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Committee Secretariat  
Environment Committee  
Parliament Buildings  
Wellington

Email: [En.Legislation@parliament.govt.nz](mailto:En.Legislation@parliament.govt.nz)

Dear Sir/Madam

**Waikato Regional Council Submission to the Natural Environment Bill and Planning Bill**

Thank you for the opportunity to submit on the proposed Natural Environment Bill and Planning Bill. Please find attached the Waikato Regional Council's (the Council's) submission regarding these Bills. The submission was formally endorsed by the Council's Strategy and Policy Committee on 10 February 2026.

Should you have any queries regarding the content of this document please contact Katrina Andrews, Senior Policy Advisor, Strategic and Spatial Planning directly on (07) 8590 929 or by email [Katrina.Andrews@waikatoregion.govt.nz](mailto:Katrina.Andrews@waikatoregion.govt.nz).

Regards,

A handwritten signature in black ink, appearing to read "Tracey May".

Tracey May  
**Director Science, Policy and Information**

## Submission from Waikato Regional Council on the Natural Environment Bill and Planning Bill

### Introduction

1. We appreciate the opportunity to make a submission on the Natural Environment Bill and Planning Bill.
2. Waikato Regional Council (the Council) recognises the significance of the proposed resource management reform and that it will fundamentally change the way in which regional councils operate across a number of areas.
3. The Council supports the overall intention to replace the Resource Management Act 1991 (RMA) and the intent to simplify the resource management system. The Council does however have some concerns with the aspects of the proposed Natural Environment and Planning Bills, as set out in this submission.
4. In making our submission we highlight the spatial scale, diversity, and local variability of the Waikato region, which spans 11 territorial authorities, including a major city surrounded by numerous towns and large areas of rural land, all with largely varying infrastructure needs. The Council manages significant water bodies such as the Waikato River and Lake Taupō, as well as significant wetlands, coastal areas, and geothermal areas. Further, we highlight that regional councils carry out functions under multiple pieces of legislation, and it must be considered how these will connect or work together. Please refer to our submission on the Simplifying Local Government Discussion Document where these matters are further elaborated on.
5. The Waikato region's chief executives have supported the Waikato Mayoral Forum (of which our Chair is a member) to develop key Waikato messages to inform submissions on the reform proposals. In developing these key messages, the Forum acknowledges that each council in the region is diverse and has challenges unique to their communities, however at the core is the need to individually and collectively serve our combined Waikato ratepayers well. Attached to this submission is a copy of the letter Mayor Tim McIndoe, Chair of the Waikato Mayoral Forum, recently sent to Minister Bishop and Minister Watts.
6. Our submission is comprehensive and identifies many areas for improvement for the Bills as drafted. The suggested areas for improvement are done so in the spirit of workability and implementation. The submission points aim to ensure that environmental management and economic productivity are managed together in order to achieve a revised resource management and planning system that assists our regional communities to thrive.
7. Our submission follows the Select Committee's suggested structure as follows:
  - Part 1 – sets out our high-level views on the policy intent of the overall reform package
  - Part 2 – comments on shared provisions in the Bills
  - Part 3 – comments specific to the Planning Bill in the form of a table (begins on Page 15)
  - Part 4 – comments specific to the Natural Environment Bill in the form of a table (begins on Page 35).
8. Key submission themes are:
  - Support for resource management reform
  - Council involvement in developing national instruments
  - Role of central government
  - Strong support for regional spatial planning
  - Māori involvement and definition certainty of 'equivalent effect'
  - Achievement of the goals – environmental limits
  - Supporting a successful transition to the new system

- Resourcing the changes
- Regulatory relief regime
- Public participation
- Permitted activity system settings
- Integration between the Bills

9. We look forward to future consultation processes in relation to resource management reform and would welcome the opportunity to comment further on any issues explored during the Select Committee process.

10. The Council wishes to make an oral submission and present its views to the Committee.

### **Submitter details**

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## **Part 1: Overall comments**

### **A. Support for resource management reform**

The Council recognises that the RMA is no longer fit for purpose and welcomes the intent of the reforms to simplify the planning system while protecting what matters to us as a region. We acknowledge the importance of creating a resource management system that enables productivity in balance within environmental limits.

### **B. Council involvement in developing national instruments**

The Council stresses the importance of local authorities being involved in the process of developing national instruments (national policy direction and national standards) to ensure they are implementable in practice and meet the needs of our regional communities. Much of the detail will be in national instruments so it is imperative that local authorities are able to be directly involved in the development of these instruments.

### **C. Role of central government**

The Council recognises the benefits of standardisation of a number of areas of the resource management system and the potential for greater consistency across regions and the country; this is welcomed. However, the Council notes there is a risk with concentrating decision-making at a national level that it may not be enduring, as new governments may change national instruments and regulations which make up a foundational part of the system. There is a need for system safeguard to ensure that we are not in a constant process churn of revised provisions.

### **D. Strong support for regional spatial planning**

The Council strongly supports regional spatial planning that sets the direction for the lower order plans and that links to long-term plans (LTPs) and land transport plans. The new system should recognise and allow for existing spatial planning to be transitioned into the new system.

### **E. Māori involvement and definition certainty of 'equivalent effect'**

The Council recognises the ways in which the Bills allow for Māori, iwi and hapū participation, however, the Bills have the potential to complicate long-held interpretations of Treaty obligations relying heavily on Treaty settlements and those who are progressing through settlement processes who may have signed Deeds of Settlement. The focus on settlements also has the potential to exclude iwi that have not yet reached settlement. Additionally, iwi/hapū/Māori will need support to be able to fully engage in the new system within the time indicated. Absolute clarity will need to be provided by government in regard to how existing Treaty obligations will be met, particularly as this relates to Te Ture Whaimana o Te Awa o Waikato, the Vision and Strategy for the Waikato and Waipā Rivers. Also, clarity is sought for those iwi that may have Deeds signed with the Crown but are yet to reach settlement.

### **F. Achievement of the goals – environmental limits**

The Council is concerned that the cumulative impact of a range of provisions in both Bills will make it difficult to meet goals 11(a)-(d) of the Natural Environment Bill and ensure environmental limits are not breached. Proposed provisions such as those that limit consideration of the matters covered in the other Bill, more stringent requirements for specified topics, and regulatory relief all compound to make it a more onerous legislative regime that will make it more difficult for regional councils to meet their responsibilities under the Natural Environment Bill. Provisions of the Bills as presently worded will not assist a more streamlined process. The new system should include sufficient linkages between the Bills to ensure that goals under the Natural Environment Bill are not compromised by decision making under the Planning Bill.

### **G. Supporting a successful transition to the new system**

The Council supports the intention for an efficient transition to the new system. Timeframes are ambitious and there are sequencing issues to be addressed. For example, the current arrangements require

commencement of the preparation of regional spatial plans before the relevant national instruments to guide their preparation have been drafted. This transition is also occurring in tandem with other significant changes such as the proposals to simplify local government and cap rates. This all sits alongside councils' ongoing activities such as annual plan and LTP preparation. Transition to the new system needs to be carefully planned out to consider cumulative impacts on local authorities and ensure an aligned and integrated change.

#### **H. Resourcing the changes**

The size and quantum of change that will be experienced by communities, local government entities, and practitioners should not be underestimated by central government. Funding, assistance and guidance will be required from central government to support the already stretched capacity of councils, practitioners and iwi/hapū/Māori.

#### **I. Regulatory relief regime**

The proposed regulatory relief regime will have significant financial and administrative impacts on councils and conflicts with the ability to achieve the goals of, and regional council responsibilities under, the Natural Environment Bill. We recommend substantial amendments to the proposed regime to address these issues.

#### **J. Public participation**

The Council considers it important that all people and groups are able to participate in plan-making processes and therefore seeks that the restriction to “qualifying residents” of a region or district for submissions on proposed plans and plan changes be removed from the Bills. The Council however supports the proposed “qualifying resident” restriction in relation to permitting/consenting processes as proposed in the Bills.

#### **K. Permitted activity system settings**

As drafted, the proposed permitted activity system, which requires registration of permitted activities with permitting authorities will place a significant administrative burden on councils that is out of proportion to the resource management benefit. The system settings should be adjusted to make registration, and any subsequent monitoring, entirely at the permit authority's discretion.

### **Part 2: Comments on shared provisions in the Bills**

#### **Integration between Bills**

1. We acknowledge the Government's intent for the Planning Bill to support and enable economic growth and change to enhance the productivity of our regions; however, we consider there are some areas where more integration between the two Bills is needed to reflect that use and development occur within the bounds of the natural environment. Successful communities depend on a healthy environment; this is particularly so for the Waikato where a large portion of primary production is dependent on the natural environment.
2. Exclusion of the natural environment when making land use decisions risks development occurring in inappropriate locations where the environment cannot sustain development in the long term. Water availability and quality, climate change impacts, highly productive land, and indigenous biodiversity are all examples of matters that should be considered in land use decisions.
3. The Council is concerned that the separation of responsibilities and effects to be managed under the Bills as drafted does not sufficiently allow management of effects within the coastal marine area or on physical features valued outside of their resource provision (e.g. wetlands, coastal features and geothermal surface features), despite this being an important part of managing the “*use, protection and enhancement of the natural environment*” as stated in the Bill's purpose. As drafted, there will be scenarios where these features are impacted by decisions under the Natural Environment Bill but are

unable to be considered as part of those decisions and no requirement for land use consent is triggered under the Planning Bill. It is crucial that the goals, effects able to be considered, and responsibilities of regional councils under the Natural Environment Bill are added to in order to address these gaps.

4. Similarly, there will be scenarios where land use activities generate adverse effects on indigenous biodiversity, where a permit application is not necessarily triggered under a natural environment plan and effects are unable to be considered under the Planning Bill. This gap could compromise the ability to achieve goal 11(d) of the Natural Environment Bill relating to no net loss in indigenous biodiversity.
5. The Council supports the role of the regional spatial plan as a key mechanism to provide integration as per clause 68 of the Planning Bill, however, this may not be enough to ensure integration. This in part is due to the scale at which a regional spatial plan is made, which cannot consider all matters relevant to decisions at a parcel level. Therefore, it is important that the above gaps are addressed within the legislation, allowing locally significant matters to be appropriately considered at lower levels in the system.
6. Further, the first regional spatial plans will not include environmental limits, due to regional spatial plans being decided before natural environment plans are notified. This is an important issue that we recommend be reconsidered. We also note that not all environmental limits can be spatially represented.
7. There also needs to be a link between natural environment and land use plans to ensure land use plans and private plan changes do not result in environmental limits being breached, reflective of goal 11(a) of the Natural Environment Bill; “to enable the use and development of natural resources within environmental limits”. This is difficult with the proposed timing of these plans being prepared concurrently.
8. We recommend:
  - a. Adding to the goals, effects able to be considered and responsibilities of regional councils under the Natural Environment Bill to address current gaps in relation to outstanding natural features and landscapes and areas of high natural character within the coastal environment, wetlands, lakes, rivers, and their margins, and geothermal surface features and public access within the coastal marine area.
  - b. Enabling territorial authorities to consider effects of land use on indigenous biodiversity under the Planning Bill.
  - c. Amending the sequencing to require natural environment plans to be prepared before land use plans and requiring land use plans to not be inconsistent with natural environment plans, to ensure that development occurs within environmental limits, thus reflecting the goals of the Bills.

### **National instruments**

9. The Council notes the difficulty commenting on the policy design due to much of the detail being left to national instruments, meaning full implications cannot be readily understood at this stage.
10. Given the significant role national instruments will play in the new system, we stress the importance of allowing sufficient time for their development and undertaking sufficient engagement with local authorities. It is particularly important that comprehensive input is sought from regional councils in relation to natural environment matters, due to their complex nature and to ensure that standards and direction will be workable for different regions across the country.
11. We emphasise the importance of the new national instruments providing policy frameworks that recognise the significant investment that has already been made by New Zealand communities,

including farmers, in improving water quality in particular in the Lake Taupō catchment. Our expectation would be that the resource management reforms support the continuation of these gains, including ongoing improvements in water quality to meet agreed community outcomes, rather than unintentionally constraining progress.

12. The Council also notes the many years of sustained investment and effort by the community, tangata whenua, and multiple sectors through the Proposed Waikato Regional Plan Change 1: Waikato and Waipā River Catchments (PC1) process, and the importance of ensuring that these learnings can continue and evolve under the new system.
13. We note that the timeframe for consultation on national instruments is 20 working days. Given the importance of the first national instruments and volume and complexity of those first national instruments, we recommend that additional time is allowed for consultation to allow iwi, councils, and the community to meaningfully engage.
14. The Council is concerned with the ability of central government to deal with the workload that these Bills will impose, particularly during the transition period with all councils making plans to the same timetable.
15. We recommend:
  - a. Ensuring that sufficient time is allowed to prepare national instruments given their key role in the system.
  - b. Ensuring that local authorities are involved in the preparation of national instruments to make sure they are practical and implementable.

#### **Transition – timing and resourcing**

16. We support the government's goal of more efficient processes; however, we consider the timeframes for plan development within the Bills are unlikely to be workable.
17. The direction as currently drafted creates major timing and sequencing issues that are going to place significant pressure on local and central government as well as iwi groups and that may compromise the quality of the outputs that are produced.
18. The Bills require the regional spatial plan (RSP) to implement national instruments in a way that provides for use and development within environmental limits. Schedule 2, Part 1 of the Planning Bill also makes it clear that environmental limits must be considered when the regional spatial plan is prepared. However, the second tranche of national instruments (which is expected to include methodologies for setting ecosystem health limits) will be released after RSPs are notified, so regional councils will not have these available to begin drafting environmental limits during RSP development. The RSP is required to be notified before the natural environment plan, which contains the ecosystem health limits.
19. There is also potential that lower-level instruments will be in preparation while higher-level ones are unsettled or under appeal. This is an inefficient use of time and resources.
20. Transitioning to the new system will result in a significant workload for local authorities, in combination with maintaining resource consenting under the transitional regime and functions under the Fast-track Approvals Act 2024. It is critical that the transition is supported by sufficient central government support and resourcing.
21. The new chief executive audit requirement also creates a pinch point for the chief executive of the Ministry for the Environment (MfE), as no later than 3 months before notifying a proposed plan that contains a bespoke plan provision or a provision on a specified topic, a local authority must provide a

draft of the proposed plan, an evaluation report and a justification report for those provisions to the chief executive of MfE. As every local authority will be following the same initial timeframe, MfE will potentially receive and need to review a very large amount of information at the same time.

22. The Bills also require a single independent hearings panel to be assigned to the first proposed land use plan for each district in the region and the first proposed natural environment plan for the region. This requirement, coupled with the Schedule 3 clause 26(7) requirement that a panel must provide all recommendations and reports no later than five months after the date that the local authority published the summary of submissions and further submissions, sets unrealistic expectations on a panel to turn around the level of work in a very short time frame, particularly for a region like the Waikato which includes 12 local authorities.
23. Linked with workload is the high cost of implementing the new system - plan preparation, including paying central government panel members, setting up new systems for registering and monitoring permitted activities, and regulatory relief will all need to be funded by local authorities.
24. The key issue for local government funding is the alignment of Local Government Act 2002 funding mechanisms and the ability to secure funding associated with the revised resource management system competing against the many other priorities of the Council and our community.
25. The funding mechanisms at local government's disposal are very limited – the main method being through rates. Ultimately, the priorities for this funding are determined through consulting through annual plan or LTP processes with our community. Implementation of this system will compete for funding with all other matters that local government has to manage. This needs to be reconciled, particularly considering the current proposal for capping rates. If implementation is to occur in the manner (and at the pace) that central government desires, then additional secured funding sources will need to be available.
26. We recommend:
  - a. Revising the transitional arrangements, including plan making timeframes and sequencing, so they are more achievable and realistic and consider the compounding effect of the cumulative requirements on local authorities and iwi/hapū under the Bills.
  - b. Considering sources of funding to resource local authorities given the current government proposal to cap local authority rates.

### **Māori involvement**

27. The Bills materially change how Te Tiriti o Waitangi, Māori participation, and Treaty settlement arrangements operate in practice. The Council is concerned that Māori rights and interests are being altered under the Bills. This will lead to a period of uncertainty and confusion on roles and responsibilities and process. It is important that central government as the Crown partner with iwi, and the entity that determines how local government gives effect to Treaty obligations, is absolutely clear in legislation and national policy direction how a revised resource management relationship with iwi Māori will work. This should not be left up to local authorities to determine the scope and parameters; this must come from the Crown/central government. The movement of the existing relationship to the new proposal must be a critical part of the transitional provisions of the legislation, and account must be made for existing relationships. Existing relationships are deep and enduring and cannot just cease at the time of enactment of legislation; additional consideration is needed to account for the transition. We request that central government supports local government through this period of change and implementation; these costs should not be borne by ratepayers.
28. There is no express hierarchy that gives settlement instruments priority over national policy direction or standards, and the test for equivalence is transitional and uncertain. This is of particular importance in the Waikato where there are a number of joint management agreements that exist that have

express provisions that relate to RMA functions and processes. It is imperative that 'equivalent effect' as a term used in the proposed legislation is clear, there must be no ambiguity. Critically, ratepayers should not be expected to fund, what could potentially be, long legal processes to determine what 'equivalent effect' may mean in practice. It is important that Treaty settlement obligations are properly transitioned, especially for arrangements like joint management agreements and Te Ture Whaimana o Te Awa o Waikato.

29. The focus on settlements has the potential to exclude iwi that have not yet reached settlement.
30. The transitional arrangements will put pressure on iwi groups during the transitional period. The transitional provisions under the Planning Bill require councils to operate under both the new system and the RMA simultaneously. While the RMA continues to apply, meaning consents, notices of requirement, and enforcement must still be processed under the old regime, councils must also establish Spatial Plan Committees and begin developing regional spatial plans, natural environment plans, and land use plans.
31. This creates significant pressure on iwi partners, who must engage intensively in developing the new system while still participating in RMA processes, and heightens the need to ensure statutory acknowledgements and partnership obligations are upheld throughout the transition.
32. The Bills concentrate participation early in the system, through spatial planning, limits-setting, and plan development. This concentration places greater demands on iwi and hapū capacity at the front end and reduces practical backstops later.
33. We recommend:
  - a. Increased clarity be provided in both Bills on fulfilling Treaty settlement obligations conferred on local government.
  - b. Increased clarity relating to how 'equivalent effect' will be expected to be fulfilled by local government.
  - c. Including recognition of Te Ture Whaimana o Te Awa o Waikato in both Bills.

