*Tēnā koutou katoa*

*Below is a template submission covering the Spatial Planning and Natural and Built Environments Bills.*

*These Bills as currently drafted will not restore and protect our environment for future generations. They will not result in the fair and equitable participation in the reformed resource management system, and the allocation of freshwater and other resources to* ***all*** *holders of Māori rights relevant to the taiao.*

*Te Tai Kaha suggest that you personalise your submission. Tell your story as kaitiaki, and how you fulfil kaitiakitanga obligations to te taiao. Set out your expectations of what this means for the expression of mana motuhake in the reformed resource management system.*

*Submissions can be emailed to* *en@parliament,govt.nz* *or uploaded directly at* [*www.parliament.nz*](http://www.parliament.nz)*. Submissions close 11.59pm, Sunday 5 February 2023.*

Insert Date

Committee Secretariat

Environment Committee

Parliament Buildings

Wellington

By Email: en@parliament.govt.nz

Tēnā koe

**SUBMISSION TO THE ENVIRONMENT COMMITTEE ON THE SPATIAL PLANNING BILL AND THE NATURAL AND BUILT ENVIRONMENT BILL**

This is a submission by [insert name]. [Include a short paragraph about why you / your whānau are making a submission on these Bills.]

1. ***Mana Whakahaere***

“Mana whakahaere” is defined in the National Policy Statement for Freshwater Management 2020 (“the **NPSFM**”) as “the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater”.

This concept is inclusive of iwi, hapū, whānau, ahi kā, landowners and marae. It is a better term for the existing holders of Māori rights, interests and responsibilities concerning the taiao than the term “iwi and hapū” that is used in the Bills. To limit rights and responsibilities to “iwi and hapū” only, is contrary to tikanga, te Tiriti and State law. **It is a backwards step.**

1. ***Te Tiriti clause needs to be stronger***

Clause 4 of the Natural and Built Environment Bill (NBE Bill) and clause 5 of the Spatial Planning Bill (SP Bill) propose a stand-alone te Tiriti clause. This clause is too narrow in its focus on “the principles of te Tiriti”, rather than te Tiriti text.

Recommended changes:

I/We ask that clause 4 of the NBE Bill is deleted, and that te Tiriti clause is re-homed in the purpose provision, clause 3, amended to read as follows:

*(1) The purposes of this Act are to–*

 *(a) give effect to te Tiriti o Waitangi; and*

*(b) recognise and uphold Te Oranga o te Taiao, including—*

*(i)The interconnectedness of the taiao;*

*(ii)The fundamental role of ecosystem health/ecological integrity to sustain the well-being of the wider environment;*

*(iii)The relationships between Māori and te taiao in accordance with tikanga.*

*(c) enable the use, development, and protection of the environment in a way that—*

*(i) supports the well-being of present generations without compromising the well-being of future generations; and*

*(ii) promotes outcomes for the benefit of the environment; and*

*(iii) complies with environmental limits and their associated targets; and*

*(iv) manages adverse effects.*

*(2) Any person who exercises any power or discretion, or performs any function or duty under this Act, must exercise that power or discretion, or perform that function or duty, in a manner that is consistent with the purposes of this Act.*

This drafting will ensure that te Tiriti clause operates as the korowai over all aspects of the new resource management system.

1. ***Te Oranga o te Taiao needs to better reflect a Māori worldview.***

The NBE Bill defines te Oranga o te Taiao with a focus on the “health of the natural environment.”

This reflects a western mindset that continues throughout the Bill: that the health of ‘nature’ and ecosystems can be thought about separately from humans and the rest of the environment. This is not consistent with a Māori worldview which recognises that economic, social, and cultural values are interdependent with ecosystem health, and that the taiao is an integrated system.

The NBE Bill fails to give clear direction that ecosystem health must be prioritised to the extent that it can support economic, social, and cultural well-being.

