



Chatham Islands Council submission on NBA exposure

1. The Chatham Islands Council is thankful for the opportunity to submit on the Exposure Draft of the Natural and Built Environment Bill (the Bill). We look forward to further opportunities to participate in the development of the Bill and the proposed National Planning Framework.

Background and context

2. The Chatham Islands Council (the Council) was set up under the Chatham Islands Council Act 1995 and governs the Chatham Islands Territory. The Council has the functions, duties, and powers of both a territorial authority and a regional council. The Council has a single resource management document that contains all the information that the Resource Management Act 1991 (RMA) requires to be contained in a regional policy statement, a regional coastal plan, and a district plan.

General comment

Process

3. We appreciate the opportunity to participate in the review of the resource management system. We encourage close consultation with councils throughout the development of any new resource management legislation.
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4. We are concerned that the Government's timetable has given inadequate time for submissions on this exposure draft. There has not been sufficient time allowed for comprehensive Council assessment of the implications of these changes to the resource management system.
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5. The Council wishes to be heard in support of this submission. Attendees at the select committee will be Owen Pickles
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6. Council staff would value the opportunity to work proactively with Central Government staff on any matters arising from this submission.

Key themes of this submission

7. There are several key themes in this submission on the content of the exposure draft:
 - a. Issues particular to the Chatham Islands
 - b. The role of local democracy
 - c. Recognising te Tiriti o Waitangi
 - d. Focus on the natural environment
 - d. Lack of clear priorities
 - e. Timing and transitional arrangements
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8. The new bill needs to align with the reforms being undertaken in terms of three waters and the future for local government, as well as the development of plans around climate change including the national adaptation plan and emissions reduction plans
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Issues particular to the Chatham Islands

9. While the Chatham Islands share some of these issues with unitary authorities, the Council are in the unique position of having the responsibilities of both a territorial authority and a regional council while having an very small population base of around 600 people.
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10. The provisions regarding the setting up of planning committees and their responsibilities will need to be carefully considered in regards to the Chatham Islands. Treaty settlement processes are also likely to result in a joint planning committee for the islands outside the RMA reform process. It may be that a separate planning committee under this Bill is not needed. It is also unclear in the Bill who will provide the funding for planning committees.
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11. At present resource management planning is carried out under a contestable contract currently held by Environment Canterbury and funded by central government. It is unclear how this arrangement could work under the new Act for example. Would it still be necessary to have a planning secretariat attached to the planning committee for the Chatham Islands?
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12. The Chatham Islands community is very small and while the Council supports the co-development of plans with tangata whenua, this can result in the rest of the community not feeling heard. In such a small community this can lead to a regrettable tension and division between groups of people.
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13. The Chatham Islands are particularly vulnerable to the effects of climate change. It is not evident that the impacts of climate change have been adequately provided for in this exposure draft. The Council would support the addition of climate change to the list of environmental limits in the Bill.
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The role of local democracy

14. We are concerned that the Bill limits the involvement of local elected members in decision making by giving planning committees and independent hearing panels the powers to make decisions that currently lie with Council. It is also not clear what role public participation will have in the planning process. There is a need to engage fully with the community on the Islands.
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15. The Bill establishes that submissions must be considered by an independent hearings panel. It is unclear in the exposure draft who will appoint and fund this panel. The Council has a very limited rating base (the population of the Islands is around 600 people) and as such, funding of such an expensive process will need to come from Central Government. It is also difficult and expensive for the local community to make submissions to such a panel.
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16. The Bill includes provision for a National planning Framework that implies more national direction than has been the case to date. There will need to be some ability for local departure from such direction as it can quickly become onerous to comply with on the Islands. Implementation of the essential Freshwater Package is already difficult and expensive for the Islands' farmers.