#### **Impacts on the environment**

34. Acknowledging the need to balance economic outcomes, community desires and the use of the environment, it is considered that the emphasis placed on the use of the environment, and direction towards greater allocation of natural resources needs to be balanced with recognition of future sustainability and intergenerational equity within the goals of the Bills.
35. The absence of these considerations may result in land use decisions that breach environmental limits or are only focused on short-term economic results. Similarly, the consideration of "efficiency" within RMA section 7(b) has not been carried over to the new Bills. The lack of reference to efficiency in the Bills means that short-term benefits may be used to justify resource use, regardless of the long-term costs.
36. The purpose of the Natural Environment Bill refers to the "*use, protection and enhancement*" of the natural environment, however, there are currently limited aspects within the goals of the Bill that relate to enhancement. The Council is concerned that this will make it difficult to develop and strengthen mechanisms to achieve enhancement of the environment, whether aspirational or to improve current degradation.
37. The Council considers that the regulatory relief system proposed in the Bills is likely to result in weakened ecosystem health limits or the inability of councils to remedy breaches of the limits if they cannot afford to compensate landowners. The regulatory relief system is also in conflict with goal

11(d) of the Natural Environment Bill “to achieve no net loss in indigenous biodiversity”. Further comments are made in the regulatory relief section below.

38. The Council is concerned that the current transitional provisions will mean that the first regional spatial plans and the first land use plans are created without environmental limits being set. This may lead to further degradation of the natural environment until these plans are able to be updated to reflect environmental limits set in the first natural environment plans.
39. While we support the concept of environmental limits, we have some key concerns with the system as currently proposed. In particular:
  - a. The usefulness of environmental limits is constrained if there is not an ability to set targets (aspirations for a level of environmental quality) and a framework of intervention until the limit/damage is already reached.
  - b. Regional councils, alongside communities, will be responsible for setting limits for ecosystem health. However, national policy direction and national standards will define the scope and extent of councils’ ability to manage the effects of activities. The policy tools to achieve the limits set are constrained.
  - c. There is a pathway provided for “significant infrastructure” to breach environmental limits.
40. We also note there may be other values or uses in relation to which communities would like environmental limits set that are not captured by human health limits or ‘life-supporting capacity’ limits.
41. We recommend:
  - a. Considering the overall impact of the Bills on the natural environment and make changes as necessary to minimise the impact on the ability to maintain, protect and enhance the natural environment.
  - b. Including goals in both Bills that require sustainability, intergenerational equality and efficient use of resources and including a goal in the Natural Environment Bill relating to enhancement of the natural environment.
  - c. Providing for targets and intervention levels to be set to ensure that environment limits do not become ‘pollute up to’ values.
  - d. Allowing additional environmental limits to be set for matters that communities value that are not ‘life-supporting’ (e.g. to protect geothermal surface features).

### **Climate change**

42. The Council considers that the Bills do not presently account for the effective decision-making in a rapidly changing, climate-altered environment. While the Bills establish important policy settings, there remains uncertainty about how their provisions will be enacted and implemented over time, particularly as climate risks intensify and conditions continue to evolve. In practice, decisions made under these Bills will increasingly be required to respond to dynamic and compounding climate impacts rather than stable or historical baselines.
43. The Council considers that greater clarity is needed on how these Bills will align with, and give effect to, future climate adaptation legislation. International best practice increasingly treats climate adaptation frameworks as an integrating mechanism for decision-making where climate risk is material, particularly in relation to land use, resource allocation, and long-term public investment. Without explicit alignment, there is a risk of fragmented decision-making and reduced effectiveness at implementation stage.

44. We recommend:

- a. Adding a clear objective or clause to both Bills requiring national instruments and decision-making criteria developed under the Bills to be aligned with, and informed by, future climate adaptation legislation where climate risk is relevant.

**Regulatory relief**

45. The Council acknowledges the intent of regulatory relief, however we do not support the proposed regulatory relief framework in its current form. We consider that the provisions as drafted should be improved to reduce administrative burden and to minimise the risk of regulatory relief constraining councils from achieving the goals of the Natural Environment Bill. The proposed regulatory relief regime also needs to be considered in conjunction with the impacts of other current central government proposals, including rates capping and the future structure of local government.
46. The inclusion of regulatory relief as drafted is likely to impact councils' ability to protect indigenous biodiversity and sites of significance to Māori, ensure environmental limits are not breached and achieve the proposed goals of the Natural Environment Bill, particularly goals 11(d) and (f)(ii).
47. There are potentially significant financial impacts on local authorities, particularly when considered in the context of the government's current rates capping proposal. While relief (compensation) for physical taking is well-accepted in New Zealand's legislation e.g. under the Public Works Act 1981, relief for regulatory takings is not generally applied to government regulation. The inclusion of regulatory relief in the Bills sets a precedent for funding the imposition of regulation that has been developed, through fully public processes, for good reason.
48. We recommend that regulatory relief provisions do not apply to specified topics already identified in regional and district plans. The specified topics currently identified in plans have been through a public process, including appeal processes; they have community endorsement. Such a retrospective effect would contradict principles of natural justice. It should be made clear that any regulatory relief only applies to the use of land from the date of notification of the proposed land use/natural environment plan.
49. They also should not apply where provisions are imposed at the direction of central government or as the result of Treaty settlement legislation. Further, the exclusions should be extended to properties that have already benefited from grant funding or similar.
50. Further, the administrative burden has the potential to be significant if identifying every land parcel across a district or region that has an overlay for a specified topic, determining whether they qualify for regulatory relief and then what level of relief would be. For example, in the Waikato region, there are close to 20,000 properties that are affected by a Significant Natural Area (SNA). The Council is concerned that the administration of this new system will undermine the efficiency gains made elsewhere in the system.
51. We also note that, because a relief framework has to be prepared for each proposed plan (both land use plans and natural environment plans), landowners would potentially be eligible for relief under two relief frameworks for the same land (albeit for different impacts). For example, both regional councils and territorial authorities are required to provide regulatory relief in relation to sites of significance to Māori, which indicates that a landowner could potentially receive relief for different restrictions on the same land. Similarly, an SNA or area of terrestrial indigenous biodiversity (specified topics in the Natural Environment Bill) could also be an area of high natural character (a specified topic in the Planning Bill) and eligible for relief under both frameworks.
52. It should be made clear that where councils require people to take action to mitigate their negative externalities (e.g. riparian planting to offset impacts of activities), regulatory relief does not apply.

Mitigation measures, such as retiring land to reduce overall discharges, should not be eligible for “relief”; they are being asked to address public cost of their business operation and that is where the cost should fall.

53. The Council is concerned that the ability to appeal local authority decisions on their merits, the open wording of the provisions which allows landowners to make a claim based on the highest-value development potential of land, coupled with the uncertainty in the provisions creates a clear risk of a proliferation of litigation, which is likely to come at an additional cost to local authorities. Where plans have strong/extensive provisions to protect specified topics, it is likely there will be a strong response from affected landowners seeking compensation.
54. A number of the specified topics under the Natural Environment Bill are likely to require rules to meet environmental limits or may be required to be inserted in a plan by a national instrument. Councils may find themselves in the impossible position of being required to have certain rules in place but being unable to afford the likely associated regulatory relief costs, noting also that those costs are unlikely to be accurately determinable at the time the rules are being proposed. For example, rules which prohibit, or even require consent for, the drainage of wetlands (required in order to meet terrestrial indigenous biodiversity goals) are likely to significantly impact the “reasonable use” of that land and be subject to regulatory relief.
55. As with all the national instruments to come, should the government proceed with regulatory relief, it is important that councils have the ability to be involved in the preparation of regulations for regulatory relief to ensure that the proposed process is workable.
56. We recommend:
  - a. Designing relief mechanisms in a way that the financial costs to councils do not prevent regional councils from including rules relating to indigenous biodiversity and sites of significance to Māori, in natural environment plans that are necessary to achieve the goals of the Natural Environment Bill. This could include tightening the threshold for when relief is triggered.
  - b. Exempting existing specific topics identified in current resource management plans from the application of regulatory relief.
  - c. That regulatory relief provisions are not able to be activated where local government is directed to include provisions in plan through legislation, national direction instruments or Treaty settlements.
  - d. Extending the exclusion provisions to capture properties that have already benefited from other types of funding e.g. grant funding.
  - e. Clarifying the interaction between regulatory relief under land use plans and natural environmental plans where a property may be impacted by both.
  - f. Involving local government in the process of preparing regulations for regulatory relief to achieve regulations that are workable and able to be consistently applied.

#### **Ability to achieve goals**

57. The Council recognises the role of national policy direction in particularising the goals, however as currently drafted the statement “*not all goals need to be achieved at all times*” risks some goals not being prioritised and therefore not achieved. When these goals relate to the environment there is a risk that certain values, if lost, cannot be retrieved. We instead recommend the Bills require that all goals are to be achieved where relevant, and national policy direction can further detail how this will occur in particular circumstances.
58. As noted above, the Council is concerned that regulatory relief, combined with the lack of integration between the two Bills, will make it difficult for regional councils to meet some of the goals of the Natural Environment Bill (e.g. no net loss of indigenous biodiversity).

59. While we support the proposed goals (with recommended additions), we note that achieving the goals will require major increases in data gathering, monitoring, state and trend analysis and baseline establishment before environmental limits can be set. Current data available is limited and will require modelling and monitoring to translate into environmental limits. We look forward to guidance and support from central government to achieve the gathering of this data.

60. We recommend:

- a. Amending the Bills to require all goals to be achieved where relevant, to prevent certain goals being prioritised over others
- b. If the government intends for some goals to be prioritised over others, then be explicit in this regard in legislation.
- c. Recognising that a precautionary approach will need to be taken in regard to some environmental limits where data is currently not available.

**Public participation**

61. The Council does not support the proposed restrictions on standing that limit submissions on proposed plans and plan changes to “qualifying residents” of the region or district, as this prevents groups that represent relevant sectors of the community from participating in these processes. This is particularly important given the reduction in participation at the consenting and permitting level.

62. The Council does however support the “qualifying resident” restriction applying to permitting/consenting processes, as proposed in the Bills.

63. We recommend:

- a. Removing the requirement that only “qualifying residents” can submit on proposed plans and plan changes, to instead enable all persons and organisations to submit on these processes.
- b. Retaining the proposed requirement that only “qualifying residents” of a region/district (as well as affected persons) can submit on publicly notified permits/consents.

**Consenting and permitting**

64. There is an expectation that through these Bills a lot more activities will be permitted activities. However, as drafted, the Bills effectively create another activity class (permitted with registration). The process for registering permitted activities strongly resembles a consent process. While there may be a case for registration of some, limited permitted activities, the resourcing implications of registration and the subsequent required monitoring of permitted activities is something which, if done at scale, will potentially overwhelm local authorities.

65. The case for registration is questionable as permitted activity rules are only able to be established where the individual and cumulative effects of the activity are “acceptable” and “anticipated”. Requiring registration at scale is therefore likely to have an associated cost which is out of proportion with any benefits and is contrary to the reform objective of making the resource management system more efficient.

66. It also has the potential to create confusion for landowners who would expect that a permitted activity wouldn’t require them to engage at all with the local authority. If this aspect of the Bills is to be retained, it should be a separate activity class. In the New South Wales planning system, the term “complying” is used for a similar activity class.

67. Additionally, the Council is concerned with the consent expiry extension contained in the transitional provisions within the Bills. This extension, together with the recent extension through the Resource Management (Duration of Consents) Amendment Bill 2025 is impractical and unworkable. There will be a large number of consents due for renewal at the same time, creating a significant workload for local authorities.

68. We recommend:

- a. Creating a separate activity class for those permitted activities that require registration.
- b. Making registration of permitted activities, and any subsequent monitoring, entirely at the relevant permit authority's discretion.
- c. Implementing a range of specific mechanisms and amendments to provide a more workable solution for extending consent expiry that spreads out the renewal of consents to prevent a bottleneck of consents being renewed at the same time.

### Part 3: Submission points on specific clauses of the Planning Bill

Submission point	Clause	Submission	Amendments sought
<b>Part 1 – Preliminary provisions</b>			
69.	3 – Interpretation	<ul style="list-style-type: none"> <li>The goals require the creation of well-functioning urban and rural areas but there is no definition of that term.</li> <li>One of the goals is <i>“to plan and provide for infrastructure to meet current and expected demand”</i> and one of the functions of territorial authorities is to do so. However, the Bill does not include a definition of ‘infrastructure’ except in relation to designations.</li> <li>The proposed definition of ‘contaminated land’ currently only refers to effects on the environment; it is important that this also refers to effects on human health. We recommend the definition of contaminated land in both Bills be replaced with the definition from the (repealed) Natural and Built Environment Act 2023 (NBEA).</li> </ul>	<p>Insert a definition of “well-functioning urban and rural areas”.</p> <p>Insert a definition of ‘infrastructure’. This should include public transport and flood management, river management, and land drainage infrastructure. This should be consistent with the definition used in national direction.</p> <p>Amend the definition for ‘contaminated land’ to match the definition from the NBEA (to include effects on human health).</p>
70.	8 – Treaty of Waitangi/Tiriti o Waitangi	<p>Under the Planning Bill, Treaty recognition is largely embedded through plan outcomes, spatial strategies, and Māori interest goals. This front-loading can improve clarity where plans are strong, but it risks narrowing Treaty application during implementation unless obligations clearly apply across all functions. For Waikato, this shift is material. The Bills remove the general Treaty duty and replace it with confined, descriptive clauses. Although both Bills promise Treaty settlements the “same or equivalent effect,” there is no express hierarchy that gives settlement instruments priority over national policy direction or standards, and the test for equivalence is transitional and uncertain.</p> <p>As mentioned in our overarching comments, absolute clarity must be provided to local government in respect of the Treaty settlement obligations that we are conferred by the Crown. It should not be left to local authorities to determine what this relationship and what these responsibilities are; the Crown should set the scope and parameters of these (if they are to change) and direct, and resource, local government accordingly.</p>	<p>Insert additional provisions in clause 8, to ensure that whilst it is recognising the Crown’s responsibilities in relation to the Treaty of Waitangi, there are no unintended consequences that local government must address as a result.</p>

Submission point	Clause	Submission	Amendments sought
71.	10 – Treaty redress or arrangements to be same or equivalent effect	The Bills provide no guidance on how ‘equivalent effect’ is to be given in practice. In the Waikato region we have joint management agreements, statutory documents that Council must enter into as required by the Crown, with River Settlement Iwi. These agreements point to specific processes and functions that presently exist in the RMA, if the processes and functions are to change or cease, how does this work in practice for councils fulfilling statutory responsibilities?	Insert transitional provisions into the legislation that clearly determine processes and parameters for how ‘equivalent effect’ is to work in practice. Including timing of discussions between government and iwi and how these will impact existing arrangements and policy documents.
<b>Part 2 – Foundations</b>			
<i>Subpart 1 - Core provisions for decision making</i>			
72.	<i>Additional comment – climate change</i>	As discussed in Part 2 of this submission, the Council recommends that greater clarity is given within both Bills as to how they will align with, and give effect to, future climate adaptation legislation.	Add a clear objective or clause requiring national instruments and decision-making criteria developed under the Bill to be aligned with, and informed by, future climate adaptation legislation where climate risk is relevant.
73.	11 – Goals	<ul style="list-style-type: none"> <li>• We support the intent of the goal 1(b) to support and enable economic growth.</li> <li>• We note that the way the system is intended to function with the goals setting the high level direction which is then particularised in national policy direction. Plans are then created in line with the national direction and decision making at the lower level is not required to refer back to the goals. The goals as currently drafted imply that the primary constraint to development is infrastructure, however, there may be other constraints to development, such as highly productive land and water availability. The goals should recognise that development can only occur where there are resources. National policy direction can then ensure that consideration of the ability of the environment to accommodate development occurs through plan making, assisting with good decision making.</li> <li>• The goals also do not recognise the need to consider intergenerational equity.</li> <li>• Goal (1)(f) needs to expand on the requirement to “maintain” public access to and along the coastal marine area, lakes, and rivers, as with the stated approach of</li> </ul>	<p>Add a goal or goals to recognise that development occurs within the limits of life supporting capacity of the environment and the need to safeguard this capacity for future generations, for example:</p> <p>“to plan for development in areas where water and land resources can support the activity”, and subsection 5(2)(a) of the RMA.</p> <p>Amend clause 11(1)(f) to expand the goal to encourage new public access opportunities.</p>

Submission point	Clause	Submission	Amendments sought
		<p>balancing between goals, access will be lost over time if new public access opportunities are not encouraged.</p> <ul style="list-style-type: none"> <li>We support the protection of sites of significance to Māori but note that there are confidentiality, data sovereignty, and equity considerations when identifying these sites.</li> </ul>	
74.	12 – Relationship between key instruments in decision-making	<p>As noted in the comments in Part 2 above, the Council considers there needs to be a link between natural environment and land use plans to ensure that land use plans and private plan changes do not result in environmental limits being breached. The absence of a link risks compromising the ability to achieve goal 11(a) of the Natural Environment Bill; <i>“to enable the use and development of natural resources within environmental limits”</i>.</p> <p>To address this, we recommend that natural environment plans be prepared before land use plans and that a requirement be added that land use plans must not be inconsistent with natural environment plans, to ensure development occurs within environmental limits..</p>	<p>Require natural environment plans to be prepared before land use plans and add a requirement that land use plans must not be inconsistent with natural environment plans, to ensure that development occurs within environmental limits.</p>
75.	14 – Effects outside the scope of this Act and 184/185 Functions of territorial authorities	<p>We consider there are some circumstances where it is unclear whether effects can be managed within the scope of the Planning Bill. For example:</p> <ul style="list-style-type: none"> <li>If a development involves management of stormwater, it is unclear whether the consent authority can only consider the quantity of the stormwater the development produces and a permit authority can only consider the quality of the stormwater produced. If this is the case, and applications are considered in isolation, there is potential for standards and conditions to be applied that are contrary or conflicting, making it difficult to achieve a workable outcome.</li> <li>The clause as drafted may also have impacts on council managed drainage networks which enable ongoing use of productive farmland. Impacts on these networks need to be taken into account in relation to urban development. These networks are designed as a whole; if one part of that network is rendered unusable (through increased level of stormwater from urban development) then the whole of the drainage network may be rendered unusable.</li> </ul> <p>We consider it important that these matters can be managed under the Planning Bill where relevant.</p>	<p>Clarify how consideration of land use effects of a development will consider the alignment with environment limits.</p> <p>Add a new subclause that explicitly enables persons exercising or performing functions, duties, or powers under the Planning Act to consider effects of land use on indigenous biodiversity.</p> <p>Delete clause 14(1)(j).</p>

Submission point	Clause	Submission	Amendments sought
		<p>Further, the council is concerned that there will inevitably be some land use activities that will have adverse effects on indigenous biodiversity, where a permit application is not necessarily triggered in a natural environment plan. This could result in gaps, compromising the ability to achieve goal 11(d) of the Natural Environment Bill relating to no net loss in indigenous biodiversity. To address this, we recommend that territorial authorities be explicitly enabled to consider effects of land use on indigenous biodiversity under this clause.</p> <p>Additionally, we consider that clause 14(1)(j) may be difficult to apply and potentially cause unintended adverse consequences in practice. For example, it is unclear whether transport effects would be excluded due to them being “dealt with” under the Land Transport Management Act 2003 (LTMA). If this was the case, it would risk transport planning and investment decisions being made in isolation and separate to longer term spatial and infrastructure planning under the Planning Act. It is important that there is a two-way relationship between the Planning Act and the LTMA, to recognise the relationship between urban form and land use and transport planning. Transport effects, including in relation to public transport, should not be excluded from consideration under the Planning Act.</p>	
<i>Subpart 3—Key instruments</i>			
76.	31 – Principles for classifying activities	This clause as currently drafted is very broad. The starting assumption for a permitted activity should be that the activity is acceptable, is anticipated, or achieves the desired level of use and development within expected bounds. We recommend amending the wording of the clause to reflect this.	Amend clause 31 by replacing subclause (a) with the wording below: “An activity should be classified as a permitted activity if the activity is acceptable, is anticipated, or achieves the desired level of use and development and: (i) any adverse effects of the activity are known and can be managed; or (ii) a specific assessment of the activity or part of the activity is not required.”

