
FEEDBACK
On
Exposure Draft
Natural and Built Environments Bill
to

New Zealand Parliament Select Committees
Environment Committee

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Introduction:

- 1 Thank you for the opportunity to comment at this very early stage in drafting potential wording for the proposed Bill. The Fertiliser Association members include Ballance Agri-Nutrients Limited and Ravensdown Limited. They manufacture, distribute or market around 98% of all fertilisers sold in New Zealand. As farmer owned co-operatives their core values are to deliver a service to farmer shareholders (not to sell to shareholders product which they don't need). As such, the Association has a special interest in supporting farmers to achieve the social licence to farm successfully and sustainably within environmental limits.
- 2 This Bill is being introduced as part of a comprehensive reform of the RMA to protect the natural environment while also providing for the well-being of people and communities, now and into the future.
- 3 It is not possible to develop urban or rural production land for the well-being of people and the community with no impact on the natural environment. Therefore, managing our urban and rural production land to keep within acceptable environmental limits is supported.
- 4 The Association considers that the key role and purpose of the Proposed Natural and Built Environments Bill, (in essence) is to deliver the correct controls to arrive at the most appropriate balance between the tensions arising from 'activities' which provide for the 'well-being' of urban and rural communities and protection of the natural environment. Well-being encompasses economic, environmental, social and cultural welfare, including health and safety of people and communities, now and into the future.
- 5 Seeking provisions within the proposed Bill which are both necessary and appropriate to arrive at the correct balance in the management of urban and rural activities to ensure 'well-being' is the fundamental premise underpinning the feedback presented in this submission.
- 6 This submission is primarily focussed on provisions as they affect nutrient management for rural production land to function within acceptable environmental limits and enable "well-being" as defined in the draft Bill.

We wish to make the following comments on the Exposure Draft of the Natural and Built Environment Bill

General Comments

- 7 This feedback is limited to a few high-level principles as it is felt the framework for the required provisions is still too open, with a number of significant gaps. The proposed Bill is not sufficiently clear to meaningfully engage in any detail.

- 8 Key aspects rest with the 'Purpose' and the 'Definitions' within the Bill. The details of the National Planning Framework also remain critical to how the Bill will be implemented and function, and this is not yet visible.
- 9 It would be helpful in the preliminary consideration to have more explicit reference to which parts of the existing legislation are intended to be carried across and retained within the new Bill.
- 10 Some brief examples of difficulties with the Exposure Draft are presented below:

5 The Purpose of this Act

- 11 Clause (1), (2) and (3) are (in essence) to ensure now and into the future, the correct balance between protecting the natural environment and the use and development of the natural and physical resources for the well-being of the people and communities. Without economic, social, and cultural well-being it will not be possible to maintain the current suite of services which provide for our standard of living and social values. Without a stable economy it will also be increasingly difficult to enable protection of the natural environment.
- 12 As described, it is not clear that the purpose is to provide this balance because it is open to the interpretation of different terms used in this Section, (S 5) without the further context.

Recommendation

- 13 The Purpose of the Act should be clear in its own right without further context required for interpretation. The Purpose should be clear that it is to enable the appropriate balance between protecting and enhancing the natural environment and the use of the physical and natural resources for economic, social and cultural well-being, now and into the future. That is, the Purpose of the Act should explicitly state it is to enable economic social and cultural well-being without requiring a secondary interpretation of the word 'environment'.

Definitions

- 14 It is critical that definitions are clear in their meaning, and also ensure consistency in application and interpretation.

environment means, as the context requires,—

(a) the natural environment:

(b) people and communities and the built environment that they create:

(c) the social, economic, and cultural conditions that affect the matters stated in paragraphs (a) and (b) or that are affected by those matters

- 15 The phrase “as the context requires’ introduces considerable doubt and uncertainty as to the meaning of ‘environment’. This is especially so in this Exposure Draft when there is very limited context due to the significant gaps in the proposed Bill.
- 16 While the “built environment” created by the community is included in the definition, it is not clear if “primary production systems” are explicitly included in “built environment”. In the current Resource Management Act, ‘production land’ is explicitly provided for with a definition in Section 2. This is a key consideration given the importance of primary production land to New Zealand economy and well-being of the community.
- 17 Export income is central to New Zealand living standards, and our balance of trade is now even more dependent on primary production land due to the effects of the Covid -19 pandemic. The primary industry is likely to remain a significant contributor to food security and the standard of living in New Zealand for many years to come.
- 18 Managing the conflict between primary production and potential impacts on the natural environment is one of the core purposes of the Natural and Built Environment Bill. Therefore clear, explicit context and provision for ‘primary production land’ is required, but is missing.

Recommendation

- 19 Include clear, explicit provision for ‘primary production land’ as this is a key requirement for the ‘Purpose’ of the Act.