The definition of Te Oranga o te Taiao proposes recognising and upholding the “intrinsic relationship between iwi and hapū and te Taiao”, meaning the “natural environment”. This is a step backwards from the more inclusive approach of the current Resource Management Act which recognises and requires provision for the relationships of **all Māori** to the taiao, not just iwi and hapū.

Environmental limits as proposed in the Bill will not protect ecosystems, because the Bill only requires setting environmental limits that prevent ecosystems degrading from their current state.

The NBE Bill requires that ‘targets’ are set for each of those limits, but there is no direction to set these at a state that is sustainable, and there is no certainty about when these targets will have effect.

Recommended changes:

I/we recommend that any reference to the ‘natural environment’ in connection to Te Oranga o te Taiao, or te taiao generally is removed.

I/we also ask that a ‘hierarchy of obligations’ as in the National Policy Statement for Freshwater Management 2020 is applied, to require that first the health of ecosystems is prioritised, second the health needs of people, and third their social, economic, and cultural well-being.

There should be a requirement for limits to be set at a state of health that is sustainable and ensures the protection of ecosystems, rather than merely current state.

1. ***All Māori rights holders must be recognised***

The SP and NBE Bills are both drafted on the basis that it is in most cases only “iwi and hapū” who have rights and responsibilities relevant to the taiao.

That is wrong as a matter of tikanga, te Tiriti and State law, as it ignores and makes invisible rights that are held by ahi kā / landowners/ individuals, whānau and urban Māori.

Currently, s 6(e) of the RMA includes as a matter of national importance that “the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga” must be recognised and provided for. The Bill is a backward step in its use of the less inclusive term “iwi and hapū” in place of “Māori.”

Recommended changes:

I/We ask that the primary reference term that is used in the SP and NBE Bills for Māori rights and responsibilities holders is “mana whakahaere”, based on the definition in the NPSFM (or, as a second-best alternative, that the approach taken in s 6(e) of the RMA is retained).

1. ***Water rights must be better protected***

Clause 814 of the NBE Bill preserves Māori rights in freshwater. But it is too weak as it is drafted. It is undermined by clause 814(3), which says that nothing in clause 814 affects the lawfulness or validity of any action under the legislation. This appears to mean that the assurance of no further prejudice in clause 814(1) cannot have any practical effect on how the new RM laws are interpreted and applied. **Overall, clause 814 provides no protection.**

The NBE Bill goes on in clauses 689-693 to propose a Freshwater Working Group, made up of Crown and “iwi and hapū” representatives who the Crown must approve (and, potentially, may choose).

I/We are concerned about the narrow focus in these clauses on iwi and hapū alone, as the Māori rights holders, is an example of the Crown prioritising some Māori rights holders over others. This is unacceptable.

As the NBE Bill is written, this could also lead to iwi/PSGEs deciding who get water rights at a sub-catchment level and choosing to allocate water rights to PSGEs rather than to the ahi kā / landowners/ individuals, whanau who live by the affected rivers and lakes and have been working so hard as kaitiaki for so many generations to save them.

Recommended changes:

I/We ask that clause 814 is amended by deleting clause 814(3) and by amending clause 814(2)(a) by adding at the end of it “*that would or may prejudice Māori rights or interests in freshwater or geothermal resources*”.

1. ***Regional Planning Committees must be genuine partnership bodies***

Clause 2 of Schedule 8 of the NBE Bill provides that regional planning committees must comprise at least 6 members, at least 2 of whom must be appointed by 1 or more Māori appointing bodies of the region. This is well short of the 50:50 partnership te Tiriti requires.

Recommended changes:

I/We ask that clause 2(5) is amended as follows: “*Not less than half of all members must be appointed by 1 or more Māori appointing bodies of the region*”.

**Request to make oral presentation**

The RM reforms process presents what will be a once in a generation chance to get our environmental settings right. Te Tiriti responsibility to get those right is a shared one. I/We wish to speak to the Environment Committee on my/our submission.