Giving effect to the principles of Te Tiriti o Waitangi

17. We support the requirement in section 6 of the Bill, to give effect to the principles of Te Tiriti o Waitangi and to giving tangata whenua a greater role in the new system. For clarity we suggest that the principles themselves should be included in the Bill and that direction as to how they are to be given effect to be included either in the Bill itself or in the National planning Framework.
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18. Funding is needed for tangata whenua to participate fully as treaty partners in plan development and during the consents process. This needs to come from central government as applicants on the Islands do not have the ability to pay significantly increased fees for their resource consent applications to be considered.
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19. Cultural heritage has been included in the Bill rather than historic heritage as was the case in the RMA although the same definition still applies. Its identification and protection are to be promoted as an environmental outcome through active management that is proportionate to its cultural values. It is not clear who will decide on the degree of the value or what level of management is proportionate.
20. Clause 13 currently does not include any requirement for national direction on the cultural outcomes listed in clauses 8(f) – 8(i). Such direction would be very helpful for local government in addressing how to give effect to the principles of te Tiriti o Waitangi.

Focus on the natural environment

21. The purpose of the Bill includes the upholding of Te Oranga o te Taiao. This is a new term that has not previously been used in legislation and as such it needs to be carefully defined. It is also important that the Bill provides clarity on how to determine whether Te Oranga o Te Taiao is being upheld.
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22. The purpose of the Bill is a significant departure from sustainable management under the RMA. The built environment does not feature, although the Bill's title is the Natural and Built Environments Bill. This shows a prioritisation of the natural environment over the built environment. This is also evident in the setting of environmental limits that are only mandatory for components of the natural environment.
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23. It is unclear whether there will be community engagement in setting environmental limits. It is also important that sufficient data is available to make informed decisions on these limits. There is currently limited environmental data available for the Chatham islands and funding would be required to undertake data collection.
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24. The shift from managing adverse effects to complying with environmental limits and promoting environmental outcomes will require a change in culture. Resourcing will be needed to train Council staff and to educate landowners about the changes.
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25. The Council supports the proposed increase in both permitted and prohibited activities as a means of simplifying the control of activities and minimising the need for resource consents.
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Lack of clarity

26. As the draft Bill stands, the environmental outcomes have not been prioritised. Prioritisation would contribute to a more efficient and effective and less complex resource management system. They could follow a simple hierarchy like that in the NPS-FM. The fact that only 9 of the 16 outcomes require national direction indicates a priority of sorts but this needs to be more clearly stated.
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27. It is unclear what happens when there are competing and potentially conflicting environmental outcomes or conflicts between environmental limits and outcomes. Environmental limits should be for the purpose of achieving environmental outcomes. For certain activities, some outcomes may be promoted at the expense of others. There is currently no prioritisation or means of resolving conflicts.
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28. One of the environmental outcomes to be promoted under section 8 is the protection and sustainable use of the marine environment. The marine environment is not defined in the Bill and it is unclear whether it is the same as the coastal environment. Clarifying the distinction between the two terms would be important in the context of the Chatham Islands.
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Timing, funding, and transitional arrangements

29. We note that implementation timelines and transition provisions are still to come. It will be important that sufficient time and funding is provided to the Council to ensure that implementation is carried out well and does not prove overwhelming for the small island population.
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30. Central Government funding will be needed to give effect to the national direction. The Council already faces significant capacity issues and will struggle to deliver on a new system while continuing to progress current work, especially on implementing the Essential freshwater Package.
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31. The NPF will need to be in place before regional Spatial Strategies and then NBA plans are required. Regional Spatial Strategies should be developed in advance of, and be used to inform the NBA plans.
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32. Funding will be needed for increased compliance monitoring associated with more permitted activities.
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33. Some direction is needed now on managing existing plan review processes to give effect to the Essential Freshwater package, and at what point these plan changes should stop and work focus instead on making plans under the new legislation. Clarification is needed on which, if any, planning provisions will be able to be carried over into the new system.
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34. The Council strongly support the development of model NBA plans by the Ministry and the use of templates and model processes. This would improve efficiency in developing the new plans.
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35. There is a need for the Bill to include precise directions as to what activities are to be notified or not notified.

Conclusion

36. As a Council with a unique set of circumstances and issues we wish to continue engagement in the process of developing the Natural and Built Environments Act in order to ensure that the unique issues facing the Chatham Islands are taken into account.
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