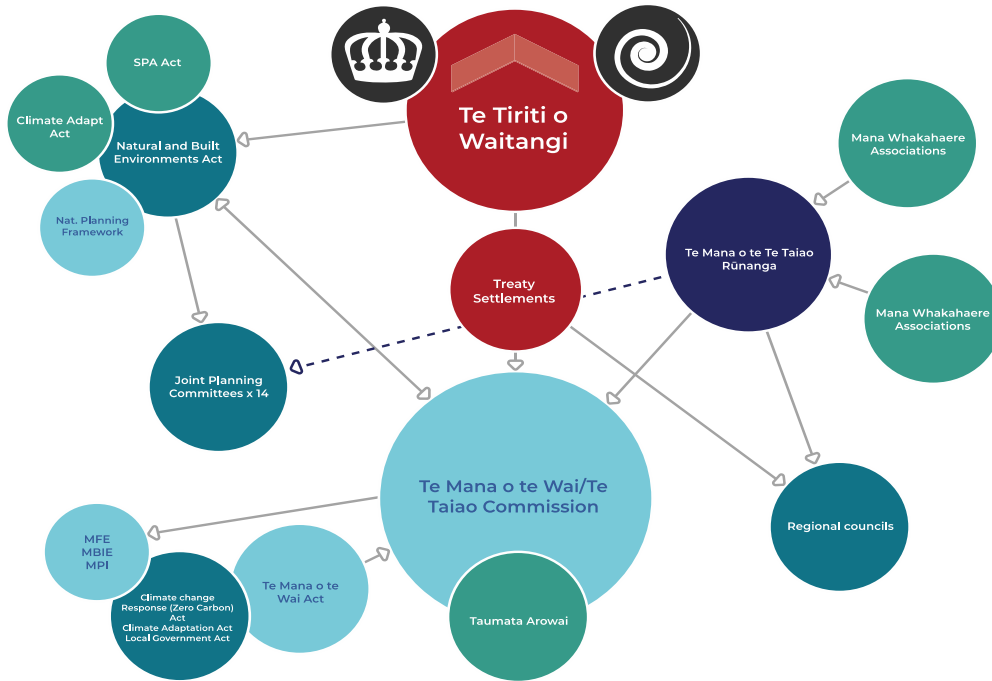
1. **Te Oranga o Te Taiao** is included in the purpose of the bill and refers to the inter-relationships of people with all aspects of the living world. Is this adequately supported in the bill? How will the values and outcomes of Te Mana o Te Taiao be expressed in all parts of the legislation, such as in National Planning and Joint Plans? Te Mana o Te Wai is the new [National Policy Statement 2020 NPS-FM 2020](#) (giving priority to mauri and the health of water, then provision for human needs, and commercial water follows) How will Te Oranga o Te Taiao and Te Mana o Te Wai be integrated across all resource management legislation?
2. **Give Effect to (the Principles of ) Te Tiriti o Waitangi** –means iwi and hapū decision making at all levels – national, rohe.
  - a. Does the government propose bringing ‘Giving Effect to Te Tiriti o Waitangi’ into the Local Government Act and as a requirement of Regional Councils?

3. How will the **National Policy Framework** recognise mana whakahaere and tino rangatiratanga of iwi/hapū ? (this recognition is a route to transformative change at decision-making levels) Rangatiratanga: Iwi, hapū, Māori land owner decision-making over non-use, use, development, and ability to place restrictions to ensure mauri and to stop pollution or over-abstraction. Translated into western law this is equivalent to ownership
  
4. Questions re **Māori rights, interests, obligations**  
(These were recognized in Wai 2358 – and that recognition should be central to any reform)
  - a. How will Māori rights, obligations and interests with allocation be provided for?
  - b. How is water for marae, papakāinga and Māori land being provided for?
  - c. How will the previous exclusion of iwi and hapū from access to water be remedied?
  
5. **Strengthened powers of the Minister** for setting limits and for national planning:
  - a. A National go-governance body would provide a procedure for shared decisions re the multiple matters of implementation, planning, for setting standards for water, designing allocation, pricing and transitions, monitoring and auditing, depending on the scope of the body or Commission.
  - b. A national body, such as a Commission (Te Oranga o Te Taiao Commission?) would be accompanied by catchment bodies designed for iwi hapu authority and stakeholder input). How does the emphasis on national direction ensure iwi/hapu authority and relationships with water are recognized?
  
6. **Housing:** Aotearoa has a housing crisis with 23,000 people on housing waiting lists, and soaring house prices because of shortage of supply.
  - New houses are not being built by the state, but by developers, providing for middle income house buyers.
  - We need to build communities with houses, as well as affordable houses, social housing and state houses.
  - A main problem with housing costs is access to land and the cost of land. How will the new bill provide access to land ?
  - House prices rose by 24% in the last year, and 145% in 10 years.
  - Rental prices have increased by 37% in 10 years,
  - Issue of state-owned public land being used for private housing development (public-private partnerships)
  - Problem of Investment in houses and issue of inequality. 30% of the homes in New Zealand are owned by people who own at least four and or up to 20 or more houses.
  
7. **Climate Change:** Govt. responsibility to set the framework:
  - Integrate with Climate Change Response (Zero Carbon) Act 2019, Climate Change Adaptation legislation (2022), Climate Change budgets and aligned with 1.5 degrees warming. (*Need discussion on detail for NBE Act*)

- Innovative food growing with sustainable agriculture
- Fair and equitable transitions to changes to renewable energy
- Just Transitions for access to training for changing patterns of work and new work opportunities.
- Investment in low carbon future. Cuts in emissions in line with science.
- Criteria based decisions on water including emissions-reducing development, Just Transitions, renewable energy investment
- Nature-based solutions to enhance and restore biodiversity and ecosystems (wetlands, soil, regenerative agriculture, native forests).
- Duty to restitution for historic injustice
- Tikanga Māori lens means distributional aspects, access to jobs, Māori business opportunities, afforestation.

8. **Limit of NBE bill:** A major issue is that Māori rights, interests and obligations are not included in the act – this is a separate workstream in MfE.

Diagram: NBE and proposal for a Commission with Mana Whakahaere Council, and Rūnanga



## Waitangi Tribunal Freshwater and Geothermal Resources

### Super Summary!

#### Wai 2358 Six Key Findings

The present law of freshwater is inconsistent with Treaty principles in 6 areas:

*Water Allocation, Proprietary Interest, Treaty Provisions, Co-governance and Co-management, Water Quality, Ownership:*

## **Key Recommendations.**

### **RMA:**

- Include Te Mana o te Wai as a matter of national importance (in S. 6)
- The duties imposed on the Crown in terms of the principles of the Treaty of Waitangi are imposed on all those persons exercising powers and functions under the Act. (s. 8)

### **Governance**

- Establish national co-governance body with 50/50 Crown-Maori representation
- Reform allocation and determine provision for iwi and hapū, and Māori land according to a regional, catchment-based scheme
- monitor the Treaty performance of local authorities for freshwater matters
- Co-governance body devise an appropriate water supply and infrastructure scheme for marae and papakāinga, alongside a scheme for safe, clean rural water supplies
- Co-governance body design a pricing system for water and manage a fund for restoration
- Propose a Water Act - Land, water, an natural resources should be integrated

### **Ownership**

- Bring a test case before the courts on native title in fresh water, to establish this has not being extinguished.