Submission point	Clause	Submission	Amendments sought
<i>Subpart 4 - National instruments</i>			
77.	46 – Process for making national instrument	<ul style="list-style-type: none"> <li>• Clause 46(3) seems unnecessary given the requirement to notify the public and the ability to convene a technical advisory group (TAG). It has the potential for undue influence from particular lobby groups or sectors.</li> <li>• Clause 46(4) should ensure that any TAG established by the Minister is made up of experts in a wide range of fields that are of relevance to the matter, and that those experts represent a balanced field of knowledge. This would negate any potential criticism of a TAG being populated with members that have a particular bias.</li> </ul>	Remove subclause 46(3); and  Amend subclause 46(4) to include an additional subclause 46(4)(a)(iii): “... with membership made up of experts from a wide range of relevant fields that represent a balanced view; and ...”
78.	56 – National policy direction may restrict how goals may be achieved	<p>As discussed in Part 2 of this submission, the Council is concerned by the lack of integration between the two Bills. The national instruments should be key in integrating the system, yet the Minister is not required to consider effects on the natural environment when making national policy direction relating to the achievement of goals.</p> <p>While clause 67 is explicit that regional spatial plans must implement national instruments under both Acts in a way that provides for use and development within environmental limits and Schedule 2 clause 2 requires regional spatial plans to be consistent with environmental limits, this is strategically constrained by the national instruments they are implementing.</p>	Amend clause 56(2) by adding a new subclause: “the direction ensures that use and development of the built environment occurs within environmental limits”.
<b>Part 3 – Combined plan</b>			
<i>Subpart 1 - Requirement for regional spatial plans</i>			
79.	67 – Purpose of regional spatial plans	We strongly support the introduction of mandatory spatial plans for regions. We support having a co-ordinated approach to infrastructure funding and investment by central government, local authorities, and other infrastructure providers. It is important that the regional spatial plan, and therefore investment, is safeguarded against changes in central government policy.	Retain clause 67.
80.	68 – How regional spatial plans promote integration	We support the intent of this clause and the linkages to regional land transport plans and LTPs as these plans are essential for seeing implementation of the RSP.	Retain clause 68.

Submission point	Clause	Submission	Amendments sought
81.	69 – Process agreement for preparation of regional spatial plan	Clause 69 requires the spatial plan committee to consult iwi authorities and requires local authorities to “work with” infrastructure providers, development and sector groups, others with a strong interest in spatial planning, and communities. While consultation has a definite meaning, the meaning of “work with” is ambiguous.	Amend clause 69 to clarify the meaning of the term “work with”.
<i>Subpart 2 – Land use plans</i>			
82.	80 – Core obligations when preparing and deciding land use plan	<ul style="list-style-type: none"> <li>We support the intent of clause 80(3), however, as drafted it sets a low bar for not implementing a provision of a regional spatial plan that has been developed through a collaborative process. The parameters should be tightened so that this provision only applies to where information is genuinely out of date. Further, subclause (b) is too vague. It does not specify the magnitude of the change or for whom the change in circumstances applies. With the current drafting, applicants for a private plan change could argue that they have had a change of circumstances which means they don’t believe they can develop in accordance with the provisions in the RSP.</li> <li>We support flexibility to respond to changes but to achieve integration of the system, the RSP needs to have sufficient weight so that it can’t just be set aside because it causes challenges for a particular land use or development.</li> <li>We support clause 80(4)(c)(iv) requiring regard to be had to any adaptation plans prepared under the Climate Change Response Act 2002.</li> </ul>	<p>Amend clauses 80(3) and (4) to tighten the parameters for when these provisions can be used, particularly in relation to private plan changes.</p> <p>Retain clause 80(4)(c)(iv).</p>
83.	85 – Conflicts between rules and regulations	Te Ture Whaimana o Te Awa o Waikato is the pre-eminent document for the Waikato River catchment. This clause should be amended to reflect section 12 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.	Amend clause to exclude rules that give effect to Te Ture Whaimana o Te Awa o Waikato.
84.	98 – Territorial authority may change plan provisions if authorised by planning consent	We agree that there may be instances where this may be appropriate but it also may enable future change of use to a type that is inappropriate in the location and has a different range of effects or greater adverse effects, without any input from surrounding landowners e.g. a farm supplies store in a rural area being given a commercial zone and the use later changing to a 24-hour fast food restaurant. Also see the suggested change to clause 124 to require mandatory public notification in instances where this clause is used.	Amend clause 98(2) to require consideration of any potential change of use/activity that would be enabled by the change of plan provisions, to ensure that potential adverse effects from a change of use are equivalent or lesser than the effects of the approved use.

Submission point	Clause	Submission	Amendments sought
<i>Subpart 3 - Notification, submissions, and hearings</i>			
85.	124 – Mandatory public notification in some circumstances	Mandatory public notification should be required where an application for planning consent is made under clause 97 which allows the consent authority under clause 144 to amend the land use plan. The community should have the ability to submit on a proposal of this nature as it would result in a permanent change to the land use plan and potentially a much wider range of uses on the site in the future.	Amend clause 124 to add an additional subclause as follows: “(e) the application is made under section 97 to change plan provisions.”
86.	132 – Form and service of submissions	We suggest the reference to the “reasonableness” of a submission should be deleted as it is entirely subjective and will therefore give rise to legal uncertainty as to the legal validity of a submission in the first place (notwithstanding that the decision-maker may later treat it as “invalid”). Whether a submission is “reasonable” or not is a matter for the decision-maker to consider on the basis of evidence/submissions but should not be a determinant of its legal validity at the outset.	Delete the reference to a case that is “reasonable” in clause 132(1)(b).
87.	133 – Striking out submissions	As above, we suggest that the concept of “reasonableness” of a submission should be deleted as it is subjective and will therefore give rise to legal uncertainty as to the legal validity of a submission in the first place.	Delete the reference to “reasonable” in clause 133.
<i>Subpart 4 - Consideration of application and decision</i>			
88.	139 – Consideration of planning consent application	<ul style="list-style-type: none"> <li>The regional spatial plan should be a relevant consideration whether an activity is restricted discretionary or discretionary.</li> <li>This clause specifies the matters the consent authority may consider when considering the grant of a land use consent. There is reference to various effects, but no reference to possible effects on the natural environment. It is inevitable that some land use activities for which a territorial authority is the consent authority will have adverse effects on the natural environment, where there may not necessarily be a permit triggered under the natural environment plan. There should be explicit recognition of such effects and the clear ability for the consent authority to consider them, in clause 139. For example, land use proposals may have adverse noise or lighting effects on threatened species, affect habitats of threatened highly mobile fauna or have direct or indirect effects on waterbodies.</li> </ul>	Amend clause 139 1(d)(iii) by deleting the wording “if the application is for an activity that is a discretionary activity”.  Add an additional subclause to clause 139 1(d): “the natural environment plan or proposed natural environment plan”.
89.	144 - Matters relevant to application for	See comment on clause 98 above.	Amend clause 144(2) to require that the proposed changes are consistent with the regional spatial plan.

Submission point	Clause	Submission	Amendments sought
	consent that authorises change to spatial application of plan provisions	We agree that there may be instances where this may be appropriate, but as drafted there is a risk that it could be used to undermine or be inconsistent with the regional spatial plan.	
<b>Part 5 - Key roles</b>			
<i>Subpart 2 – Ministerial intervention</i>			
90.	204 – Minister may direct local authority to achieve outcome	<p>The Council is concerned with the broad power conveyed by this provision to direct a regional council or territorial authority to take action to <i>"achieve an outcome specified by the Minister"</i>. While the Minister must investigate and make recommendations first, the Bill does not clearly define the boundary between a "national interest" requiring intervention and a legitimate "local variation." This leaves councils uncertain about the extent of their autonomy when their local spatial planning priorities conflict with the Minister's preferred outcomes.</p> <p>Further, if the Minister directs a council to undertake an activity, it is assumed that the funding for that activity will need to be met by the council. Unfunded mandates or, in the case of this provision, unfunded Ministerial direction that is to be funded by ratepayers is not supported.</p>	Amend clause 204 to require that a threshold is set requiring the matter to be of national significance to warrant the use of this power by the Minister, and that, should this power be exercised by the Minister, appropriate funding is also provided to assist the council to achieve the outcomes that are specified.
<b>Part 6 – Enforcement and other matters</b>			
<i>Subpart 2 – Emergency works</i>			
91.	275 - Emergency works and power to take preventive or remedial action	The Council supports provisions under both Bills for designating authorities to undertake emergency works for preventative or remedial action. This enhances the Council's ability to respond effectively to natural hazard events. However, the Council is concerned that the Bill imposes a higher standard than the RMA via the requirement to "minimise" rather than "mitigate" adverse effects, which could be very problematic in an emergency works context.	<p>Retain clauses under both Bills enabling designating authorities to undertake emergency works for preventative or remedial action.</p> <p>Replace the word "minimise" with "mitigate" in clause 275.</p>

Submission point	Clause	Submission	Amendments sought
92.	276 – Planning consents for emergency works	There should be recognition that some emergency works can take some time to complete (sometimes weeks for remedial works), but that notification should occur early on. However, the deadline for making an application is a period after conclusion of the works. We suggest amending this clause to provide flexibility for these instances.	Amend clause 276 as follows: “(1) If an activity is undertaken under section 275, the person (other than the occupier), authority, core infrastructure operator, or lifeline utility who or which undertook the activity must advise the appropriate <del>permit</del> <u>consent</u> authority, within 7 days, that the activity has been, <u>or is being</u> , undertaken. (2) If such an activity, but for section 275, contravenes section 17 and the adverse effects of the activity continue, then the person (other than the occupier), authority, core infrastructure operator, or lifeline utility who or which undertook the activity must apply in writing to the appropriate <del>permit</del> <u>consent</u> authority for any necessary planning consents required in respect of the activity within 30 working days of <u>completion of the work notified</u> <del>notification</del> under subsection (1).”
93.	277 – Emergency works under Civil Defence Emergency Management Act 2002	The concerns stated above in relation to the word “minimise” in clause 275 equally apply to clause 277.  There should be recognition that some emergency works can take some time to complete (sometimes weeks for remedial works), but that notification should occur early on. However, the deadline for making an application is a period after conclusion of the works. We suggest amending this clause to provide flexibility for these instances.	Replace the word “minimise” with “mitigate” in clause 277.  Amend clause 277(2) and (3) as follows: “(2) If an activity is undertaken to which subsection (1) applies, the person who authorised the activity must advise the appropriate <del>permit</del> <u>consent</u> authority, within 7 days, that the activity has been, <u>or is being</u> , undertaken.

Submission point	Clause	Submission	Amendments sought
			(3) If such an activity, but for this section, would contravene section 17 and the adverse effects of the activity continue, the person who authorised the activity must apply in writing to the appropriate <del>permit</del> <u>consent</u> authority for any necessary planning consents required in respect of the activity, within 60 working days of <u>completion of the work notified notification</u> under subsection (2).”
<i>Subpart 4 - Miscellaneous</i>			
94.	292 – Joint regional and district planning documents	It is unclear what the intent of this clause is – does this mean that a single territorial authority can decide to prepare a combined plan on its own? Or that just some territorial authorities in a region can join together to prepare a combined plan so that there ends up being multiple combined plans in a region? This seems contrary to clauses 64 and 65 which require every region to have a regional spatial plan and the boundary of the relevant area to align with the boundary of the relevant region.	Amend clause 292 to clarify how this provision works with clauses 64 and 65.
<b>Schedule 1 – Transitional, savings, and related provisions</b>			
95.	5 – First key instruments under this Act and Natural Environment Act 2025	<ul style="list-style-type: none"> <li>• Clause 5 refers to the “first national policy direction” being issued, however it is unclear from the Bills exactly what this first direction will cover. It is important that all national policy direction relevant to each plan preparation process is issued with sufficient time for local authorities to implement it during plan preparation.</li> <li>• In relation to clauses 5(1)-(3), we stress the importance of allowing sufficient time for engagement with local authorities during development of national policy direction and national standards. Given the significant role of these instruments in the new system, it is important that they are clear, implementable, cover all relevant matters and are sufficiently flexible to work across the country. Input from local authorities and other system users will be critical to ensuring the workability and effectiveness of these new instruments.</li> <li>• In relation to clause 4(a), in order for local authorities to meet the 15-month deadline for notification of regional spatial plans, drafting of these plans will need</li> </ul>	<p>Amend Schedule 1 clause 5(1)(a) to read: “the national policy direction under this Act must be issued <u>and must include the direction required for the preparation of regional spatial plans</u>; and...”</p> <p>Amend Schedule 1 clause (5)4(a) by deleting subclause (i).</p> <p>Amend the timelines stated in the proposed Bills to ensure dependencies of higher-order documents are taken</p>

Submission point	Clause	Submission	Amendments sought
		to be well underway by the time national standards setting the evidence base supporting combined plans is required to be issued. The Council considers this does not allow sufficient time for regional spatial plans to implement the standards.	account of, particularly in regard to the sequencing of national direction.
96.	7 – Process for national instruments that come into force within 9 months of Royal assent	Clause 7(3)(a) states that section 46(1) of the Planning Bill and section 70(1) of the Natural Environment Bill, relating to consultation with iwi authorities, do not apply to national instruments that come into force within 9 months of Royal assent. We are concerned about removing this requirement for iwi input prior to notification, particularly given that the first national instruments issued will be important for guiding the development of regional spatial plans.	Delete Schedule 1 clause 7(3)(a).
97.	17 – Duration of certain existing resource consents extended	<p>This clause applies to all resource consents due to expire during the period commencing at Royal assent of the Planning Act and ending 24 months after the specified transition date.</p> <p>Due to the duration extensions applied by the Resource Management (Duration of Consents) Amendment Act 2025, all consents expired but being relied upon under RMA section 124 as at December 2025 and consents previously due to expire by 31 December 2027 will be extant when the Planning Bill is expected to obtain Royal assent in mid-2026. The effect of the clause 17 transitional provision is therefore that approximately five years' worth of replacement applications, plus replacement applications for consents that were operating in reliance on RMA section 124 at the end of 2025, will all be due to expire on a single date in late 2031.</p> <p>The Council understands that the proposed extension of existing consents is based on the expectation that 46% less consents will be required under the new system than are required under the RMA due to an increased number of permitted activities. However, MfE figures for regional consenting indicate the expectation is that 29% (+/- 4%) less regional applications will be required<sup>1</sup>. Additionally, it is noted that this is on</p>	<p>Implement all of the following mechanisms:</p> <ul style="list-style-type: none"> <li>• Disapply the Discount Regulations to applications to renew consents where an expiry extension has occurred;</li> <li>• Extend consents currently due to expire in 2028 and beyond by a timeframe period beyond the current consent expiry to allow for transition (e.g. by 2-3 years) rather than to a common expiry date 24 months after the transition date<sup>2</sup>;</li> <li>• Disapply any further extension of duration of consents for high risk or effects activities and have them renew as required under their current expiries e.g. discharges to air, point</li> </ul>

<sup>1</sup> [Resource-Management-consent-data-report.pdf](#)

<sup>2</sup> This would space out re consenting workload over time (although we note that consents extended under the 2025 RMA Amendment have already had a common expiry applied to them so this mechanism will not stagger those applications).

