Questions and Answers – 4 August 2021

Pūroro Āmua | Planning and Environment Committee

2.1 Approval of Submission to Select Committee Inquiry on the Exposure Draft of the Natural and Built Environments Bill

Have Mana Whenua been consulted on the subregional suggestion of the planning committee? Do the regional catchments of Wellington, Hutt Valley and Porirua work for them?

We were unable to consult with Mana whenua on the proposal for a sub-regional unitary plan (outlined on page 23) due tothe timeframes given for developing the submission. The boundaries of the four local authorities who are proposed to be part of this sub-regional unitary plan are closely related to the overlapping rohe of the iwi. Iwi would be involved in developing the proposed plan if this approach is adopted

Consultation with mana whenua should occur if they consider sub-regional unitary plans will enable more efficient and effective representation across their rohe, if the Council supports the recommendation to request the Government explore this proposal.

Mataaho Aronui have reviewed the submission.

I have been hearing the industry say that one of the reasons also hindering supply and housing and infrastructure is due to COVID-19 hindering production and delivery systems? Is this what you have been hearing and would you agree to list this as well?

Council has added a statement around the impact of COVID-19 on the supply of housing to paragraph 26 of the draft submission.

Nationally, housing is being consented at highest levels seen before, and demand is strong. At the same time there is a reported delay in the delivery of construction projects according to Statistics New Zealand. This delay has been attributed to:

- supply pressures (such as production at capacity, international shipping delays)
- increased costs (due to high international demand meaning domestic prices also have risen to ensure return)
- labour shortages (with borders being closed)
- poor weather
- a back log of work (due to the COVID-19 lockdown).

Is the proposed obligation to utilise te ao Māori in decision making limited to Māori land and waters that has been retained, as per article 2 of the Treaty of Waitangi, or will this apply to land that has been legitimately transferred and now owned by non-Māori as well?

The proposal is to utilise the concept of Te Oranga or Te Taiao as all encompassing with respect to the natural environment, and oes not just apply to Māori land.

Is there a list of the 'principles of the treaty'?

The key principles of the Treaty of Waitangi for application under the Resource Management Act were outlined by the Court of Appeal in *New Zealand Māori Council v Attorney-General [1987] 1 NZLR 641*:

- *The acquisition of sovereignty in exchange for the protection of rangatiratanga:* "The Crown sought legitimacy from the indigenous people for its acquisition of sovereignty and in return it gave certain guarantees" per Justice Richardson.
- *Partnership:* Each party to the Treaty owes the other a duty to act reasonably and in good faith.
- *Freedom of the Crown to govern:* The Treaty does not restrict the right of a duly elected government to follow its chosen policy.
- *Duty of active protection*: The Crown has a duty to actively protect Māori interests in the use of their lands and waters.
- *Duty to remedy past breaches:* The Crown has a duty to grant some form of redress where the Waitangi Tribunal finds merit in a claim.
- *Retention of rangatiratanga:* "The Māori Chiefs looked to the Crown for protection from other foreign powers, for peace and for law and order. They reposed their trust for these things in the Crown believing that they retained their own rangatiratanga and taonga." Per Justice Bisson.
- *Duty to Consult*: The responsibility to act in good faith and reasonably puts the onus on the Crown to make an informed decision, in many cases that will require consultation.

Reference: http://www.environmentguide.org.nz/overview/maori-and-environmental-law/

How will a te ao Māori view work in practice? E.g. if we upgrade the Moa Point sewage treatment plant, how does a te ao Māori world view fit in?

There is limited information in the exposure draft how enabling Te Oranga o te Taiao will carry down through to any consenting process under the Natural and Build Environments Bill (NBB). Any Environmental Limits or Outcomes set by the National Planning Framework would need to enable the purpose of the Act which is both Te Oranga o Te Taiao and intergenerational use.

Who determines what is a te ao Māori world-view?

Paragraph 94 of the accompanying parliamentary paper notes that the concept of Te Oranga o te Taiaio (a concept which comes from a Māori world view) was developed by the Freshwater Iwi Leaders Group (FILG) and Te Wai Māori Trust (TWMT) in conjunction with the Ministry for the Environment (MfE).

Are there any other OECD nations that adopt a pre-European world-view as their guiding principle for resource development?

We are not aware of other OECD nations that incorporate concepts from indigenous peoples into their resource management system. This is not to say that there are not and we could carry out urther research..

The MfE in its Summary of Initial Impact Analysis recommended moving away from the recommendations of the Resource Management Review Panel's recommendations. Can officers advise of the key differences and whether the MfE's preference has been adopted?