***precautionary approach** is an approach that, in order to protect the natural environment if there are threats of serious or irreversible harm to the environment, favours taking action to prevent those adverse effects rather than postponing action on the ground that there is a lack of full scientific certainty*

- 20 Prevent rather than avoid, remedy or mitigate is a strong provision. Examples of irreversible impacts may include organic pesticide residues for our horticulture industry. Examples of serious but temporary harm could include harvest of our forestry resources. Under the ‘Precautionary Approach’ it would be **required** to ‘prevent’ these activities. The broad application of this definition could have a major negative impact on the well-being of our community and would be contrary to the Purpose of the Act. The definition, if retained, requires restrictions and controls on how it is applied if the potential for wide ranging, unintended negative consequences on the economy and social well-being are to be avoided. The “Precautionary Approach” as presented may be suitable for consideration of a new activity but does not provide for essential or existing activity. It does not provide for serious, temporary impacts or minor but irreversible impacts.

- 21 Given almost all of the freshwater catchment science lacks “certainty”, this requirement to “protect” and “prevent”, is not compatible with a risk-based approach. It is a risk-based approach to the management of resources which is being promoted by the other legislative instruments currently under development or consultation.
- 22 Risk-based management also provides an appropriate mechanism for prevention of serious and irreversible adverse effects (achieving the principles of the precautionary approach), without the need for the defined ‘precautionary approach’ to be a broad legislative requirement.

Recommendation

- 23 Delete reference to ‘precautionary approach’ as a legislative requirement.
- 24 (If not deleted, amend the ‘precautionary approach’ to explicitly provide for risk-based management and provide clear guidance and controls on how it can be used without compromising the ‘Purpose of the Act’ and the well-being of people and communities)
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7 Environmental Limits

7(1) *The purpose of environmental limits is to protect either or both of the following:*

- (a) the ecological integrity of the natural environment:*
- (b) human health.*

- 25 Section 5(2) (a) states that: “to achieve the Purpose of the Act, - use of the environment must comply with ‘Environmental Limits’. The Purpose of the Act also explicitly includes: “*to enable... people and communities to use the environment in a way that supports the well-being of present generations without compromising the wellbeing of future generations*”.
- 26 Therefore, by necessity, to achieve the Purpose of the Act, the purpose of the environmental limits must also provide for: *people and communities to use the environment in a way that supports the well-being of present generations without compromising the wellbeing of future generations*.
- 27 If Section 7 (1) Purpose of Environmental Limits is exclusively to protect either or both ‘ecological integrity of the natural environment’ and ‘human health’, as currently proposed, then this clause is in conflict with the Purpose of the Act.
- 28 Section 7(2) states that environmental limits must be prescribed in the national planning framework or in plans as prescribed in the national planning framework. However, it is not clear how environmental limits will relate to, or interact with other established legislative limits. e.g. NPS-FW, Contaminated Land Guidelines, NES-AQ, etc

Recommendation

- 29 To achieve the Purpose of the Act, the Purpose of 'environmental limits' must also provide for or enable: *people and communities to use the environment in a way that supports the well-being of present generations without compromising the wellbeing of future generations*. This should be explicitly provided for in the Purpose of Environmental Limits, Section 7(1).
- 30 Include clarity on how environmental limits will relate to, or interact with other legislative limits.
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Part 3 National Planning Framework

15 Implementation of the National Planning Framework

- 31 The National Planning Framework is a key component of meeting the environmental outcomes sought. If it can require direct legal effect without being incorporated into a plan or implementation without public plan-change process, then this will require a high level of public and industry engagement, and public and industry support during development of the National Planning Framework.
- 32 Currently there is insufficient information about the National Planning Framework available.

Recommendation

- 33 A very high level of industry and public engagement is required during development of the National Planning Framework.

Concluding comment

- 34 Thank you for the opportunity to present these brief comments on the exposure draft of the Proposed Natural and Built Environment Bill. Further information about the Association and our role in supporting 'well-being' as defined in this exposure draft, is presented below.



Greg Sneath
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Fertiliser Association of New Zealand

About the Fertiliser Association of New Zealand

- 35 Replacing the nutrients harvested in produce, is essential for farming systems. Maintaining our export production levels is essential to the New Zealand economy and our standard of living. Therefore, managing the supply and the cycling of nutrients, including greenhouse gases, in New Zealand's primary industry production systems to meet the appropriate balance between production and environmental protection, serves the interests of all New Zealanders, both for economic benefit and sustainable environmental management.
- 36 The Fertiliser Association of New Zealand promotes and encourages responsible and scientifically based nutrient management.
- 37 To promote good management practices, the Association develops training programmes for rural professionals (with over 200 certified nutrient management advisers), funds research, participates in government and local body working groups, and works closely with other organisations in the agricultural sector.
- 38 Founded over 70 years ago, the Association is funded by member companies to address issues of common public good. Members manufacture, distribute or market around 98% of all fertilisers sold in New Zealand.
- 39 The co-operative base of the Association members means the industry is driven by delivering best value to its farmer shareholders. The shareholders' best interests and the cooperatives' core values are not driven by sales, but best available nutrient supply and management, aligned with effective and efficient use.
- 40 The Association member companies employ the largest group of farm environment / nutrient advisers in New Zealand and for over 30 years the Association has been investing in industry good tools for understanding and managing the nutrient cycle on farms.