Submission point	Clause	Submission	Amendments sought
		<p>the basis of a number of assumptions and will have to be realised in regulations and provisions of national instruments and natural environment plans to be achieved. Therefore, even with increased numbers of permitted activities, approximately 70% of more than five years' of consents will have a common expiry. In addition, many consents will be extended which consent holders will not need for the additional five years and unless they are proactive and surrender them, will continue to be subject to annual charges.</p> <p>We conservatively estimate that for the Waikato region this could be a minimum of 2,000 (and up to 2,500) consent applications, taking into account that 29% less regional activities are estimated to require consents under the new system (but also assuming farm water takes are not included in this category). This takes into account a 'bulge' of farm water take consents that begin to require replacement from 2028 that the Council had been planning to manage renewals for, and we have assumed will all require renewal consent after reform.</p> <p>Therefore, it is likely that the current transitional provisions will result in 2,000 – 2,500 applications for replacement permits being applied for in early to mid-2031. This would be in addition to approximately 350 applications that year for new activities (based on a 29% reduction in applications compared with under the RMA). Further, we expect these applications for new activities will be of medium to high complexity in relation to effects and technical assessment, given that low effects activities are anticipated to be permitted activities.</p> <p>The Council therefore has significant concerns that the proposed broad extension of consents with a single common expiry will create a substantial bulge in workload in 2031, which will be onerous on a number of levels. This includes:</p> <ul style="list-style-type: none"> <li>• Difficulties for consent authorities in managing the large volume of applications, particularly if it follows a period of reduced applications (that could result in loss of experienced consenting staff).</li> </ul>	<p>source discharge of contaminants to waterways, geothermal and hydro-electricity consents;</p> <ul style="list-style-type: none"> <li>• Do not further extend the duration of consents for activities that are construction/development-related and granted for 10 years or less (i.e. not intended to be needed for the longer term); and</li> <li>• Provide explicitly in the Bills that natural environment plans consider rules that stagger replacement application timing where a common expiry otherwise occurs, to avoid application processing bottlenecks for certain activities, e.g. on a catchment basis. This has been used previously by regions for water takes but could be applied to other activity types also.</li> </ul>

Submission point	Clause	Submission	Amendments sought
		<ul style="list-style-type: none"> <li>It will be onerous for applicants with operations that require large numbers of consents (such as operators including government organisations that operate across the country, and territorial authorities).</li> <li>It will stretch beyond capacity the technical experts, supporting both the applicants and assessing councils, required for the appropriate preparation of applications.</li> </ul> <p>We recommend a combination of mechanisms to provide a solution to spread out applications in the period between now and 2031. We consider a combination approach incorporating all of these mechanisms will be required.</p>	
98.	20 – Existing joint management agreements	<p>While the RMA conveys the power to make joint management agreements, a number of joint management agreements are made under settlement legislation. Clause 20 should include recognition of those made under settlement legislation as well so that they continue to have legal effect.</p> <p>If this provision is not intended to relate to joint management agreements developed in accordance with other legislation, i.e. Treaty settlement legislation, then this should be explicitly stated.</p>	<p>Amend Schedule 1 clause 20(1) as follows:  “A joint management agreement made under the RMA <u>or other legislation</u> that exists immediately before the specified transition date continues in effect.” or</p> <p>Include provisions in the legislation that clarify that relationship of joint management agreements developed under other legislation.</p>
<b>Schedule 2 – Spatial plans</b>			
99.	2 – Contents of regional spatial plans	<ul style="list-style-type: none"> <li>Clause 2(2) states that a regional spatial plan must be consistent with environmental limits and clause (3)(1)(b) requires regional spatial plans to include the spatial implications of environmental limits, however environmental limits will be notified as part of the natural environment plan at a later date than regional spatial plans.</li> <li>As drafted, the current wording seems unclear on the ability to include other matters in regional spatial plans. Clause 2(1)(b) refers to subclause (3), but this doesn’t expand on other matters, or make it clear that it relates to other matters.</li> </ul>	<p>See recommended amendment to Schedule 1 clause 5(1)(a).</p> <p>Amend Schedule 2 clause 3 as follows:  “A regional spatial plan must provide for the matters referred to in subsection (1)(b)—  (a) only to the extent that the spatial plan committee considers that identification of these other matters in the regional</p>

Submission point	Clause	Submission	Amendments sought
			spatial plan is of strategic importance to the district, region, or country; and...”
100.	3 – Contents of regional spatial plans: mandatory matters	<ul style="list-style-type: none"> <li>• We support the clear guidance on what should be included in regional spatial plans. We support the inclusion of environmental limits but reiterate that not all environmental limits can be shown spatially, and that the proposed transition timeline as currently drafted means that the first iteration of regional spatial plans will not contain the full range of environmental limits due to natural environment plans being prepared afterward.</li> <li>• Spatial plans should also include spatial attributes from settlement legislation, such as rivers or maunga that have legal status conferred by the Crown, such the Waikato River.</li> <li>• The Waikato River Settlement reflects a principle of proportionate betterment. Activities that impose greater impacts on the river are expected to deliver commensurate improvements to river health and wellbeing. This approach links use and development to restoration, supports intergenerational recovery, and reinforces kaitiakitanga as an active obligation rather than mitigation alone. It moves decision-making beyond maintaining the status quo and requires improvement where pressure increases. Under both new Bills, notification thresholds are tighter and transition timeframes are compressed, with planning, limits-setting, and implementation occurring in parallel. In this context, proportionate betterment is not explicitly required. Environmental limits operate as a compliance floor rather than a recovery trajectory, and once limits are met, the system does not require additional uplift, even where cumulative or strategic impacts increase. Spatial planning provides a means to identify opportunities for applying the concept of betterment to environmental, cultural, and social outcomes being achieved through growth and development.</li> </ul>	<p>Amend Schedule 2 clause 3(1) to include an additional mandatory matter for regional spatial plans to include spatial attributes from settlement legislation, such as rivers or maunga that have legal personhood or special status.</p> <p>Amend Schedule 2 clause 3(1) by inserting an additional subclause: “(m) identify opportunities for growth and infrastructure decisions to support improved environmental, cultural, and social outcomes over time, particularly in areas subject to cumulative pressure or where settlement instruments express restoration or recovery objectives.”</p>
101.	19 – Minister may make decisions on recommendations relating to certain matters	Clause 19(1)(b) provides very broad discretion for the Minister to intervene in decision-making for regional spatial plans. As the plans would have progressed through the process determined in statute this is viewed as unnecessary.	Delete Schedule 2 clause 19(1)(b).

Submission point	Clause	Submission	Amendments sought
<b>Schedule 3 - Further provisions relating to plans</b>			
102.	<i>Additional comment – Schedule 3</i>	Schedule 3 does not carry over the current RMA Schedule 1 clause 1B which clarifies that nothing in that schedule limits any relevant iwi participation legislation or agreement under that legislation. This is an important qualification, particularly for Te Ture Whaimana o Te Awa o Waikato. It should be included in Schedule 3 and apply for both council-initiated and private plan changes.	Amend Schedule 3 to insert an equivalent clause to reflect current RMA Schedule 1 clause 1B.
103.	13 – Audit by chief executive	The Chief Executive of the Ministry for the Environment is given a pre-notification "audit" function that acts as a soft power with unclear legal weight. The Chief Executive may audit a draft plan before notification to assess compliance with national direction. The local authority must "have regard" to the feedback and update its justification report. (Note: This feedback is provided on the local authority's evaluation report, not a justification report). It is unclear what happens if a local authority "has regard" to the feedback but chooses not to implement it. While the Minister has intervention powers, the status of the Chief Executive's audit findings in subsequent litigation (e.g. before an Independent Hearings Panel) is not explicitly defined, potentially creating evidentiary disputes about whether a council failed to implement national direction.	Amend clause 13 to clarify the intent and legal weight of the proposed Chief Executive's "audit" function.
104.	17 – Who may make submissions on proposed plan notified for public submissions  20 - Who may make further submissions	The Council does not support the use of the term "qualifying resident" in Schedule 3 clauses 17 and 20 which limits the ability to lodge submissions and further submissions on a proposed plan to "qualifying residents" of the district or region. This risks excluding groups with relevant expertise or representing a relevant aspect of the public interest from participating if they are not a qualifying resident.	Amend Schedule 3 clause 17(1) by deleting subclause (a) and replacing it with the following: “(1) Any person can make a submission on a proposed plan unless subclause (2) applies. “  Amend Schedule 3 clause 20(1) by deleting subclause (a) and replacing it with the following: (a) A person who made a submission on the proposed plan under clause 17, or who has an interest greater than the general public.

Submission point	Clause	Submission	Amendments sought
105.	18 – Content and form of submissions	The Council supports clause 18(2)(b). The regional spatial plan should not be able to be relitigated in another a lower-level plan.	Retain Schedule 3 clause 18(2)(b).
106.	26 – Recommendations by panel	Schedule 3 clause 26(7) requires that a panel must provide all recommendations and reports no later than 5 months after the date that the local authority published the summary of submissions and further submissions. We consider this is a tight timeframe for hearings to be held and the independent hearings panel to prepare recommendations and reports for the creation, or a review, of an entire natural environment plan or land use plan.	Allow flexibility in the timeframe set under Schedule 3 clause 26 when the panel is considering an entirely new, or a review of an entire, natural environment plan or land use plan.
107.	52 – Grounds for rejecting request	The local authority should have the ability to reject part or all of a change request if it would, or is likely to, breach an environmental limit. It is better to have this addressed at the plan change stage rather than a change going through that cannot actually be accommodated within the limits. We recommend including an additional subclause to provide for this.	Amend Schedule 3 clause 52 as follows: “(g) the request or part of the request would, or is likely to, result in a breach of an environmental limit under the relevant natural environment plan.”
108.	56 - Process for private plan change	<p>The Council is unclear why the process for private plan changes is less onerous than for council-initiated plan changes. As written, there is no requirement for the applicant to prepare an evaluation report or a justification report, or any requirement for the plan change to be audited by chief executive. There may be instances where this is appropriate, so there should be the option for this to occur based on criteria to be set by the chief executive.</p> <p>Schedule 3 Part 2 does not recognise the application of Mana Whakahono a Rohe as per the current RMA Schedule 1 clause 26A.</p>	<p>Amend Schedule 3 clause 56(3) as follows:</p> <p>(3) Clauses 3, <u>10 to 13, 15 15</u> to 40 and 44 to 47 and Part 4 of this schedule apply to the private plan change,—</p> <p>(a) with all necessary modifications, as if a reference to a plan change (including a reference to a proposed plan that includes a plan change) were a reference to the private plan change; and</p> <p>(b) with the modifications set out in subclauses (4) to (7), <u>and</u></p> <p><u>(c) in regard to clause 13, applies where the private plan change meets criteria set for this purpose by the chief executive.</u></p> <p>Include an additional subclause in Schedule 3 clause 56 to reflect current</p>

Submission point	Clause	Submission	Amendments sought
			RMA Schedule 1 clause 26A Mana Whakahono a Rohe.
109.	65 – Duty to prepare relief framework in proposed plan	<p>See the Council’s comments more generally on regulatory relief in Part 2 of this submission.</p> <p>The trigger for regulatory relief is a "significant impact on reasonable use". While "reasonable use" is defined broadly as use where adverse effects are not significant, there is insufficient guidance on how councils must calculate "significant impact." The Bill lists factors like "land value" and "development potential" but lacks a methodology for weighing these against public interest.</p> <p>While clause 65 refers to national instruments and regulations setting requirements for preparing relief frameworks, there is no requirement for the Minister to actually prepare these national instruments and regulations. We recommend amending this clause to require the Minister to prepare national instruments and regulations to set the requirements for regulatory relief frameworks. This will ensure consistency in how regulatory relief is considered and applied, and may assist in reducing disputes with landowners that may or may not benefit from relief.</p> <p>It is also unclear if the regulatory relief framework is subject to evaluation reports or justification reports.</p>	<p>Amend Schedule 3 clause 65(2) to:</p> <ol style="list-style-type: none"> <li>1. Require the Minister to prepare regulations that include methodologies for the matters listing in (a) to (d), and</li> <li>2. Clarify if the regulatory relief framework is subject to evaluation reports or justification reports.</li> </ol>
<b>Schedule 5 – Designations</b>			
110.	<i>General comments – designations</i>	<p>The Council is a requiring authority under the RMA and will be a designating authority under the Planning Bill. We support the continued use of this planning instrument to provide for and protect essential infrastructure. We also support provision to enable existing designations to be “rolled over” into proposed land use plans.</p> <p>We broadly support the Planning Bill’s designation framework, which better aligns long-term infrastructure planning with strategic spatial direction. The introduction of two pathways; the standard process and the spatial planning pathway, will enable earlier and stronger integration with regional spatial strategies. However, we have concerns that if a designation is included in more than one part of the combined plan,</p>	<p>Retain the ability for existing designations to be “rolled over” into proposed land use plans.</p> <p>Amend Schedule 5 so that the listing of designations occurs in only one location within the combined plan.</p>

Submission point	Clause	Submission	Amendments sought
		it could become out of “sync” or inconsistent when changes are made to the designation.	
<i>Part 2 – Designating authorities</i>			
111.	1 – Interpretation	The Council supports having a clear definition of infrastructure in relation to designations and particularly supports the inclusion of subclause (f) relating to drainage systems. However, flood protection schemes and drainage schemes have been excluded. We recommend that flood protection and river management and drainage schemes be included in this clause to ensure that they are recognised as types of infrastructure that may require a designation.	Amend Schedule 5 clause 1 to include flood protection and river management and drainage schemes as types of infrastructure for the purpose of this schedule.
<i>Part 3 – Securing a designation</i>			
112.	13 – Notice of proposed designation	Clause 13 requires that a notice of a proposed designation must include an assessment of effects on the built environment. We recommend that effects on the natural environment should also be assessed at designation stage.	Amend Schedule 5 clause 13(2)(d) as follows: “include an assessment of the effects of confirming the designation on the built and natural environment, with particular regard to environmental limits under the relevant natural environment plan; and”
113.	24 – Recommendations on proposed designation	In making decisions on a designation, the recommending authority should also have regard to consistency or otherwise with the relevant regional spatial plan or a proposed regional spatial plan.	Insert a new subclause under 24(1)(b) as follows: “the regional spatial plan and any proposed regional spatial plan”.
<b>Schedule 8 – Enforcement matters</b>			
114.	2 – Local authority, consent authority, or EPA may require financial assurance	Clause 2 is not clear about the scope of powers to impose financial assurance. Clause 2(2) provides that a permit condition can require a financial assurance, but it is not clear whether this is the sole mechanism via which a financial assurance can be imposed. As drafted, it is not clear whether the general power provided in subclause (1) is qualified by (or subject to) subclause (2) or whether they are “stand-alone” powers. Subclause (4) implies the latter as there would not be a need to notify the person if financial assurances can only be required via the consent process.	Amend Schedule 8 clause 2 to clarify that financial assurance can only be imposed as part of a consent or permit process.  Amend Schedule 8 clause 2(3) as follows: “to provide security for the costs and expenses of remediation, clean-up,

Submission point	Clause	Submission	Amendments sought
		<p>Clause 2(3) describes the purpose of a financial assurance being “to provide security for the costs and expenses of remediation or clean-up in connection with a particular activity.” The Council considers that this should be broadened to include the closure and long-term management of particular uses. In the Waikato region we have examples of financial assurances (bonds) being set up to manage sites in perpetuity such as Martha Mine, Waihi where it is acknowledged that the tailings impoundments, Waihi open pit and the new Northern Rock stack and Gladstone pit will be required to be managed in perpetuity. This purpose would arguably not be within scope of the purpose statement in 2(3).</p>	<p><u>closure or long-term management</u> in connection with a particular activity.”</p>
115.	6 – Amount of financial assurance	<p>Clause 6(b) refers to methods for calculating a bond. We consider there is scope to continue the current practice of permit applicants proposing a method, which may also be acceptable.</p>	<p>Amend Schedule 8 clause 6(b) by the addition of the following: “...<u>or proposed by an applicant for a permit</u>”</p>
116.	10 – Local authority, consent authority, or EPA may review financial assurance	<p>The Council is unclear how the provisions for the review and consequent amendment of financial assurances set out clauses 10 and 11 interrelate with the provisions for a “conditions” review in accordance with clauses 186 – 190 where the financial assurance is imposed via a condition of consent. Having a distinct “review” process for financial assurance conditions seems unnecessary and overly complex for financial assurances that form part of consent/permit conditions.</p>	<p>Amend Schedule 8 clause 10 to clarify that financial assurances that are part of consent/permit conditions are reviewed under clauses 186-190 by the permit authority only, and clause 11 only applies to financial assurances that are imposed outside of a consent/permit condition.</p>
117.	11 – Local authority, consent authority, or EPA may amend financial assurance	<p>Clause 11 is ambiguous in that it is not clear whether the EPA can, of its own initiative, review a financial assurance that has been established through a local authority/consent authority process. We assume this is not intended but we consider the drafting should make this point clear.</p>	<p>Amend Schedule 8 clause 11 to make it clear that the EPA cannot, of its own initiative, review a finance assurance established through a local authority/consent authority process.</p>
118.	13 – Procedure for claim on financial assurance in the event of person’s failure to remediate or clean up	<p>Clause 13(3) specifies a five working day period for notifying the person concerned. In many instances, the minimum notification period will be specified in the bond itself, in which we consider that the bond provision should prevail. We therefore suggest adding the following words to 13(3) “or such other period as may be specified in the Bond Deed whichever is the longer”.</p>	<p>Amend Schedule 8 clause 13(3) by the addition of the following: “...<u>or such other period as may be specified in the Bond Deed whichever is the longer</u>”.</p>

Submission point	Clause	Submission	Amendments sought
119.	19 – Enforcement of financial assurance	The Council strongly supports clause 19(2) as it is important to have a mechanism to enforce financial assurances.	Retain Schedule 8 clause 19(2).
<b>Schedule 10 - Planning Tribunal</b>			
120.	<i>General comment – Planning Tribunal</i>	<p>The Council supports the introduction of the Planning Tribunal and the ability to refer notification decisions for review to the Planning Tribunal.</p> <p>We note that there are some inconsistencies within the schedule where some provisions refer to applications having to be made in the “prescribed form” (e.g. clause 19(1)) and some do not (e.g. clause 17(1)).</p>	<p>Retain Schedule 10.</p> <p>Fix inconsistencies within the schedule.</p>
121.	15 – Requests for further information or to commission report	<p>Clause 15(4) in relation to reviews of requests for information states that <i>“if the tribunal confirms the request for information, the time remaining to respond to the request resumes from the date on which the application was filed with the tribunal.”</i></p> <p>This seems unreasonable as there may no longer be adequate time to procure additional work or information required to satisfy the request.</p>	Amend Schedule 10 clause 15(4) so that the time remaining to respond to the request resumes from the date that the Planning Tribunal’s determination is notified to the parties.
122.	24 – Review by Planning Tribunal or appeal to Environment Court	<p>The Council notes the subjectivity inherent in clause 24(4)(b) (“substantively amend”) and considers the uncertainty unhelpful and inappropriate given it sets a boundary on the Planning Tribunal’s jurisdiction.</p> <p>We are also concerned that in some instances, a person may challenge a decision by applying for a review to the tribunal or appealing to the Environment Court in certain non-notified cases. This concurrent jurisdiction could lead to confusion regarding the appropriate venue for specific legal challenges.</p>	<p>Amend Schedule 10 clause 24 to:</p> <ol style="list-style-type: none"> <li>1. Add criteria for what can be considered as a substantial amendment to a permit or consent.</li> <li>2. Remove the dual jurisdiction between the Planning Tribunal and the Environment Court.</li> </ol>
123.	28 – Hearings and rehearings	We do not support clause 28(3)-(6) which allows for a second Planning Tribunal hearing if applied for after an earlier hearing. It also seems inappropriate to challenge the first decision by going back to the same decision-maker; it is more appropriate for this sort of challenge to go to the Environment Court. It also goes against the stated aim of reform to reduce bureaucracy and expedite decision-making.	Delete Schedule 10 clause 28(3)-(6).
124.	32 – Planning Tribunal may order costs	It is unclear as to whether costs can be awarded under clause 32 other than in circumstances where there are vexatious or frivolous proceedings, cases outside the Planning Tribunal’s jurisdiction, delays caused by parties etc. This clause should be	Amend Schedule 10 clause 32 to clarify the circumstances in which costs can be awarded.

