



17 February 2023

Hon Eugenie Sage
Committee Chair
Environment Committee
Parliament Buildings
Wellington

Tēnā koe Hon Sage

RE NATURAL AND BUILT ENVIRONMENT BILL

Thank you for the opportunity to submit on the Natural and Built Environment Bill (the Bill) currently before the Environment Committee.

Engineering New Zealand (formerly IPENZ) is New Zealand's professional home for engineers. We're New Zealand's strongest and most influential voice on engineering issues, with more than 23,000 members who want to help shape the public policy agenda and engineer better lives for New Zealanders.

Engineering New Zealand supports the need for reform and believes that change to our resource management system is needed. The Resource Management Act 1991 has been ineffective in preserving the natural environment and balancing environmental protection with development. It has also failed to effectively address the challenges posed by climate change. The current Act has been cumbersome to interpret and challenging to manage due to the complex accountability arrangements in place. As engineers, we work across all layers of the system and observe inconsistent standards, diverse interpretations of the current Act and fragmented leadership. We are troubled to see the resulting decline in our natural environment and the inefficiencies of the system.

GENERAL COMMENTS

Overall, we support the direction of the Bill and believe it an improvement on the current legislation framework.

We are, however, concerned at the speed at which this Bill is being progressed. As Government have highlighted, this is a 'once in a generation' opportunity to improve a complex system. Reading through the Bill, we are uncertain the Bill addresses all the goals of reform, including reduced complexity, increased system efficiency and improvements in housing supply, affordability, and choice, as well as timely provision of appropriate infrastructure, including social infrastructure. These are the objectives of the reform work. In particular, we cannot see how the Bill will improve system efficiency and effectiveness – a key objective of this Select Committee Inquiry.

Additionally, with a consultation period over the Christmas and summer holidays, we are concerned with the level and quality of feedback the Committee will receive. Affected parties have not been given enough time to respond, particularly following an Exposure Bill consultation in July/August 2022 which was very light. The Natural and Built Environment Bill is a significant Bill, requiring a significant investment of time and expertise to order to effectively respond to the many changes it proposes.

We support the broad outcomes of the Bill

In August, Engineering New Zealand submitted on the Natural and Built Environment Exposure Bill. We support, and still support, the following components of the Bill:

- the introduction of Te Oranga o te Taiao
- strengthening Te Tiriti requirements
- the introduction of environmental limits

These components of the Bill have the potential to realise some of the reform's objectives, notably the protection and possible restoration of the natural environment, enabling environmental biophysical limits, giving effects to the principles of Te Tiriti o Waitangi and provide great recognition of te ao Māori.

We welcome the shift from an effects-based approach to an outcome-based approach to resource management. This shift will support better outcomes for the environment, as well as the well-being of present and future generations. We also support the Bill's strengthened outcomes for climate change, urban development, and infrastructure. Further, we support the requirement for the National Planning Framework (NPF) to provide direction on enabling development capacity and infrastructure.

Stronger guidance is needed for improved system outcomes (clause 5)

Although we support the direction of the proposed system outcomes, we note the objectives outlined in clause 5 of the Bill are contradictory and lack a clear direction to guide decision-making. Tensions between developmental outcomes and environmental protection have long existed, and it is unclear how this proposed system will address how decisions around trade-offs will be made between the conflicting outcomes. In our view that the absence of a well-defined structure for addressing conflict may result in further bureaucracy and litigation. The lack of clear guidance poses a risk of key decisions being delayed and incurring significant costs until a consensus is reached. As it is, decision-making in such situations could end up being heavily influenced by political discretion within the NPF.

Comments on environmental limits and exemptions

We support the inclusion of environmental limits and targets within the NPF. We are pleased to see that the Bill sets out how these limits are set. It is our view that the setting of limits within NPF is appropriate.

Clause 44 of the Bill states that exemptions from environmental limits may be directed by the Minister if requested by a Regional Planning Committee (RPC). Exemptions are granted by the Minister, in situations where the loss of ecological integrity is deemed justifiable due to its benefits to the public.

We note that the introduction of this clause will undermine the purpose of the environmental limits, which is to protect the natural environment. However, significant infrastructure projects (such as the Three Waters Reform) will likely infringe on these environmental limits and will inevitably need an exemption to continue. We believe that the provision of an exemption in the Bill is a reasonable compromise that will balance both environmental and developmental outcomes, as well as support the wellbeing of people and communities.

Monitoring limits (clause 53)

Clause 53 of the Bill sets out system requirements for the monitoring of limits. We are supportive of this section, as monitoring is a critical function of any effective system.

