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Committee Secretariat
Environment Committee
Parliamentary Buildings
Wellington

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Tēnā koutou

Greater Christchurch Partnership submission on the exposure draft of the Natural and Built Environments Bill

Introduction

1. The Greater Christchurch Partnership thanks the Environment Committee for the opportunity to provide comment on the exposure draft of the Natural and Built Environments Bill (Bill).
2. The Greater Christchurch Partnership is a collaborative partnership between the councils in the Greater Christchurch area (Christchurch City Council, Selwyn District Council, Waimakariri District Council, Environment Canterbury), Te Rūnanga o Ngāi Tahu, the Canterbury District Health Board and central government – currently represented by Waka Kotahi NZ Transport Agency. The Partnership has been in existence since 2007 and is focused on the integration of transport, infrastructure and land use planning in the context of intergenerational wellbeing.
3. Greater Christchurch is in the unique position of having experienced during the post-earthquake environment many of the tools proposed in, or being considered for, the exposure draft of the Bill. This includes central government directions by regulations, central government directly inserting provisions into planning instruments, regulatory changes to resource consenting and plan change processes, removal of appeal rights, and an Independent Hearings Panel making decisions on the Christchurch Replacement District Plan.
4. This submission draws on these recent experiences, and focuses on a few matters of particular interest and of general agreement between the members of the Partnership. It is noted that Christchurch City Council, Environment Canterbury, Te Rūnanga o Ngāi Tahu and the Canterbury Mayoral Forum (which comprises the Mayors of the ten territorial authorities in the Canterbury region and the Chair of Environment Canterbury) are also intending to make their own individual submissions.
5. The Partnership does not wish to be heard in support of this submission.

Giving effect to Te Tiriti o Waitangi

6. We acknowledge and strongly support the intent of the reforms and the need to ‘give effect’ to Te Tiriti o Waitangi. The Partnership notes Māori will be a substantial partner in all stages of the reform process, with clear input and representation through co-governance, co-design and implementation.
7. We recognise Ngāi Tahu holds rangatiratanga as guaranteed under Te Tiriti and as expressed in the Ngāi Tahu Settlements Act 1998 throughout its takiwā.
8. We recognise that the Ngāi Tahu’s takiwā context creates an opportunity for greater unity and collaboration between iwi and local government to deliver solutions that meet the needs of South Island communities.
9. We acknowledge the ‘drafted’ interpretation of Te Oranga o te Taiao, its inherent relationship to/for Māori, as well as the need to bring about effective reform led not only by technical skill, but also through the application of mātauranga Māori.
10. For clarity and ease of reference, we consider that the principles of Te Tiriti o Waitangi should be set out in the Bill, and that the National Planning Framework should be required to provide direction and guidance on how to give effect to the principles of Te Tiriti.
11. Sufficient funding of Iwi and Ngā Rūnanga engagement throughout the reform process is an imperative component to the success of giving effect to Te Tiriti. The Partnership wishes the Crown to clearly articulate where funding responsibilities begin and cease from a Crown perspective, and as to what becomes a local authority funding initiative.
12. We are also concerned that the lack of resourcing for mana whenua is already a barrier to effective engagement under the Resource Management Act 1991 (RMA). Further consideration should be given as to how government can support mana whenua and provide increased resourcing under the new system, so they can effectively engage and participate in processes under the Act. This includes in the context of resource consenting processes.

Preserving local democracy

13. We are unclear from the exposure draft as to the role public participation will have in the new system under the Act, especially in regard to how community input will be fostered if the plan making process is elevated to a regional level. We are also concerned that the Bill limits the involvement of local democratic input as part of decision making.
14. Key to whether the objective of retaining appropriate local democratic input is achieved is ensuring that the new system takes account of the substantial local and sub-regional variations that exist within regions, and the further work that is still to be done around the membership, roles and functions of regional planning committees. We consider that the functions of councils in planning and policy formation, and the role of locally elected members on regional planning committees, must be recognised in the Bill to ensure that local communities are appropriately represented.

15. For a sub-region like Greater Christchurch, we consider that it is necessary that regional plans prepared under the Act (as well as under the Strategic Planning Act) allow for sub-regional differences, and that decision making on the parts of proposed regional plans that affect Greater Christchurch are determined by a sub-regional group of local representatives.
16. The Bill also establishes that submissions received as part of plan making processes must be considered by an independent hearings panel. While it is not clear in the exposure draft whose role it is to select and appoint the hearings panel, we consider that local democratic representation could be retained by requiring some level of council representation on these panels. We also note that independent hearings panel processes are not always user friendly and people can struggle to engage with them. We suggest that an inquisitorial process that is open and encouraging of public participation should be specifically required by the Act.
17. The exposure draft does not adequately define opportunities for communities to participate in the planning process. There needs to be improved provisions and greater clarity in the Bill.