Submission point	Clause	Submission	Amendments sought
		amended to make it clear whether costs can be awarded, outside of those circumstances, to a successful party and/or against an unsuccessful party.	
<b>Additional comment</b>			
125.	Fast-track Approvals Act 2024	Once the new plans provided for in this Bill and the Natural Environment Bill are in place, the Fast-track Approvals Act 2024 should be amended to remove the ability for it to be used for urban development, as the issues under the RMA that necessitated the fast-track legislation will no longer be in play. There should not be a need to do fast tracked urban development once there is a regional spatial plan in place.	Amend the Fast-track Approvals Act 2024 to remove the ability to fast-track urban development.

#### Part 4: Submission points on specific clauses of the Natural Environment Bill

Submission point	Clause	Submission	Amendments sought
<b>Part 1 – Preliminary provisions</b>			
126.	3 – Interpretation	<ul style="list-style-type: none"> <li>The proposed definition of ‘comparative permitting process’ is “<i>the permitting process that includes a comparison of the merits of competing applications described in sections 208 to 214</i>”. We consider the term “merits” to be unclear in this context, and clauses 208-214 do not clarify what is meant by the term. It is not clear whether it relates to economic, environmental or social benefits or something else. For example, a local sawmill might have high “social merit” but low “environmental merit”. Which is more important? We recommend the definition be amended to provide for clearer interpretation and application.</li> <li>The definition of ‘contaminant’ should explicitly include water, as geothermal water discharged into freshwater is a contaminant and vice versa.</li> <li>We query the proposed definition for ‘existing joint management agreement’. While the RMA conveys the power to make joint management agreements, a number of existing joint management agreements were made under settlement legislation. The definition should therefore be amended to reflect this.</li> </ul>	<p>Amend the definition of ‘comparative permitting process’ to provide for clearer interpretation and application, including to clarify the meaning of the term “merits” in this context.</p> <p>Amend the definition of ‘contaminant’ to specifically include water as follows: “includes any substance including <u>water</u>, ...”</p> <p>Amend the definition of ‘existing joint management agreement’ to reflect that some existing JMAs were made under legislation other than the RMA.</p>

Submission point	Clause	Submission	Amendments sought
		<ul style="list-style-type: none"> <li>• There is no definition of “joint management agreement”, despite this term being used within the Bill. There should be a definition based on the RMA definition to assist in re-negotiations on existing joint management agreements and negotiations on new ones.</li> <li>• We request that the definition of ‘long-lived infrastructure’ includes flood control and protection works, river management works, and land drainage works carried out by, or on behalf of, a local authority.</li> <li>• We recommend the term ‘management unit’ should be expanded to also account for scenarios where a management unit may be a defined geographic volume, for example, a geothermal system.</li> <li>• The definition of ‘market-based allocation process’ uses the phrase “competitive pricing process”. “Competitive” and “pricing” are not used elsewhere in the Bill. We query whether this is referring to a “comparative permitting process”.</li> <li>• We recommend the term ‘minerals’ be replaced with “geo-minerals”.</li> <li>• The definition of ‘natural hazard’ does not currently include soils that contain concentrations of naturally occurring contaminants, which we note was included under the (repealed) Natural and Built Environment Act 2023 (NBEA) definition of natural hazard. We recommend these soils should be included in the definition, as this is helpful for ensuring appropriate management of this specific hazard which has often been neglected and or poorly managed under the existing RMA regime. Acid sulfate soils are an example of a naturally occurring hazard when disturbed.</li> <li>• The definition of ‘natural environment’ excludes people/humans however regional councils have a responsibility around assessing, managing and monitoring effects that impact on human health limits (e.g., air, water and soil quality). Further, clause 46 (Purpose of environmental limits) includes protecting human health. We therefore query whether the definition of ‘natural environment’ should include humans/people.</li> <li>• Further, we consider the definitions ‘natural environment’, ‘natural and physical resources’ and ‘natural resources’ need to be reconciled. We assume that ‘natural resources’ would be a subset of both the ‘natural environment’</li> </ul>	<p>Add a definition of “joint management agreement” based on the definition in the RMA.</p> <p>Amend the definition of ‘long-lived infrastructure’ to include flood control and protection works, river management works, and land drainage works carried out by, or on behalf of, a local authority.</p> <p>Amend the definition of ‘management unit’ as follows: “means a defined geographic area, <u>or when relevant, a defined geographic volume (e.g. geothermal system), within which an environmental limit applies.</u>”</p> <p>Amend the definition of ‘market-based allocation process’ to clarify the use of the phrase “competitive pricing process” and replace with “comparative permitting process” if relevant.</p> <p>Replace the term ‘minerals’ with ‘geo-minerals’.</p> <p>Amend the definition of ‘natural hazard’ by adding “soils that contain concentrations of naturally occurring contaminants”.</p> <p>Clarify how excluding people/communities from the definition of ‘natural environment’ impacts the rest of the Bill,</p>

Submission point	Clause	Submission	Amendments sought
		<p>and ‘natural and physical resources’, however the definitions currently use different terminology. This has potential to cause confusion for implementation. Specifically, we note:</p> <ul style="list-style-type: none"> <li>○ The ‘natural environment’ definition does not include any other form of life besides plants and animals (and currently includes plants twice). This should include other forms of life (e.g. bacteria, fungi) and should also refer to “indigenous biodiversity”.</li> <li>○ The ‘natural and physical resources’ definition also does not include any other form of life besides plants and animals (e.g. bacteria, fungi), which should be included.</li> <li>○ In reconciling the definitions, it is important to retain the full definition of natural environment as it relates to the overall purpose of the Bill.</li> </ul> <ul style="list-style-type: none"> <li>● The proposed definition of ‘natural resource use activity’ is <i>“an activity that involves the allocation of natural resources described in section 223”</i>. However, we note that use and allocation are not the same thing; therefore, the definition should be rephrased to reflect this.</li> <li>● We query the inclusion of territorial authorities within the proposed definition of ‘permit authority’, as permits appear to be the sole domain of regional authorities under the Natural Environment Bill.</li> <li>● We have identified the following issues with the drafting of the definition of ‘qualifying resident’: <ul style="list-style-type: none"> <li>○ There is no definition of “infrastructure” or what it means to provide it within the Bill, including whether that includes provision of infrastructure for private use.</li> <li>○ It is not clear how “operates” is to be defined in the context of <i>“(d) a person, other than a natural person, that has an office, or operates, in the district”</i>.</li> <li>○ The definition in the Natural Environment Bill is “in relation to a region”, however as drafted (d) refers to “the district”.</li> </ul> </li> <li>● The term ‘use’ is defined but only in respect of the use of land. We suggest it would be helpful for the Bill to also define “use” in the context of the use of</li> </ul>	<p>considering the need to assess and maintain human health limits and the ability to consider effects on humans (particularly health) where a human health limit has not been set. Consider adding a reference to people/humans within the definition of ‘natural environment’ to address gaps.</p> <p>Ensure the definitions of ‘natural environment’, ‘natural and physical resources’ and ‘natural resources’ are aligned and appropriately cover all relevant components.</p> <p>Amend the definition of ‘natural resource use activity’ to “means the use of allocated natural resources described in section 223.”</p> <p>Delete or clarify the inclusion of territorial authorities within the definition of ‘permit authority’.</p> <p>Redraft the definition of ‘qualifying resident’ to:</p> <ul style="list-style-type: none"> <li>● Clarify the meaning of (b)</li> <li>● Clarify the meaning of “operates”</li> <li>● Amend (d) to refer to the “region” rather than “district”.</li> </ul> <p>Amend the definition of ‘use’ to also include the context of the use of water.</p>

Submission point	Clause	Submission	Amendments sought
		<p>water as envisaged in clause 20(1). The meaning of “use” in this context has always been uncertain and the subject of debate under the RMA.</p> <ul style="list-style-type: none"> <li>The definition of ‘water’ replicates that in the RMA and excludes “<i>water in any form while in any pipe, tank, or cistern</i>”. This has led to a legal question as to whether water in a culverted stream is ‘water’ under the definition. This should be clarified.</li> </ul> <p><u>Additional definitions</u></p> <ul style="list-style-type: none"> <li>We request that a definition be added for “contaminated land”. We recommend that the definition in both Bills be based on the wording that was used in the NBEA: <ul style="list-style-type: none"> <li><i>“contaminated land means land where a contaminant is present— in any physical state in, on, or under the land; and in concentrations that— exceed an environmental limit; or pose an unacceptable risk to human health or the environment.”</i></li> </ul> </li> <li>We note that no definition is included for “industrial or trade premises”, however clause 21 specifically refers to this term with regard to allowed and prohibited discharges. Without a definition, this will create uncertainty for enforcement. We note the RMA contains a definition for this term, which could be added to this Bill.</li> <li>The term “significant adverse effect” is used in many places within the Bill however it is not defined in the interpretation section. Without definition this term will cause uncertainty and debate.</li> <li>“Terrestrial indigenous biodiversity” is a specified topic in the Bill but is not defined. It is particularly important that it is clear what this refers to because regulatory relief is only required for “terrestrial indigenous biodiversity”. We are unsure, for example, whether wetland vegetation is considered terrestrial.</li> </ul> <p><u>Additional comment</u></p> <p>The definition of ‘national instrument’ implies that the term “national policy statement” is redundant, however there are references in the Bill to “policy</p>	<p>Amend the definition of ‘water’ to clarify whether water in a culverted stream is included.</p> <p>Add a definition for ‘contaminated land’ using the definition from the NBEA and amend the definition in the Planning Bill to align with this.</p> <p>Add the definition of ‘industrial or trade premises’ from the RMA.</p> <p>Add a definition for the term ‘significant adverse effect’.</p> <p>Add a definition for ‘terrestrial indigenous biodiversity’.</p> <p>Reconcile the use of the terms ‘national instrument’, ‘national policy statement’, ‘policy statement’ and ‘national policy direction’ throughout the Bills and ensure all relevant terms are defined.</p>

Submission point	Clause	Submission	Amendments sought
		statement” (e.g. in clauses 217 and 260). Similarly, there is a definition of ‘national policy direction’, however in some places the Bill uses the term “national direction”, which is not defined. To avoid implementation difficulties, we recommend the use of terms be reconciled throughout both Bills and it be ensured that all relevant terms are defined.	
127.	5 – Transitional, savings and related provisions	This clause applies Schedule 1 clause 17 of the Planning Bill. The Council has significant concerns with this clause - please refer to our comments in Part 3 of this submission.	Refer to our recommended amendments in relation to Schedule 1 clause 17 of the Planning Bill in Part 3 above.
128.	6 – Act binds the Crown	Clause 6(2) states that <i>“This Act does not apply to any work or activity of the Crown that (a) is a use of land within the meaning of section 17...”</i> . However, we note that clause 17 does not describe the meaning of use of land; this is provided for in the Interpretation section.	Amend clause 6(2)(a) to “regulated by section 17...” or similar.
129.	8 – Treaty of Waitangi/Tiriti o Waitangi	Under the Natural Environment Bill, Treaty references are more closely tied to natural environment functions, limits, and action plans. This front-loading can improve clarity where plans are strong, but it risks narrowing Treaty application during implementation unless obligations clearly apply across all functions. For Waikato, this shift is material. The Bills remove the general Treaty duty and replace it with confined, descriptive clauses. Although both Bills promise Treaty settlements the “same or equivalent effect,” there is no express hierarchy that gives settlement instruments priority over national direction or standards, and the test for equivalence is transitional and uncertain.	See amendments sought in submission points 70 and 71.
130.	10 – Treaty redress or arrangements to be given same or equivalent effect	Refer to Part 2 of this submission for our comments in relation to Māori interests and the Treaty of Waitangi/Tiriti o Waitangi, and to submission points 70 and 71.	See amendments sought in submission points 70 and 71.
<b>Part 2 - Foundations</b>			
<i>Subpart 1 – Core provisions</i>			
131.	<i>Additional comment – climate change</i>	As discussed in Part 2 of this submission, the Council strongly recommends that greater clarity is given within both Bills as to how they will align with, and give effect to, future climate adaptation legislation.	Add a clear objective or clause requiring national instruments and decision-making criteria developed under the Bill to be aligned with, and informed by, future climate

Submission point	Clause	Submission	Amendments sought
			adaptation legislation where climate risk is relevant.
132.	11 – Goals	<ul style="list-style-type: none"> <li>• The Council is concerned that the goals as drafted are insufficient to guide the responsibilities and functions given to regional councils in relation to the coastal marine area (CMA). Public access, natural character and natural features and landscapes are all important values that currently direct the management of the CMA. The responsibility for the management of outstanding natural features and landscapes, and high natural character, are given to territorial authorities in the Planning Bill, despite these values existing within the CMA; the management of which is assigned to regional councils under clause 221 of the Natural Environment Bill. Therefore, it is currently unclear how these values are to be managed and by whom. We recommend this be clarified in clause 221, with corresponding goals added to clause 11.</li> <li>• Further, we are concerned that the separation of responsibilities and effects to be managed under each Bill does not sufficiently allow regional councils to manage effects on physical features valued outside of their resource provision (e.g. wetlands and geothermal features), despite this being an important part of managing the <i>“use, protection and enhancement of the natural environment”</i> as stated in the Bill’s purpose. Therefore, we recommend that a goal be added to clause 11 relating to the protection of outstanding natural landscapes and features and areas of high natural character within the coastal environment, wetlands, lakes, rivers, and their margins and geothermal surface features.</li> <li>• The Council is concerned about the lack of reference to “sustainable use” or “sustainable management” within the goals (and within clauses 221-223) as well as the lack of reference to future generations. We consider these references are important for ensuring that management of the natural environment is not only focused on short-term economic results. Further, we note that provisions relating to environmental limits (e.g. clause 57) require consideration of change over the long term, implying a need to think about future generations.</li> </ul>	<p>Add a goal/s relating to the protection of outstanding natural features and landscapes within the coastal environment, wetlands, lakes, rivers, and their margins and geothermal surface features and areas of high natural character within the coastal environment, wetlands, lakes, rivers, and their margins and geothermal surface features.</p> <p>Add a goal relating to maintaining and enhancing public access within the CMA.</p> <p>Add goals relating to sustainable use or sustainable management, future generations and the efficient use of resources.</p> <p>Add a goal relating to enhancement of the natural environment.</p> <p>Amend goal 11(c) as follows: "to protect human health from harm caused by the discharge of contaminants, <u>either directly or indirectly and including cumulative effects</u>"</p> <p>Retain goal 11(d) as drafted.</p> <p>Add the words “and associated works to” to the end of goal 11(e).</p>

Submission point	Clause	Submission	Amendments sought
		<ul style="list-style-type: none"> <li>• Similarly, we note that the consideration of “efficiency” within RMA section 7(b) has not been carried over to the new Bills. We understand “efficiency” in this context to mean that the use of natural resources should be enabled when the benefits outweigh the costs and will continue to do so over time. The lack of reference to efficiency in the Bills means that short-term benefits may be used to justify resource use, regardless of the long-term costs.</li> <li>• We note that the purpose of the Bill includes the “<i>use, protection and enhancement</i>” of the natural environment, however, there are currently no aspects within the goals in clause 11 that relate to enhancement of the natural environment. The Council is concerned that this will make it difficult to create/justify mechanisms to achieve enhancement of the environment – whether aspirational or to improve current degradation.</li> <li>• We query whether the current wording within goal 11(c) “<i>harm caused by discharge of contaminants</i>” adequately covers discharges and other processes caused by contaminants/discharges and/or their effects, including cumulative impacts that may impact human health. We consider it could be made clearer that this includes secondary processes and indirect effects on human health. For example, contaminant → elevated nitrate → algal bloom → toxins → human health impact. In this instance, the “harm to human health” is from algal toxins, not directly from the contaminants themselves.</li> <li>• We support goal 11(d) “<i>to achieve no net loss in indigenous biodiversity</i>”.</li> <li>• We support goal (e) relating to natural hazards but suggest adding “and associated methods” to the end of this goal. A large part of the work regional councils do in managing the effects of flood hazards relates to physical works; these additional words would expressly support this.</li> <li>• We support the protection of sites of significance to Māori but note that there are confidentiality, data sovereignty, and equity considerations when identifying these sites.</li> </ul>	<p>Amend clause 11 to clarify that protection of sites of significance to Māori must not be conditional on public identification where this would conflict with tikanga or data sovereignty considerations.</p>
133.	12 – Relationship between key instruments in decision making	While we support the intent of clause 12, as discussed in Part 2 of this submission, the hierarchy of instruments set out in this clause is confused by the fact that the human health limits and ecosystem health limits influence all the other instruments in the system (which we support), however ecosystem health	Amend the Bills to address the sequencing issue with the development of environmental limits occurring after preparation of national instruments and the regional spatial plan.

