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Media Release

Changes needed to strengthen the exposure draft of the Natural and Built Environments Bill

EDS has prepared a submission on the exposure draft of the new Natural and Built Environments Bill, including detailed drafting changes, and is seeking feedback from the public before it is lodged.

The Bill will replace the Resource Management Act, but all of its provisions have not yet been drafted. Instead, only the front end of the legislation – including key provisions relating to its purpose, principles and planning instruments – are included in this exposure draft. In a novel process, the Environment Select Committee is considering submissions on those provisions now, before the whole Bill is introduced into the House alongside the proposed Strategic Planning Bill and the Climate Change Adaptation Bill early next year.

“From what we can see of the Natural and Built Environments Bill, it is a good start for a piece of law that is intended to be quite different to the RMA,” said Dr Greg Severinsen, the senior policy advisor who has been the lead researcher for EDS’s resource management reform work.

“However, significant amendment is still required on a number of fronts. Fortunately, that is still achievable within the basic framework that has been outlined in the Bill.

“The most important provisions are contained in four key areas: the Bill’s purpose, its provisions on setting environmental limits, sections on environmental outcomes, and a framework for national direction and plans. All of these things need refinement. In particular:

- The purpose of the legislation in clause 5 is open-ended and does not clearly reject the “overall broad judgement” approach that for so much of the RMA’s history has allowed environmental health to be traded off against development. The Bill needs a much stronger hierarchy, with environmental protection *ensured* rather than just *enabled*.
- The inclusion of offsetting and compensation alongside avoiding, remedying and mitigating harm is worrying, as there are no clear safeguards around when it is acceptable to compensate for harm (instead of simply not causing it in the first place), with the risk that offsetting will be used to enable development that should not happen in the first place.
- Although the government’s independent panel on resource management reform recommended the establishment of mandatory targets, the Bill does not refer to them. These are crucial where environmental limits have *already* been infringed, in order to ensure we get back into a safe operating space, rather than just protecting the degraded state of what we have left.
- The Bill lists a dizzying array of outcomes to be promoted by decision-makers in clause 8, but there’s no obvious internal hierarchy. This will inevitably lead to some outcomes (e.g. rural development) being balanced against others (e.g. improving ecological integrity), and it is not hard to see what the ultimate result will be here – environmental degradation. What we need is a direction that development and wellbeing are to be achieved in ways that also improve the environment.
- There’s passing mention of urban outcomes, but the desire to exclude terms like “amenity” leaves a big hole in terms of good urban design. We need to allow densification and the provision of land

for housing, but that needs to be designed well and with both the natural environment and community wellbeing front of mind if we are to avoid new urban slums.

“In our submission we have outlined in detail the key changes we think are needed. The time for general policy talk has passed; we’re in the thick of specific drafting now, and even the smallest things matter when the wording comes to the courts for interpretation, as no doubt it will,” concluded Dr Severinsen.

“For a long time, EDS and others have been calling for the RMA to be replaced” said Gary Taylor, CEO of EDS.

“It is not performing for the environment, for urban areas, or for developers. To that end, we undertook a multi-year project looking at how we might overhaul the system.

A lot of ideas in that work, and those developed through the government’s independent panel chaired by Hon Tony Randerson QC, have been picked up and run with in policy development, and are reflected in this Bill. However, the devil is in the drafting detail, and a lot of improvement still needs to be made.

“We’re publishing our draft for comment before submissions close, so we can refine it further. We encourage people to have a look and let us know what they think”, Mr Taylor concluded.

Submissions are due with the Select Committee on August 4. The draft EDS submission can be found here, and comments can be directed to greg@eds.org.nz before 31 July.