Focusing on the natural environment

18. We support the attention given to the natural environment in the Bill and generally agree that the introduction of environmental limits will likely result in improved outcomes for the natural environment.
19. We note that the term Te Oranga o te Taiao provided in section 5 differs in focus from the term Te Mana o te Taiao previously used in the report of the Resource Management Review Panel. This suggests more of a focus on the natural environment than the wider definition of environment, which includes people and communities. The term Te Oranga o te Taiao should be defined in the Bill or supplemented with more context about the intended meaning of this concept and how it will work in practice to save future litigation on the matter.
20. We are concerned about the lack of focus in the Bill on other components that make up the broader definition of the environment, such as the built environment, people and communities, and social, cultural and economic conditions. This includes environmental limits currently only being mandatory for components of the natural environment. We consider that there should be stronger direction in either the Bill or the National Planning Framework on a wider selection of environmental outcomes (for instance for cultural heritage).
21. It is also unclear in the exposure draft whether the environmental limits will be set nationally or regionally. Due to local and sub-regional variations within each region, it will be important to ensure that limits are effective and workable for different parts of each region.

Emphasising quality urban environments

22. We agree that the “status quo bias” identified in the Regulatory Impact Statement is a risk for urban environments as it does not recognise that our society (including how and where we live) is dynamic and constantly evolving. However, we also consider that the focus of the exposure draft on the perceived impact of the RMA on housing affordability risks adding to adverse environmental outcomes for people and communities.

23. The exposure draft gives almost no regard to the quality of urban environments. We consider that there needs to be more explicit provision for quality urban environments in the Bill.
24. The Bill needs to have a more holistic approach to the values and effects of urban environments. Urban areas need to be liveable, which is not just about infrastructure and housing, or the broad pattern of urban growth in terms of where and how much we build. It is also about what we build, how we build it, how areas of the built environment work and are integrated, and how development on one site can impact on adjoining sites. These finer levels of urban form are critical for achieving well-functioning, sustainable, safe, healthy and liveable places.
25. The Bill ought to recognise that liveability standards – including aspects of urban design – are a desired outcome and should be promoted. The built environments element of the Act should be about providing excellent urban areas that support the wellbeing of people and communities, and the environment, now and in the future. We consider that this element of the Bill is comparatively weak and that what is anticipated for the built environment should be strengthened.
26. We also consider that the Bill should have consideration to providing for inclusionary zoning – a planning tool that requires a proportion of dwellings in new developments to be affordable to households on low to medium incomes.

Addressing climate change and natural hazards

27. We consider that the exposure draft places insufficient emphasis on better preparing and adapting to climate change and natural hazard risks. While we acknowledge that the Climate Adaptation Act will focus on climate change adaptation, the purpose of the Act, the environmental limits and the prioritisation between outcomes will all be critical components to implementing adaptive planning for climate change. Climate change adaptation should therefore be more strongly addressed in the Bill.
28. We also suggest that the Bill could seek to ensure that enough direction is provided on how greenhouse gas emissions reductions will be achieved by plans prepared under the Act.

Setting clear priorities

29. While we support in principle the environmental outcomes outlined in section 8 of the Bill, we are concerned that conflicts between different outcomes, and between the outcomes and limits, will be inevitable. The Bill does not provide any prioritisation or pathway for resolving such conflicts but directs that the National Planning Framework and the plans under the Act must include provisions to help resolve conflicts.
30. We consider that national direction should be well integrated and should not conflict themselves or other national instruments. Directly addressing conflicts at the highest level – through the Act – would ensure that the outcomes can be effectively promoted. This could also significantly reduce any subsequent litigation through plan making processes, which can be prolonged and expensive.

Establishing transitional arrangements

31. The Bill is silent on transitional arrangements, which are of particular interest as the Act and RMA have explicitly different purposes. Plan review and plan change processes are underway in Greater Christchurch and the Canterbury region, and we look forward to engaging on how to effectively manage the eventual transition to the new system. Improved clarity on the role and responsibilities of regional planning committees would assist this transition.
32. We understand that plans under the Act are intended to be consistent with and give effect to regional spatial strategies developed under the Strategic Planning Act. This raises questions about how best to address the timing and sequencing of developing the new plan framework. Development of spatial strategies in advance of plans developed under the Act would be the most efficient way to ensure strategic integration across the Canterbury region.
33. It is also important to recognise the significant amount of work that has been undertaken, or is in the process of being undertaken, that plans prepared under the Act and the Strategic Planning Act will be able to build upon. This includes, for instance, the work the Partnership has commenced on developing a spatial plan for Greater Christchurch. This sub-regional plan – being developed in partnership with central government – should provide a useful basis to inform any regional spatial strategy prepared for the wider Canterbury region.
34. If regional planning committees throughout New Zealand are expected to deliver plans on the same timeframe, there is likely to be a shortage of resources and funding in the planning sector. There are also likely to be capacity issues for other sectors that will engage in the planning process, including public health experts and mana whenua.

Closing remarks

35. Thank you for the opportunity to provide this submission.
36. For any clarification on points outlined in this submission, please contact our Secretariat at secretariat@greaterchristchurch.org.nz

Nāku, nā



Jim Palmer

Greater Christchurch Partnership Independent Chair