Submission point	Clause	Submission	Amendments sought
		<p>limits are proposed to be notified in the final stage of plan development under the Bills, as part of natural environment plans. The Council is concerned that this sequencing issue may risk environmental limits being compromised and consider the Bill should be amended to address this.</p> <p>There is also little detail in the Bills about how natural environment plans are to integrate with land use plans. We are concerned that without a requirement for land use plans to consider the natural environment plan for the region, land use plans, including plan changes, may enable development that would result in a breach of an environmental limit. This speaks to the need to review the Bills for alignment.</p>	<p>Require natural environment plans to be prepared before land use plans and add a requirement that land use plans must not be inconsistent with natural environment plans, to ensure that development occurs within environmental limits.</p>
134.	14 – Considering effects of activities	<p>Similar to our comments on clause 11 above, the Council is concerned that the proposed separation of effects to be managed by the two Bills will result in gaps, where important effects on natural environmental features are unable to be considered in permitting or consenting processes. In particular:</p> <ul style="list-style-type: none"> <li>The Council is concerned that the limitation to considering effects on <i>“natural resources...and indigenous biodiversity”</i> under clause 14(a)(ii)), as well as the limitation in subclause (b) will make unclear or impede the ability for regional councils to protect physical features valued for other reasons (e.g., geothermal surface features, wetlands, karst, coastal features or cliffs), despite these being affected by activities managed under the Natural Environment Bill. For example, an application for a geothermal groundwater take may impact a geyser; a geyser is a special feature worth protecting but is not technically a “resource”. In situations such as this, there may not necessarily be a corresponding application triggered under the Planning Bill, which would mean there is no process or mechanism to consider effects on these features.</li> </ul> <p>To address this gap, we recommend that effects on outstanding natural landscapes and features and areas of high natural character within the coastal environment, wetlands, lakes, rivers, and their margins and geothermal surface features should be explicitly provided for as a matter than can be considered under the Natural Environment Bill.</p>	<p>Insert a new subclause as follows:  <u>“(ba) despite subsection (b) may consider:</u></p> <ol style="list-style-type: none"> <li><u>Effects on outstanding natural features and landscapes within the coastal environment, wetlands, lakes, rivers, and their margins, and geothermal surface features; and</u></li> <li><u>Effects on areas of high natural character within the coastal environment, wetlands, lakes, rivers, and their margins, and geothermal surface features; and</u></li> <li><u>Effects of noise on indigenous species.”</u></li> </ol> <p>Replace the term ‘natural resources’ in 14(a)(ii) with ‘natural environment’.</p> <p>Amend the wording of subclause (b) to ensure that all effects relevant to the goals of the Natural Environment Bill, including</p>

Submission point	Clause	Submission	Amendments sought
		<ul style="list-style-type: none"> <li>• Separate, but related to the above, the use of the term ‘natural resources’ in this clause does not align with Schedule 2 clause 5 which uses ‘natural environment’. We recommend that ‘natural environment’ also be used in clause 14 for consistency. This would also partially assist with addressing the issue identified above.</li> <li>• It is not clear within the Bills whether regional councils have the ability to manage noise effects. We consider there should be an ability under the Natural Environment Bill to manage effects of noise on indigenous species, to ensure that effects on indigenous biodiversity can be managed holistically under this Bill.</li> <li>• Further to the above, we consider that clause 14(b) <i>“must not consider effects regulated under the Planning Act 2025”</i> will be challenging to delineate in some circumstances, for example where natural hazards effects or effects on sites of significance to Māori are relevant under the Planning Bill, they are then not able to be considered under the Natural Environment Bill, despite management of natural hazards and providing for Māori interests being goals of this Bill.</li> </ul> <p>In relation to the current drafting of clause 14, we additionally note that 14(a) <i>“must give particular consideration to effects such as the following...”</i> creates uncertainty and could be made clearer as:</p> <ul style="list-style-type: none"> <li>• The use of the words “such as” implies that there are other matters that might be included in this list, which is unclear in this context.</li> <li>• It is also not clear why the matters in (i)-(iii) have been selected for system users to give particular consideration to. We note that effects on human health and social and cultural effects, for example, are not included.</li> </ul>	<p>natural hazards effects and effects on sites of significance to Māori, can be considered under this Bill.</p> <p>Consider amending subclause (a) to:  <i>“must give particular consideration to the following effects, as far as each is applicable:”</i></p> <p>Consider whether effects on human health, social and cultural effects should also be listed in clause 14(a).</p>
135.	15 – Considering adverse effects of activities	<ul style="list-style-type: none"> <li>• The use of the words “where practicable” at the end of clause 15(1)(a)(i) is likely to create debate between permit authorities and applicants. This, in combination with subclause (4), could lead to a cumulative weakening of protections for the natural environment.</li> <li>• We note that the impacts of subclause (2) are difficult to fully understand without seeing the detail of the national instruments. It is important that sufficient time is allowed for development of the national instruments,</li> </ul>	<p>Delete clause 15(3).</p> <p>Or, if retained, amend clause 15(3) to clearly articulate the intended purpose of the clause, ensure that offsetting or compensation can lawfully occur through mechanisms other than permits (including freshwater farm</p>

Submission point	Clause	Submission	Amendments sought
		<p>including for engagement with local authorities, to ensure that any direction on the matters in this subclause is workable.</p> <ul style="list-style-type: none"> <li>• Clause 15(3) states <i>“If no national instrument is in force to guide or direct the use of offsetting and compensation, the management of adverse effects must not be undertaken except in the context of determining an application for a permit.”</i> It is unclear what this clause is intended to achieve, particularly because it applies to <i>“any person exercising or performing functions, powers, or duties under this Act.”</i> Read literally, it appears to prohibit any use of offsetting or compensation outside a permit application process where a national instrument is not in force to guide or direct its use. This has several unintended and problematic consequences. For example, it would prevent councils from managing adverse effects associated with essential flood management, erosion control, and emergency works, where offsetting or compensation measures may be required but are not processed through permits. <p>More fundamentally, clause 15(3) is inconsistent with Schedule 5, which anticipates offsetting or compensation being provided for through freshwater farm plans (FWFPs) when enabled in a natural environment plan. As a FWFP is not a permit process, clause 15(3) would make offsetting or compensation in farm plans unlawful unless a national instrument, which does not include regulations made by the Minister in accordance with Schedule 5, is already in force. This undermines the intent of Schedule 5 and creates operational dead-ends.</p> </li></ul>	<p>plans), where appropriate, and avoid unintended constraints on mandatory public functions such as flood management, natural hazard mitigation, and other regional council activities.</p>
<i>Subpart 2 – Duties and restrictions</i>			
136.	16 – Overview of references to rules	<p>Clause 16(1) explains the meaning of words/phrases used in the Bill, however, (2) states that <i>“This section is only a guide.”</i> This seems inappropriate in a section that is effectively setting out definitions.</p>	Delete clause 16(2).
137.	18 – Restrictions on use of coastal marine area	<ul style="list-style-type: none"> <li>• Clause 18(1)(b) refers to: <i>“erect, reconstruct, place, alter, extend, remove, or demolish any structure...”</i>. The term “erect” should be replaced with “construct” as “erect” is not defined whereas “construct” is (albeit in the Planning Bill). The definition of ‘construct’ also makes clear that it does not</li> </ul>	<p>Replace the word “erect” with “construct” in clause 18(1)(b).</p> <p>Amend clause 18(3)(b) to clarify whether “that area” refers to the “common marine</p>

Submission point	Clause	Submission	Amendments sought
		<p>include “maintenance”; this is useful in that it clarifies that clause 18 does not restrict maintenance of structures on riverbeds.</p> <ul style="list-style-type: none"> <li>• Clause 18(3)(b) refers to a prohibition on taking material from “that area”. However, it is unclear from the drafting whether “that area” refers to the “common marine and coastal area” (in clause 18(3)(b)) or the “coastal marine area” (in clause 18(3)). This should be clarified.</li> <li>• It is unclear whether regional functions for the regulation of noise in the CMA have been carried through into the Bill. Clause 222 (Functions of regional councils) refers only to noise in the CMA arising from aquaculture and only to the extent that it affects fisheries. This should be clarified in clause 222, and any corresponding amendments made to clause 18.</li> <li>• We note that subclauses (2) and (5) are duplicated in meaning although drafted slightly differently.</li> </ul>	<p>and coastal area” or the “coastal marine area”.</p> <p>Amend clause 222 to clarify whether regional functions are responsible for the regulation of noise in the CMA under the Natural Environment Bill and make any corresponding amendments to clause 18.</p> <p>Consider whether clauses 18(2) and (5) could be consolidated.</p>
138.	19 – Restrictions on use of beds of rivers and lakes	Clause 19(3) only protects plants and animals; there are other species that use rivers and lakes, such as fungi, that should also be protected.	Amend clause 19(3) to ensure that all relevant species, such as fungi, are also protected in relation to the use of beds of lakes and rivers.
139.	20 – Restrictions relating to water	We consider clause 4(c)(ii) should state <i>“the taking or use does not, or is not likely to, have an adverse effect on any natural resources;”</i> to be consistent with the other subclauses, as being certain that there is no adverse effect is a very high bar.	Amend 4(c)(ii) as follows: <i>“the taking or use does not, or is not likely to, have an adverse effect on any natural resources;”</i>
<i>Subpart 3 – Key instruments</i>			
140.	31 – Meaning of rule	This clause clarifies the meaning, and therefore the permissible scope, of rules, which can also include national rules/regulations. However, there are existing “rules” in national regulations that do not fall into any of the categories specified. For example, Regulation 26 (Minimum setback for land used for intensive winter grazing) and Regulation 27 (Critical source area) of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, and all of the regulations in the Resource Management (Stock Exclusion) Regulations 2020. Rules/regulations of this type should be listed in clause 31.	Add an additional subclause: <u>“(1)(g) specifies minimum practice standards which must be met.”</u> or similar.
141.	32 – Principles for classifying activities	These comments should be read in conjunction with our comments on clause 164.	Add a new subclause as follows:

Submission point	Clause	Submission	Amendments sought
		<p>Clause 32(a) includes the requirement for all permitted activities that “(ii) there is sufficient allocation for any anticipated cumulative effect without breaching an environmental limit.” This is effectively an equivalent of RMA section 70(1) which prohibits permitted activity rules with certain effects.</p> <p>Assuming environmental limits for ecosystem health may be in a similar range to current National Policy Statement for Freshwater Management 2020 bottom lines (or more stringent where safety margins are built in as per the reform system), we are aware that many locations across the Waikato region are already in breach of bottom lines. This mirrors the issue identified in relation to RMA section 70(1) where case law confirmed that permitted activity rules could not be established where the section 70 bottom line standards were already in breach and the discharge would potentially exacerbate that breach. The Resource Management (Consenting and Other System Changes) Amendment Act 2025 amended section 70 to provide for permitted activity rules (in relation to three of the standards) in these circumstances, subject to certain requirements. While we support clause 32, we consider it should also address the situation where there is already a breach of a limit, and a discharge permit is sought for a discharge activity containing contaminants that might potentially exacerbate that breach. We consider that the regional council should not be prohibited from providing for these activities as a permitted activity in those circumstances so long as an approach similar to that in RMA section 70(3) is taken.</p> <p>We also note the following in relation to clause 32:</p> <ul style="list-style-type: none"> <li>• There is nothing in the principles within clause 32 that clearly refers to effects on people.</li> <li>• It is not clear what the use of the word “anticipated” is intended to mean in clauses 32(a)(i)(A), (a)(ii), (b)(i) and (c)(iv). When related to an activity, does this refer to an activity “anticipated” by a natural environment plan, or something else?</li> <li>• Where subclauses (a)(i)(A) and (b)(i) state “achieves the desired level of use, development, or protection of the natural environment”, there is no</li> </ul>	<p><u>“Despite sub-section (a)(ii), a permit authority may include in a Natural Environment Plan a rule that allows as a permitted activity a discharge that may allow the breach of an environmental limit (either by itself or in combination with any other activity) if the permit authority—</u></p> <p><u>(a) is satisfied that, at the time of proposing the rule, the environmental limit is already breached; and</u></p> <p><u>(b) the rule includes requirements for the permitted activity; and</u></p> <p><u>(c) the authority is satisfied that those requirements, or those requirements in combination with any other provisions in the plan, will contribute to a remedying of the breach over a period of time-</u></p> <p><u>(i) no greater than 10 years; and</u></p> <p><u>(ii) commencing on the date that the rule becomes operative.”</u></p> <p>Amend clause 32 to consider effects on people, in addition to the natural environment.</p> <p>Clarify the meaning of the word “anticipated” within clause 32(a)(i)(A), (a)(ii), (b)(i) and (c)(iv).</p> <p>Clarify the meaning of the term “desired level” in clause 32(a)(i)(A) and (b)(i).</p>

Submission point	Clause	Submission	Amendments sought
		<p>definition or guidance about whose “desired level” this is referring to or how this “level” is to be determined.</p> <ul style="list-style-type: none"> <li>Noting that subclauses (a)(i)(A) and (B) apply as stand-alone alternatives, we consider the phrasing of (B) “<i>any adverse effects of the activity on the natural environment are well understood and can be managed</i>” to be loose, as this it could equally describe the threshold required for granting a permit. To reflect that a permitted activity rule is, by definition, a generically applicable rule, we recommend that (B) be amended by adding the words, “by way of generic conditions” or similar.</li> <li>The term “managed” is, considered alone, neutral in meaning. We consider the term “appropriately managed” or similar should be used throughout clause 32 instead.</li> <li>The word “and” should be added at the end of sub-clause (b)(ii) so that all three requirements must be met to qualify as a restricted discretionary activity.</li> </ul>	<p>Add the words “<u>by way of generic conditions</u>” or similar to the end of clause 32(a)(i)(B).</p> <p>Replace the term “managed” with “appropriately managed” throughout this clause.</p> <p>Add the word “and” to the end of clause 32(b)(ii).</p>
142.	37 – Rules relating to restricted discretionary activities	<p>We have two concerns in relation to the drafting of clause 37:</p> <ul style="list-style-type: none"> <li>It is unclear whether the reference to “condition” in subclause (2) is intended to mean “gateway” conditions for the rule itself or “conditions” that must be imposed on any permit granted in accordance with the rule. While both are referred to as “conditions”, they have fundamentally different purposes. “Gateway” conditions generally qualify the application of the rule, whereas “conditions” of permits are designed to manage the effects of an activity. In the context of clause 37, we assume it means the former, but the clause should be amended to eliminate any ambiguity. We note that this ambiguity also occurs elsewhere in the Bill.</li> <li>If the former meaning is what is intended, then the conditions referred to in clause 169 (and clause 168) are not relevant. If the latter meaning is intended, then clause 168 is also relevant and should be cross-referenced. Clause 169 provides particularity regarding specific types of conditions that may be imposed, qualifying the general conditions clause in clause 168. As clause 169 is clearly not intended to be all-encompassing or exclusive, the cross-reference in clause 37 should be to both clauses 168 and 169.</li> </ul>	<p>Amend clause 37(2) to clarify whether the reference to “condition” is intended to mean “gateway” conditions for the rule itself or “conditions” which must be imposed on any permit granted in accordance with the rule.</p> <p>If the former meaning is what is intended, then the conditions referred to in clause 169 (and clause 168) are not relevant.</p> <p>If the latter meaning is intended, add a cross-reference to clause 168 in addition to 169.</p>

Submission point	Clause	Submission	Amendments sought
143.	38 – Rules relating to discretionary activities	The above comments on clause 37 equally apply to clause 38.	Amend clause 38 consistent with the amendments to clause 37 above.
144.	<p>39 – Permitted activity rules; and</p> <p>202 – Notification and registration of activity subject to permitted activity rule</p>	<p>The Council has significant concerns with clause 39 as currently drafted and does not support this clause, or associated clause 202, in its current form.</p> <p>In relation to subclause (1):</p> <ul style="list-style-type: none"> <li>• Regarding (1)(b), we query whether the cross-reference to clause 169 is correct. That clause is a non-exclusive list of particular conditions that are able to be imposed on resource consents (corresponding with RMA section 108(2)). It does not appear to be relevant to matters concerning permitted activity rules. It is also difficult to see how it is relevant to the question of whether or not registration of the activity should be required.</li> <li>• The uncertainty regarding the application of (1)(b) casts uncertainty over the degree to which registration under (1)(a) would be applied. In this regard, while there may be a case for registration of <u>some, limited</u> permitted activities, the resourcing implications of registration and the subsequent required monitoring of permitted activities (under clause 202) is something which, if done at scale, will potentially overwhelm local authorities. The resultant significant administrative workloads will include creation of systems and assignment of resources for receipt of notifications, creation of databases, data management and responses to enquiries. Registration under clause 22 will also impose unnecessary requirements on people undertaking permitted activities.</li> <li>• The case for registration is questionable as permitted activity rules are only able to be established where the individual and cumulative effects of the activity are “acceptable” and “anticipated”. Requiring registration at scale is therefore likely to have an associated cost which is out of proportion with any benefits and is contrary to the reform objective of making the resource management system more efficient.</li> <li>• Once a permitted activity is registered, the council <u>must</u> “<i>carry out any monitoring of the activity required to ensure that the permitted activity rule</i>”</li> </ul>	<p>Amend clause 39 as follows:</p> <ol style="list-style-type: none"> <li>1. Remove the reference to clause 169;</li> <li>2. Make registration entirely at the relevant permit authority’s discretion;</li> <li>3. Amend clause 39(2)(a) to refer to the “regional authority”;</li> <li>4. Make all of the matters in clause 39(2)(b) options available to the council, not mandatory; and</li> <li>5. Delete subclause (4) concerning written approvals.</li> </ol>

