

Te hanga whakatau, ngā mātāpono mōhiohio me te hātepe i te Ture Taiao Tūturu me te Hanga 2023

Decision-making, procedural and information principles in the Natural and Built Environment Act 2023

New laws are being phased in that aim to help Aotearoa New Zealand protect and manage the environment and its resources. The Spatial Planning Act 2023 (SPA) and the Natural and Built Environment Act 2023 (NBA) were enacted on 23 August 2023.¹

The NBA contains a set of decision-making, procedural and information principles. People who exercise powers and perform functions and duties under the NBA must comply with the obligations that apply to them. The principles are in sections 8 to 10 of the NBA.

This fact sheet contains:

- decision-making principles
- procedural and information principles.

¹ The Climate Adaptation Act is also planned, which will address managed retreat, and funding and financing of climate adaptation. A date for introduction of the Bill is not yet confirmed.

Decision-making principles

Section 8 provides an overarching set of principles that support decision-making under the NBA. Any person making recommendations or decisions on the national planning framework (NPF) or natural and built environment plans (NBE plans) must:²

- provide for the integrated management of the environment
- actively promote the outcomes in the NBA³
- recognise the positive effects of using, developing, and protecting the environment to achieve the outcomes
- manage the adverse effects of using and developing the environment in a way that achieves, and does not undermine, the outcomes
- manage the cumulative adverse effects of using and developing the environment
- not prefer a use because it is either a new or existing use when considering how best to achieve the outcomes
- have regard to the polluter-pays principle
- in relation to managing effects, have regard to whether it is appropriate to apply the effects management framework⁴ or a similar approach.

There's also a general obligation on anyone exercising powers and performing functions under the NBA⁵ and SPA⁶ to recognise and provide for:

- the responsibility and mana of each iwi and hapū to protect and sustain the health and wellbeing of te taiao (the environment) in accordance with the kawa, tikanga Māori (including kaitiakitanga), and mātauranga Māori in their rohe or takiwā
- the protection and exercise of protected customary rights.

Procedural and information principles

The procedural principles⁷ apply to anyone exercising powers and performing functions and duties under the NBA. They must take all practical steps to:

- use timely, efficient, consistent, and cost-effective processes proportionate to the functions, powers, and duties being exercised or performed
- promote collaboration between or among local authorities, communities, and Māori on their common resource management issues.

Where no time limit is prescribed, people responsible for taking actions or making decisions must do so as promptly as is reasonable in the circumstances.

² Section 8(1) of the NBA.

³ Section 6 of the NBA provides a list of outcomes that must be achieved to ensure that the purpose of the Act is achieved.

⁴ Section 437 of the NBA.

⁵ Sections 8(2) and 8(3) of the NBA.

⁶ Sections 6 and 7 of the SPA.

⁷ Section 9 of the NBA.

Also, any person making recommendations or decisions on the NPF or NBE plans must develop a framework and plan rules that reduce reliance on resource consenting processes, in accordance with the restrictions imposed on activities by or under sections 21 to 26.

The information principles⁸ direct that the best available information must be used. This means the best information that, in the circumstances, is available without unreasonable cost, effort, or time.

Decisions must not be delayed solely because of uncertainty about the quality or quantity of the information available.

Where information is uncertain or inadequate, people carrying out responsibilities under the NBA must favour caution and provide a level of protection for the natural environment and cultural heritage proportionate to the risks and effects involved.

⁸ Section 10 of the NBA.

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