Summary of options within the scope of the interim RIS			
Overall option		**Option A. Panel's approach** *The Panel recommended moving to planning for positive outcomes, resolving conflicts at a strategic level in national direction and spatial strategies, with joint committees and independent hearings panels sharing the responsibility for preparing 14 combined region-wide plans.*	**Option B. Panel Plus** *Officials have further developed the Panel's approach recommending that it focus more on enabling development within limits, central government direction is more integrated and more flexibility is provided to ensure processes are proportionate and robust.*
NBA exposure draft	**Policy area 1. Legislative architecture**	**Option 1A:** Replace the RMA with the NBA and create new legislation for regional spatial planning and managed retreat.	Adopt the Panel's approach (**Option 1A**).
	Policy area 2. NBA Purpose and supporting provisions	**Option 2A:** A statutory purpose to enhance the quality of the environment, supported by directive frameworks for limits and outcomes. It would also incorporate stronger Te Tiriti provisions and the concept of Te Mana o te Taiao.	**Option 2B:** A statutory purpose of enabling use and development provided it is within natural environment limits. The Panel's proposed system of limits would be adopted with some refinements. The outcomes would be streamlined and it would also incorporate stronger Te Tiriti provisions and the concept of Te Oranga o te Taiao[3].
	Policy area 3. NBA National Planning Framework	**Option 3A:** National direction is still released as separate statutory documents, though there would be a more robust development process through a board of inquiry and greater mandatory national direction.	**Option 3B:** Establish a National Planning Framework which explicitly incorporates strategic direction, is delivered through one statutory document, and provides flexibility to design a robust process.
	Policy area 4. NBA Plans	**Option 4A:** The regional policy statement and all the resource management plans of a region would be combined into one single plan, for land, freshwater and the coastal marine area. These plans would be outcomes focused and give effect to the principles of Te Tiriti.	Adopt the Panel's approach (**Option 4A**).

Source: Mfe Briefing https://environment.govt.nz/assets/publications/9_Summary_of_Initial_Impact_Analysis_16_06_21.pdf

The Ministry's recommendations have been incorporated into the exposure draft.

Are we suggesting maintaining the status quo protection/prioritisation of amenity values as a guiding principle under Part 2? I'm a bit unclear about what we are suggesting in this point.

I think it could be helpful to discuss how in real life (the consenting process), the consideration of amenity value can deter development of housing in a way that should be reserved for natural environment concerns, or how it can open up potential for appeal which can be a deterrent for developers. I have heard of developers who refuse to work in Wellington because of the cost of appeals.

The Submission does not propose status quo protection of amenity values, it does quite the opposite.

- The submission notes that the National Policy Statement on Urban Development 2020 (NPS-UD) made much needed advancements to the interpretation of amenity values.
- It clarified that as urban environments change, so do amenity values. It also clarified that amenity values also vary across different groups of people and across generations.

- In our context, as Wellington becomes denser our experience of amenity values (such as sun, open space, trees, building dominance) will change. The NPS-UD clarifies that this is not a bad thing and is expected as urban environments densify and change.
- Our draft medium density residential zone provisions carry over this approach where much greater building heights are enabled, but peoples' access to sunlight and open space will be at different levels than those experienced in current settings.
    - That's the broadened understanding of amenity that we see value in being fleshed out withing the National Planning Framework.
- Up until this point, amenity had been commonly used by opponents of change as it was recognised by the Resource Management Act as a matter that decision makers have regard to – That is not what is proposed in the submission.
- The draft district plan provisions will go a long way to avoiding outcomes where the provision of housing is slowed down (and costs increased) by the consideration of amenity values.

2.2 Traffic and Parking Bylaw Review

The use of noise cameras- we have been down this route with officers and one of the reasons why this wasn't progressed is because of cost. Who would own the cost of this process? Do we have certainty that this is possible?

Officers have not approached Waka Kotahi NZ Transport Agency about the possibility of monitoring with noise cameras yet. According to the Waka Kotahi website, they have two special noise monitoring devices with cameras to record engine braking events and the details of the vehicles engine braking. The decision to install a noise camera is based on the following:

- likelihood engine braking would occur in an area
- number of houses near the road that may be disturbed by engine braking
- availability of a suitable location to install the noise camera
- community documentation of engine braking (date, time and location of observed engine braking)
- extent of the actual adverse effect occurring, as demonstrated by the number of residents reporting disturbance from engine braking noise
- availability of funding to install and manage the monitoring equipment.

Their website also advises that there is typically a waiting time of one to two years from the time a location is identified to install the noise camera and the actual installation. This is because the two cameras are prioritised across the entire state highway network and there is generally a waiting list.

Is there a rough estimation of a timeline for this whole process i.e. from signage, speed cameras, engagement and then to enacting the bylaw?

See above. The Council's focus is to ensure it is resourced and structured to best respond to the implementation of the Parking Policy 2020, support the Let's Get Wellington Moving programme and as recently agreed in the Long-term Plan, the priority to create new cycleways across the city.

As recommended in the response to the e-petition paper "*Petition: Stop trucks coming off motorway and using Wellington streets to transport waste to tips" a* more effective approach could be liaison with trucking operators and industry groups to influence driver behaviour without any regulatory intervention. The Road Transport Forum have agreed to assist with this where the trucks involved are member companies.