Submission point	Clause	Submission	Amendments sought
		<p><i>is met</i>” under clause 202(4)(b). We consider this mandate to councils as to where limited compliance, monitoring and enforcement resources should be assigned, is inappropriate, selective and inconsistent with the discretion inherent in the general obligation to undertake compliance, monitoring and enforcement under clause 222(2).</p> <ul style="list-style-type: none"> <li>• The Council considers that the degree to which councils monitor these permitted activities should be left to the discretion of councils, having regard to all of the other matters within their jurisdictions requiring compliance, monitoring and enforcement attention.</li> </ul> <p>In relation to subclauses (2) and (4):</p> <ul style="list-style-type: none"> <li>• Subclause (2)(a) refers to “territorial authority” when it should refer to “regional authority”.</li> <li>• Subclause (4) specifies that <i>“An approval described in subsection (2)(b)(i) [relating to written approvals] is valid for 3 years from the date it is given, unless withdrawn in writing by the person who gave it.”</i> The Council opposes in its entirety (in clause 39 and related clause 202), the concept of written approvals for permitted activities under the Natural Environment Bill (however, we do accept that it has potential relevance under the Planning Bill). This is because clause 32(a) ensures that any adverse effects of permitted activity rules are necessarily acceptable, anticipated and achieve desired levels of use/protection or that the adverse environmental effects are well understood and can be managed, so it is difficult to understand the rationale for requiring affected person approvals. There are also serious practical implementation considerations, including: <ul style="list-style-type: none"> <li>○ What level of effect triggers the need for written approval? We assume it is more than “less than minor” in accordance with clause 15, but aside from that, there is no guidance.</li> <li>○ Who will decide whether there are any “affected persons”? This seems to fall on the user themselves and there is no process for any level of quality control around this. The provision is unenforceable.</li> <li>○ The permit authority’s role in this aspect is entirely unclear.</li> </ul> </li> </ul>	

Submission point	Clause	Submission	Amendments sought
		<ul style="list-style-type: none"> <li>○ How will the “qualified person” certification work? There is no process specified for exerting quality control over the choice of certifier or the certification itself. What effect does certification have on the permit authority’s ability to enforce future non-compliance?</li> <li>○ What are the implications of withdrawing a written approval and how does this apply? If the activity has not been undertaken or begun, does this mean a permit is therefore required? This would be inefficient and counterproductive. Whereas, if the permitted activity is ongoing and an approval is withdrawn, must the activity then cease? In this regard, the withdrawal of approval which may be for reasons unrelated to effects, appears to provide the “approver” an inappropriate power of veto over ongoing activities. This is unreasonable and arguably a breach of natural justice.</li> <li>● The phrasing of clause 39(2)(b) that mandates “one or more” of the four options specified, is unclear and onerous. There may be instances where registration is all that is required.</li> </ul> <p>Clause 39(2) as a whole and in combination with clause 202 raises multiple concerns, both in principle and in the above practical implications for implementation. In principle, an activity subject to clause 39(2) can hardly be said to be “permitted” at all, given it is subject to obtaining affected person approvals (which can be later withdrawn), certification of compliance by a third party/“qualified person”, and payment of a fee (none of which are required by the RMA). We consider that this strongly resembles a consent process, except that a resource consent cannot be taken away by an affected person later withdrawing their approval.</p> <p>This clause seems to be premised on a level of regulatory oversight and management that is unnecessary and onerous, and also isn’t provided for in the Bill. In this regard, while registration is not an application process, the Bill prescribes requirements and consequences akin to an application process but</p>	

Submission point	Clause	Submission	Amendments sought
		without providing the mechanisms necessary to appropriately administer the process.	
145.	40 – How instruments are more restrictive or enabling than national rule	The Council notes that application of similar provisions under the RMA have been very challenging. Subclause (3) states: <i>“An instrument is more enabling than a national rule if it permits or authorises an activity that the national rule prohibits or restricts.”</i> The terminology is unclear and can be interpreted in different ways. From its context, we think the intended meaning is that an instrument is more enabling if the subject activity is a permitted activity or otherwise allowed without a permit, but the national rule prohibits the activity or requires a permit to undertake it. The words “permits”, “authorises” and “restricts” can all be interpreted to mean that consent is required.	Reword clause 40(3) to make the meaning clear.
146.	41 – Relationship between national rule and rule in plan or proposed plan	The drafting of both subclauses under clause 41 is ambiguous because neither clause rules out the converse meaning. This could be remedied in each subclause by inserting the word “only” before “if”.	Amend clause 41(1) and (2) by inserting the word “only” before “if” in each.
147.	42 – Relationship between national rule and natural resource permit	<ul style="list-style-type: none"> <li>The relationship between subclauses (1), (2) and (3) is not clear from the drafting of this clause. The relationship would be clearer if the words <u>“or if subsection (3) applies:”</u> were added to each of (1) and (2).</li> <li>Subclause (3)(b) states: <i>“does not prevail if, and to the extent that, the national rule requires a review of the conditions of the permit in accordance with section 186(1)(c).”</i> However, nothing in clause 186(1)(c) requires a review; reviews under this clause are discretionary. If the intent of clause 186(1)(c) is that regulations could mandate review of conditions, then an amendment to that clause is required.</li> </ul>	<p>Add the words <u>““or if subsection (3) applies:”</u> to clauses 42(1) and (2) to make the relationship between subclauses clearer.</p> <p>Amend clause 42(3) to reflect that clause 186(1)(c) does not require a review of conditions. Or if the intent is that regulations could mandate a review of conditions, an amendment to clause 186(1)(c) is needed.</p>
<i>Subpart 4 – Environmental limits</i>			
148.	<i>General comments – environmental limits</i>	<p>The following comments relate to the proposed system for environmental limits overall:</p> <ul style="list-style-type: none"> <li>Subpart 4, including the definitions of ‘environmental limit’ and ‘life-supporting capacity of the natural environment’ appear to constrain limits to biophysical measures based on the criteria of ‘life-supporting’. However, the Council notes that there are many reasons that communities may wish to see limits set that are not life-supporting, for example, limits on geothermal</li> </ul>	<p>Amend the Bill to also enable environmental limits to be set for matters that communities value that are not ‘life-supporting’ (e.g. to protect geothermal surface features).</p> <p>Amend the Bill to provide for targets and intervention levels to be set.</p>

Submission point	Clause	Submission	Amendments sought
		<p>water takes to protect geothermal features that are taonga and support a thriving tourism industry, or imposing a copper limit for soil lower than that for human health to prevent phytotoxicity which might prevent people from having lawns and gardens. We consider provisions relating to environmental limits should be amended to reflect this.</p> <ul style="list-style-type: none"> <li>• The usefulness of environmental limits is constrained if there is not a framework of intervention until the limit/damage is already reached, as limits essentially become a ‘bottom line’ or ‘pollute up to’ value.</li> <li>• The Council considers an ideal framework would have a ‘target’ (aspiration for a level of environmental quality), an ‘intervention level’ (at which point active measures are implemented or policy needs to change in order to halt the progression/trend) and a ‘limit’, at which point it is too late for some threatened species; and should really be considered as legacy impacts rather than a future ‘pollute up to’ state.</li> </ul>	
149.	45 – Defined terms	<ul style="list-style-type: none"> <li>• The definitions of “freshwater” and “coastal water” in this clause seem to conflate water and ecosystems.</li> <li>• “Land and soil” is defined as a single phrase in this clause. We consider these would be better separated. Additionally, the definition of the “land” aspect in this clause is markedly different from the definition of “land” in clause 3 of the Bill. The differences should be reconciled.</li> <li>• The definition of “air” is restrictive in that it doesn’t allow for managing and controlling effects on the stratosphere, such as greenhouse gases and ozone depleting substances.</li> </ul>	<p>Amend the definitions of “freshwater” and “coastal water” to reflect that water and ecosystems are different things.</p> <p>Replace “Land and soil” with separate definitions for each and reconcile the differences between the definitions of “land” in this clause and that in clause 3.</p> <p>Amend the definition of “air” to allow for management of effects on the stratosphere, such as greenhouse gases and ozone depleting substances.</p>
150.	46 – Purpose of environmental limits	<ul style="list-style-type: none"> <li>• The wording of this clause describes the purpose of environmental limits but does not clearly describe what they are. Environmental limits identify the maximum quantum of resource use that can be allocated before significant adverse effects on human health or life-supporting capacity are likely to be observed.</li> </ul>	<p>Add a clear statement to the Bill of what environmental limits are.</p> <p>Amend clause 46 to expand the purpose of environmental limits to relate to all three</p>

Submission point	Clause	Submission	Amendments sought
		<ul style="list-style-type: none"> <li>• The purpose of limits as currently described only covers protection – this is too narrow. Rather, the Council considers the purpose should relate to all three elements of the wider purpose of the Bill: <i>“to establish a framework for the use, protection and enhancement of the natural environment.”</i> Environmental limits are relevant to all three aspects:               <ul style="list-style-type: none"> <li>○ Use – limits establish the quantum of resource available for allocation/use</li> <li>○ Protection – limits identify the boundary beyond which human health or life-supporting capacity is likely to be significantly impacted – if we are operating within limits, then change within those bounds are acceptable</li> <li>○ Enhancement – this implies improving the state where it is already beyond the limit (or could also relate to improving state that is reflected in changes to limits).</li> </ul> </li> </ul>	elements of the purpose of the Bill – use, protection and enhancement of the natural environment.
151.	48 – How environmental limits are expressed	We support the wording of this clause.	Retain clause 48.
152.	51 – How ecosystem health limits must be set in plans	<ul style="list-style-type: none"> <li>• It is difficult to comment on this clause without seeing proposed methodologies for settings limits that will be specified in future national standards. It is important that sufficient time is allowed for the development of the national standards, including engagement with regional council staff who hold the relevant expertise. This will be critical for ensuring that methodologies are workable.</li> <li>• Given the complexities of developing national methodologies that account for environmental differences around the country, we consider there should also be ability for regional councils to determine and follow their own methodology in situations where deviation from the methodology specified in national standards is justified, for example, if the methodology is based on methods more relevant to environments or ecosystems that aren’t present in a particular region.</li> <li>• We note that clause 51(4) requires a justification report if a regional council proposes or an independent hearings panel recommends an ecosystem health limit that is less stringent than a national minimum, however it is not clear</li> </ul>	<p>Ensure sufficient time is allowed for development of methodologies set in national standards, including for engagement with regional councils.</p> <p>Amend clause 51(2)(b) as follows: “if there is no methodology specified, <u>or regional deviation from national standards is justified</u>, may determine and follow its own methodology for setting the limit;”</p> <p>Amend the Bill to clarify that regional councils can set ecosystem health limits that are more stringent than the minimum acceptable level specified in national standards.</p>

Submission point	Clause	Submission	Amendments sought
		<p>from the Bill whether limits are able to be set that are <i>more</i> stringent than a national minimum. We recommend that this should be possible.</p>	
153.	52 – Criteria for decisions relating to environmental limits	<p>We support the intent of clause 52. The inclusion of explicit decision-making criteria for setting environmental limits is a significant improvement on the current RMA framework. While existing national direction, including the National Policy Statement for Freshwater Management 2020, requires the reversal of degradation, it provides limited guidance or justification on how regional councils should prioritise action between locations, pressures, or timeframes, or account for the consequences of delayed action. Clause 52 helps address this gap by requiring decision-makers to consider the scale, trend, and reversibility of environmental degradation, and to prioritise the most urgent and important matters accordingly; providing a clearer and more transparent basis for the prioritisation and sequencing of environmental limits.</p> <p>However, the practical implications of clause 52 are difficult to fully assess in the absence of the nationally prescribed methodologies anticipated under clause 54. While the Council supports nationally consistent methodologies in principle, further clarity will be important to ensure that prioritisation under clause 52 does not inadvertently enable ongoing or worsening degradation in lower-priority environments, and to clarify how councils are expected to exercise judgement where methodologies constrain or predetermine aspects of limit setting.</p> <p>Further, there are some examples where we consider it would be more workable to set limits to protect features rather than limits being based solely on ‘life supporting capacity’. For example, understanding of geothermal aquatic biota is limited, and so setting limits to sustain this life (as opposed to protecting the surface feature it resides in) will be costly and is unlikely to be well informed.</p> <p>We also make the following specific comments in relation to clause 52:</p> <ul style="list-style-type: none"> <li>• Consideration is needed as to how managed fills and landfills, both existing and new, are to be dealt with under the Natural Environment Bill. These types of fill sites will never meet environmental limits and are specifically</li> </ul>	<p>Retain the intent of clause 52, including the direction within subclause (3).</p> <p>Ensure when developing nationally set methodologies that prioritisation under clause 52 does not inadvertently enable ongoing or worsening degradation in lower-priority environments.</p> <p>Provide for limits to be set to protect environmental features rather than being based solely on ‘life-supporting capacity’ (e.g. in relation to geothermal features).</p> <p>Clarify how managed fills and landfills are to be dealt with in relation to environmental limits.</p> <p>Ensure that any national standards in relation to contaminants in soils allow for site-specific risk assessments.</p>

Submission point	Clause	Submission	Amendments sought
		<p>designed to receive fill from other sites that don't meet environmental limits and require remediation. These sites are necessary, but it is not clear in the Bill as drafted how these would be considered or whether managed fills and landfills would need to be designated under their own type of management unit.</p> <ul style="list-style-type: none"> <li>• In setting limits for contaminants in soils it is important that any national standards and policy allow for site-specific risk assessments rather than always setting hard environmental limits for all scenarios, as there is usually significant cost and physical disturbance involved in remediating a site to ensure that a limit is met and this might not always be justified if a tier 2 risk assessment determines that there is not an unacceptable risk of leaving the soils on site (e.g. contaminants are identified as having low bioavailability). An unintended consequence could be excessive dig and dump remediation of soils rather than a more sustainable approach of managing soils in place where a site-specific assessment provides evidence that there isn't unacceptable risk to human health or the natural environment.</li> <li>• Clause 52(6) requires decision makers to ensure that information that informed the notification draft is publicly available at the time of notification. We note that currently not all biodiversity data is publicly available or in some cases even accessible to councils (e.g., particularly in relation to threatened species and private land). To support implementation of the Bill, it would be useful if this issue could be addressed nationally, to ensure all decision-makers have access to "the best obtainable information", as referenced in clauses 52 and 56. Similarly, it would be useful if provision was made for regional councils and other agencies to access data and interpretations from "adaptative management" approaches.</li> </ul>	
154.	58 – National standards must set management units or methodologies	<ul style="list-style-type: none"> <li>• We query whether it is envisaged that each 'management unit' set under clause 58 will have its own action plan where a limit/cap is breached or close to being breached. Depending on the scale of 'management units', there is a risk that this could result in significant duplication across a region and</li> </ul>	Consider and clarify whether each 'management unit' set under clause 58 is to have its own action plan where a limit/cap is breached or close to being breached.

Submission point	Clause	Submission	Amendments sought
		<p>potential for inconsistencies in management decisions, for example across regions.</p> <ul style="list-style-type: none"> <li>• The Council has done a lot of work on defining freshwater management units and sub-catchments, and science and monitoring in relation to these management units and sub-catchments. We note that management units from a water quality perspective will vary compared to appropriate management units for other resources. Fundamentally changing the freshwater management unit methodology at this point in time will likely result in a significant waste of resource and may significantly delay the ability to meet implementation deadlines if science is needed to be completed at different spatial scales. Further our freshwater management units have been aligned with our catchment management (providing for flood management, river management, and drainage management activities) planning. To introduce difference spatial delineation is not efficient, nor user friendly for catchment communities</li> <li>• We are unclear on the specific requirement in subclause (4)(b), that the size and location of management units must be determined by reference to scientific knowledge and evidence. We consider there are situations where management units may need to be determined based on management criteria that don't have a scientific basis.</li> <li>• We also note that understanding of the size and location of some management units (e.g. geothermal systems) is refined as knowledge of the resource grows through adaptative management and the scientific process. Therefore subclause (4) should reflect that "size and location" are not static but may change over time.</li> </ul>	<p>Ensure the freshwater management unit methodology is not fundamentally changed, to reflect the significant amount of work already undertaken by regional councils defining freshwater management units and sub-catchments.</p> <p>Make 58(4)(b) optional, to reflect that management units may need to be determined based on management criteria that don't have a scientific basis.</p> <p>Amend 58(4) to reflect that "size and location" are not static for all management units and may change over time.</p>
155.	59 – Best obtainable information	We support the intent of subclauses (1)(b) and (c) but consider the wording could be made clearer.	Amend 59(1)(b) and (c) to: “(b) is obtained from information that is available at the time; or (c) can be reasonably obtained with effort proportionate to the effects of the decision.”