However, the section is light on details of the monitoring required, as well as options for enforcement. We encourage the Committee to strengthen provisions, as well as roles and responsibilities for the monitoring and enforcing of limits and the plans by which these are set.

Adaptive management approach (clause 86)

Recognising the need for Aotearoa to respond to climate change, we are strongly supportive of clause 86, which requires an adaptive management approach to the NPF. We look forward to seeing this implemented and the impact this has on regional plans.

ADDITIONAL POINTS OF FEEDBACK

Expert involvement within the Regional Planning Committees and in developing the National Planning Framework

We are concerned about the lack of guidance surrounding expert advice and representation within the RPCs and in the development of the NPF. RPCs play a crucial role in developing and managing Regional Spatial Strategies. Because of the long-term impact of the decisions made by these committees, they must have expert representation and membership.

The Bill currently doesn't provide any direction on the appointment of members to the RPC. The Bill broadly assigns membership to councils, central government, and local Māori. In addition to these representative groups, we consider it important for the legislation to recognise that technical skills are needed to support the RPCs. Good decision making is informed by appropriate expertise, such as urban planning, engineering and other. We urge the Government to specify requirements for expert involvement in the committees to plan adequately and proactively for regions for the next 30 years.

The role of Engineers

Engineers are needed across government to provide guidance on the feasibility and workability of plans. Too often engineers are asked to implement solutions they were not a part of designing. This

leads to considerable reworking and workarounds. To avoid this, engineers should be at the forefront of supporting the RPCs develop plans to address the complex and critical issues related to resource use and development. The input of engineers supports technical best practice from initiation to implementation. Furthermore, clause 58 sets out requirements for NPF will need to enable development capacity well ahead of expected demand, enable infrastructure and development corridors, and enable renewable electricity generation and its transmission. Engineers are critical to supporting this work.

Heritage considerations

We are pleased to observe a stronger commitment to heritage in this Bill. We support the greater level of national consistency for heritage introduced through the definition of specified cultural heritage and its inclusion in Subpart 3 - Places of national importance. There are however areas of ambiguity that require further definition and guidance.

Clause 559 states that activities that would have more than a trivial adverse effect on the attributes of a place of national importance must not be allowed. Trivial effect is a new concept introduced in this bill and remains undefined. Clear guidance is needed to determine whether the effect of an activity would be more than trivial and who is qualified to make that determination.

It is also unclear whether specified cultural heritage includes places that would meet the criteria but haven't yet been assessed by Heritage New Zealand for entry onto the List, or if it is limited to places already entered as Category 1.

Clause 107 states that RPCs are to have regard to relevant entries on the New Zealand Heritage List. This gives planning committees a high level of discretion in determining places of local heritage significance and stronger guidance and direction should be given here. Committees should also have regard to local heritage places identified in District Plans that may not yet be included on the New Zealand Heritage List. RPCs should include persons with appropriate heritage expertise.

We support the addition of 'cultural landscapes' to the definition of 'cultural heritage' (termed 'historic heritage' under the RMA) but note that the term 'cultural landscape' is undefined in the Bill. We suggest using the definition provided in the International Council on Monuments and Site (ICOMOS) New Zealand Charter.

Strengthening Te Tiriti and Te Ao Māori recognition

We are pleased to see the increased efforts to uphold and recognise the principles of Te Tiriti o Waitangi and Te Ao Māori in this bill. The inclusion of Te Oranga o te Taiao firmly reiterates the Government's reform goals to give greater recognition of Te Ao Māori to protect and restore the natural environment. We recommend Government, through the NPF and in collaboration with iwi, provide further clarity on measures required to give effect to the principles of Te Tiriti o Waitangi and the requirement to uphold Te Oranga o te Taiao.

We would also like to see greater detail on how Te Oranga o te Taiao will integrate with the concept of Te Mana o te Wai, as the latter is fundamental to the Three Waters Reform. Direction on the relationship between the two distinct te ao Māori concepts and how the Te Mana o te Wai will

interact with biophysical limits is greatly needed in the Bill, to avoid the risk of fragmented and poor planning outcomes.

Conclusion

The resource management system reform has significant implications for Aotearoa's natural environment and the well-being of New Zealanders. Engineering New Zealand appreciates the opportunity to provide comment on this Bill. We consider the proposed legislation to be an advancement from the Resource Management Act 1991. We look forward to further providing feedback on the Climate Change Adaptation Bill, later this year. If we can be of additional support, please do not hesitate to contact me by emailing richard.templer@engineeringnz.org or 021 22 000 50.

Ngā mihi

A handwritten signature in blue ink, appearing to read 'R. Templer', is positioned below the text 'Ngā mihi'.

Dr Richard Templer
Chief Executive