Submission point	Clause	Submission	Amendments sought
156.	60 – Tools for managing resources to which limits apply	<p>Subclause (3) states that regional councils must give first preference to using a cap on resource use instead of an action plan unless this is not effective or feasible or national standards direct otherwise.</p> <p>However, we note that clauses 66 and 67 <u>require</u> regional councils to avoid breaches of environmental limits by preparing action plans. Clause 60(3) should therefore presumably also refer to situations where breaches are likely to occur or have occurred.</p>	Amend clause 60(3) to also refer to situations where breaches are likely to occur or have occurred, to align with clauses 66 and 67.
157.	62 – Cap on resource use	<p>Within the Waikato region, the Taupō catchment already has a cap on resource use and a lot of work has been done by the community and nationally, including at significant cost, to ensure the limit is met. Water quality is improving in this significant waterbody. Careful consideration of the implications of the Bill on this planning framework is therefore required. We suggest that implementing a staged approach to updating provisions would be beneficial. This would allow councils to focus on priority areas, reducing the burden on communities and resourcing.</p> <p>Additionally, we note:</p> <ul style="list-style-type: none"> <li>• In relation to subclause 1(b), we note that with the proposed role of national instruments and permitted activities in the system, there may be limited ability for councils to allocate resource use through plan rules and permits (if a large proportion of resource use is permitted) and potentially limited ability to apply standards more stringent on permitted uses. Therefore, it is important that when setting national standards, consideration is given to the limitation being placed on the ability of regional councils to apply the tools the Bill directs them to use.</li> <li>• Subclause (1)(c) describes the ways in which a cap on the amount of resource use may be expressed, referring to land use, inputs and outputs. The drafting specifies these exclusively, not inclusively. We are concerned this does not cover the full scope of ways in which caps may be set, for example, caps on water take volume/rate or caps on the amount of coastal space that may be</li> </ul>	<p>Consider amending the Bill to allow councils to take a staged approach to updating plan provisions, enabling focus on priority areas.</p> <p>Add an additional subclause to clause 62(1)(c) <u>“(iv) the quantum of a resource that may be used;”</u></p> <p>Amend clause 62(2) to make the meaning clearer.</p>

Submission point	Clause	Submission	Amendments sought
		<p>allocated for moorings or aquaculture. We consider a further item – <u>“the quantum of a resource that may be used”</u> should be added.</p> <ul style="list-style-type: none"> <li>• We are unclear about the requirement in subclause (2) that a regional council must publish caps set on resource use on its internet site. Is the intention for caps to be set in natural environment plan rules or in action plans? This should be clarified.</li> </ul>	
158.	63 – General content of action plans	<p>We are unclear on the relationship between actions plans, natural environment plans and caps on resource use from the Bill as drafted. The Council considers that amendments to Subpart 4 are needed to clarify this relationship and address potential overlap/duplication between the different types of plans. For example:</p> <ul style="list-style-type: none"> <li>• The contents of action plans listed in clause 63(1) are similar to matters that would usually be determined through statutory planning processes. Additionally, clause 64(2) indicates that “controls” can be placed on land use within action plans.</li> <li>• Clause 63(4) states that <i>“When a natural environmental plan or any of its provisions becomes operative and relates to the subject matter of an action plan, the regional council must consider whether to update the action plan in order to reflect the natural environmental plan or provisions that have become operative”</i>. This highlights there is likely to be duplication between the two plans.</li> <li>• The above point also raises a question of what status an action plan has prior to a natural environment plan, or relevant provisions in a natural environment plan, being in place.</li> <li>• Clause 66 also makes the role of the different plans unclear, as this states that if a regional council is satisfied that a breach of an environmental limit is likely to occur it must take action by <i>“preparing an action plan <u>or</u> changing its natural environment plan”</i>.</li> <li>• We are unclear generally on the intended statutory and legal status of action plans, particularly when these are prepared by a regional council to address a potential breach of an environmental limit (rather than being required by a national standard in accordance with clause 61).</li> </ul>	<p>Amend clause 63 and other relevant clauses to clarify the relationship between action plans and natural environment plans, as well as caps on resource use, and address potential overlap and duplication.</p> <p>Ensure the process for preparing and reviewing action plans supports their use as a agile tool to respond to breaches/potential breaches of environmental limits.</p>

Submission point	Clause	Submission	Amendments sought
		<p>We support the concept of action plans if the intent is to provide an agile tool to respond to breaches/potential breaches of environmental limits, however, amendments are needed to provide greater clarity and direction on this tool and to avoid duplication with natural environment plans.</p> <p>We additionally note that without seeing national standards to be developed under clause 61(c)(ii), we don't yet know what the process for developing an action plan will be, including consultation and engagement requirements. It is not clear whether notification will be required (despite action plans being able to set controls on land use or inputs, for example).</p>	
159.	64 – Considerations before action plans can include controls on land use or inputs	The drafting of this clause as it relates to the relationship between action plans and natural environment plans is contradictory. Subclause (2) refers to controls on land use or inputs that can be “included” in an action plan in certain circumstances, whereas (3) states that “ <i>controls on land use or inputs means rules in a natural environment plan...</i> ”.	Amend clause 64(2) and (3) to clarify the contradictory references to controls on land use and inputs.
160.	65 – Requirements for action plans to remedy breach of environmental limits	As discussed above, it is not clear what legal status action plans will have under the Bill. Specifically in relation to clause 65, if an action plan contains a series of interim limits, it is not clear what the status of those interim limits is in relation to the natural environment plan. We recommend this be clarified.	Amend the Bill to clarify the legal status of action plans, including any interim limits within them.
161.	66 – Avoiding breach of environmental limit	<p>We assume subclause (1) “<i>A regional council must avoid breaching an environmental limit</i>” is intended to encompass a regional council undertaking any activity or function, including indirect actions, such as cumulative effects of activities for which it grants permits. However, we recommend the wording of this subclause be made clearer to confirm if this is the intended meaning.</p> <p>Similar to our comment in relation to clause 62(1)(b), we note that the ability for national standards to be highly prescriptive may constrain regional councils’ ability to avoid breaches. Councils’ ability to act to avoid a breach could also be contingent on the Minister’s actions under clause 85, which requires the Minister to amend national standards to avoid breaching an environmental limit. The Council recommends that careful consideration should be given to this.</p>	<p>In relation to clause 66, consider the impact that prescriptive national standards may have on regional councils’ ability to avoid breaches of environmental limits.</p> <p>Amend clause 66(1) to make the meaning clearer. For example, to: “In undertaking any action or exercising any power or function, a regional council must avoid breaching an environmental limit.”</p> <p>Amend the wording of clause 66 to reflect that environmental limits may be initially set</p>

Submission point	Clause	Submission	Amendments sought
		<p>We also highlight the following in relation to the current drafting of clause 66:</p> <ul style="list-style-type: none"> <li>The drafting does not recognise that environmental limits may be initially set at levels that are already breached. It also contradicts clause 164, which provides that permits may be granted for some activities which <i>“would result in the breach of an environmental limit.”</i></li> <li>Subclause (3)(b)(iii) lists <i>“reviewing the conditions (specified in the plan) that apply to natural resource permits and making any necessary adjustments”</i> as a method a regional council may use to avoid the breach of a limit. As drafted, the direction only applies to permit conditions <i>“specified in the plan”</i>. This is unnecessarily limiting in that it precludes the review of permit conditions that might justifiably be changed but are not specified in the plan.</li> </ul>	<p>at levels that are already breached and to address the contradiction with clause 164.</p> <p>Delete the phrase <i>“(specified in the plan)”</i> from clause 66(3)(b)(iii).</p>
162.	67 – Breach of environmental limits	<p>Both clauses 66 and 67 address the situation where an environmental limit is <i>“likely to be breached”</i> but they do so in different ways. We consider this overlap and inconsistency needs to be reconciled.</p> <p>Additionally, clause 67(4) requires the regional council to notify breaches that are a result of the use of an infrastructure pathway established by national standards. We strongly consider that notification should be the responsibility of the Minister in these circumstances.</p>	<p>Amend clause 66 and/or 67 to remove overlap and inconsistency.</p> <p>Amend clause 67(4) to state that the Minister is responsible for public notification of any breach of an environmental limit that is a result of the use of an infrastructure pathway established by national standards.</p>
<i>Subpart 5 – National instruments</i>			
163.	69 – Matters to consider when making national instrument	<p><u>Achievement of goals</u></p> <ul style="list-style-type: none"> <li>The Council considers the statement in 69(2)(b) that <i>“not all goals need to be achieved in all places at all times”</i> to be problematic. See paragraphs 57-60 in Part 2 of our submission for further comments on goals.</li> <li>Goals 11(b) and 11(c) aim to <i>“safeguard the life-supporting capacity of air, water, soil, and ecosystems”</i> and <i>“protect human health from harm caused by the discharge of contaminants”</i>. Ecosystem health limits and human health limits will be key mechanisms for achieving these goals, and clause 66 makes it clear that regional councils must avoid breaching these limits. This indicates that these goals should be achieved in all places at all times. Similarly, we</li> </ul>	<p>Rephrase 69(2)(b) to recognise that all goals need be achieved in all places at all times, where relevant to the activity, or similar wording.</p> <p>Add a new principle under clause 69(2) requiring consideration of regional variation (e.g. biophysical factors) when making national instruments.</p>

Submission point	Clause	Submission	Amendments sought
		<p>consider that goal 11(f), which describes the ways in which Māori interests are to be provided for, also needs to be achieved in all places at all times.</p> <ul style="list-style-type: none"> <li>We therefore recommend that 69(2)(b) be rephrased to reflect that all goals need be achieved in all places at all times, where relevant to the activity, or similar wording.</li> </ul> <p><u>Regional variation</u></p> <ul style="list-style-type: none"> <li>We consider it would be beneficial to add regional variation (e.g. biophysical factors) as a specific matter for the Minister to consider when making national instruments. As has been previously shown (e.g. in relation to the National Environmental Standards for Freshwater (NES-F) provisions for intensive winter grazing and stock exclusion), solutions are not always fit for purpose across the country due to differences in climate, soils and land use. It is important that this is considered when national standards are being developed.</li> <li>Linked to the above, it is important that the purpose of national standards to provide regulatory consistency is not at the expense of practical standards that reflect local circumstances. National instruments need to strike a balance between national consistency and local solutions in a regional context.</li> </ul>	
164.	81 – National policy direction to resolve conflicts between goals in both Acts	<p>Clause 81(1)(b) requires the Minister, when preparing national policy direction to resolve conflicts between the goals in each Bill, to consider whether the proposal enables development to occur “<i>within environmental limits</i>”. However, as noted, the sequencing set out in the Bills means that ecosystem health limits will only be set almost two years after the first national policy direction. As stated, the Council considers the Bills need to be amended to address this sequencing issue.</p> <p>We consider it would make the meaning clearer if the word “proposal” was replaced with “proposed policy direction” throughout this clause.</p>	Replace the word “proposal” with “proposed policy direction” throughout this clause.
165.	84 – What national standards can do	Clause 84(4) states that “ <i>If conditions in a plan deal with effects of an activity that are the same as those dealt with in the conditions specified in a national standard,</i>	Reconcile clause 84(4) with clause 41, to address overlap.

Submission point	Clause	Submission	Amendments sought
		<p><i>the conditions in the standard prevail.</i>” This appears to overlap with the provisions of clause 41 and should be reconciled with that clause.</p>	
166.	86 – National standards relating to significant infrastructure that breach environmental limits	<p>The Council does not support the full intent of this clause; please refer to our comments in relation to clause 164.</p> <p>Additionally, we note:</p> <ul style="list-style-type: none"> <li>• Clause 86 relates to “significant infrastructure”, but this term is not defined in the Bill. A definition is necessary given the purpose of this clause.</li> <li>• There appears to be an issue with the sequencing inferred within this clause. It enables the Minister to establish a consenting pathway for proposed infrastructure, which infers that a consenting process will take place before the infrastructure is built. However, subclause (2)(b) specifies that <i>“the pathway is available to a user only after they have taken all practicable steps to carry out the activity without breaching environmental limits”</i> – steps that can only occur after the infrastructure has been built.</li> </ul>	<p>Add a definition of “significant infrastructure” to the Bill. This definition should include flood management, river management and drainage works of significance.</p> <p>Amend clause 86 to address the sequencing issue inferred in subclause(2)(b).</p>
167.	87 – National standards or regulations may set operational details for market-based allocation process	<p>The Council would have some concern if the proposed operational requirements result in increased costs or additional data collection and reporting obligations for regional councils, particularly where these flow from nationally set allocation frameworks. Greater clarity on the cost implications for regions would be helpful. With the government’s proposal for rate capping, it is critical that the introduction of the new Bills do not add additional costs into the system for ratepayers. As noted in our submissions a systems-wide view of reform is needed to ensure that there are no unintended financial consequences for ratepayers.</p> <p>We are also conscious of the potential for nationally prescribed approaches to constrain existing, locally tailored management frameworks. In particular, it is important that any national approach does not undermine or limit the ability of councils to continue to operate established catchment-specific arrangements, such as the Lake Taupō Catchment approach, including the use of alternative limit setting or market mechanisms where these are already in place and functioning effectively.</p>	<p>Provide further consideration to how national instruments can provide flexibility for well-established regional approaches.</p>

Submission point	Clause	Submission	Amendments sought
		Further consideration of how national direction can provide flexibility for well-established regional approaches would be beneficial given the diversity of existing allocation and management contexts.	
168.	90 – Amendments to national standards without full process	We support this clause. Currently, the RMA does not provide an ability to amend national standards without a full process. We consider this ability will be useful in situations where standards are out of date and need updating.	Retain clause 90.
<b>Part 3 – Combined plan and other matters</b>			
<i>Subpart 1 – Natural environment plans</i>			
169.	95 – Natural environment plan must include standardised plan provisions as directed by national instrument	<p>We acknowledge that consistency across regions could make plan use easier for users and reduce the time and cost of plan development. However, we note some concerns based on past experience with standardised (national direction) approaches, such as the NES-F provisions for intensive winter grazing and stock exclusion:</p> <ul style="list-style-type: none"> <li>• Lowest common denominator - national standards often set a baseline that is less stringent than what some regions require, potentially resulting in ‘watered-down’ provisions. They may not reflect scalability for region-specific needs, e.g., areas where most work is needed to improve water quality.</li> <li>• Timeframes - the NES-F was notified as a stop-gap measure to manage high-risk activities while regional councils developed freshwater planning documents. What happened instead was that the NES-F was notified and then altered and refined over many years following feedback on workability and issues for particular regions, creating uncertainty for plan users and stalling implementation.</li> <li>• Not reflecting regional challenges - standardised rules may fail to account for biophysical differences and local environmental pressures.</li> <li>• Duplication and complexity - where national direction sets a low bar, regions may need to add more interventions (and or stricter provisions, if national direction allows) potentially creating duplication and confusion for plan users. This ‘layering’ of rules can lead to conflicting obligations for land users and undermine clarity and compliance.</li> </ul>	Design standardised provisions to set a robust baseline that reflects generally accepted best practice (i.e. not lower than existing standards generally applied across New Zealand), while explicitly enabling regions to maintain or adopt more stringent or tailored provisions to address local circumstances and to preserve effective existing management approaches.

Submission point	Clause	Submission	Amendments sought
		<p>We also note the considerable investment made by the Council, partners, and the community in the Waikato and Waipā catchments over many years to agree on an approach to freshwater management in the region. While consistency is desirable, flexibility to address regional environmental challenges is essential to achieve ecosystem health and freshwater outcomes. The Bill and future national instruments also need to appropriately provide for situations that are likely to require bespoke approaches, like the Lake Taupō catchment, which has an existing Cap and Trade system for nitrogen. It is crucial that the significant investment in this catchment and environmental gains achieved are not lost.</p>	
170.	97 – Core obligations when preparing and deciding natural environment plan	<p>Clause 97(4)(c)(i) refers to <i>“the Crown’s interest in the coastal marine area”</i> as a matter the council must have regard to <i>“to the extent that it has a bearing on activities in the region and is within the regional council’s responsibilities.”</i> It would be useful if a definition/description was provided of what the Crown’s interests in the coastal marine are or what they include.</p>	<p>Provide a definition/description of what the Crown’s interests in the coastal marine are or what they include.</p>
171.	98 – Types of provisions in natural environment plan	<ul style="list-style-type: none"> <li>• Clause 98(3) states that <i>“If a rule in a natural environment plan is inconsistent with a regulation under this Act, the regulation prevails.”</i> This seems inconsistent with clause 41 which provides for rules to prevail where the relevant national rule allows it. At the least, we consider there should be a cross-reference provided, with the relationship between the two clauses clarified.</li> <li>• Te Ture Whaimana o Te Awa o Waikato is the pre-eminent document for the Waikato River catchment. This clause should be amended to reflect section 12 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.</li> </ul>	<p>Amend clause 41 and/or clause 98 to clarify the relationship between the two clauses.</p> <p>Amend clause 98 to specifically exclude rules that give effect to Te Ture Whaimana o Te Awa o Waikato.</p>

Submission point	Clause	Submission	Amendments sought
172.	99 – Rules may allocate natural resource activity	<ul style="list-style-type: none"> <li>• Subclause (1) states that “A rule in a plan may allocate a natural resource use activity.” This drafting is not accurate, as it is the resource itself that is allocated, not the resource use activity.</li> <li>• Subclause (2)(a) states that allocation rules “must not allocate the amount of a natural resource that is already allocated by an existing permit, while that permit is valid” whereas (b) states that the rule “may allocate a natural resource in anticipation of the expiry of an existing permit”. These are contradictory.</li> <li>• Subclause (2)(e) states that an allocation rule “may allocate natural resource use as a fixed amount or as a proportion of the available resource.” In order to allocate a proportion, the council would need to know the total amount of resource available – therefore a certain proportion of that is, necessarily, also a “fixed amount”. We do not see merit in allocation of a proportion of a resource of unknown quantity.</li> </ul>	<p>Amend cause 99(1) to reflect that it is the resource that is allocated, not the resource use activity.</p> <p>Amend clause 99(2)(a) and (b) to remove the contradiction between these subclauses.</p> <p>Delete clause 99(2)(e).</p>
173.	100 – Rules relating to market-based allocation process or comparative permitting process	We note that the terms “allocate” and “allocation” are used in two different contexts with different meanings. In clause 99 (and others) it means allocation of a resource, whereas in clause 100 it means allocation of a right to apply for a resource. We suggest it would be useful to use different terminology in clause 100 to avoid confusion.	Amend the terminology of clause 100 to avoid confusion with the meaning of “allocate/allocation” as used elsewhere in the Bill.
174.	102 – Process if plan or proposed plan does not comply with section 101	Clause 102(1)(c) directs a protected customary rights group to apply to the Environment Court “in accordance with clause 49(3) of Schedule 9 of the Planning Act 2025”. However, Planning Bill Schedule 9, clause 49(1) restricts its own application to decisions made under “section 83(1)(b)” (of the Planning Bill). It does not explicitly mention clause 102 of the Natural Environment Bill, potentially leaving applicants under this Bill without a clear jurisdictional hook in Schedule 9.	Amend Schedule 9 of the Planning Bill to align with clause 102(1)(c) of the Natural Environment Bill.
175.	106 – Requirements for evaluation reports	The Council is concerned that the Bill provides insufficient direction on what evaluation and justification reports should cover, i.e. what exactly are regional councils evaluating and justifying? For example, simply providing a “reason” (clause 106(2)(a)) for choosing one standardised provision option over another does not support evidence-based policy design or demonstrate to plan users the	Amend clause 106 to provide more direction on what evaluation and justification reports are to cover, including evaluation of effectiveness and efficiency of reasonable options (standardised provisions or controls); and

Submission point	Clause	Submission	Amendments sought
		<p>effectiveness and efficiency of the recommended options (e.g. cost-benefit analysis and other implications). This assessment has benefit for plan users.</p> <p>Clause 106(4), which requires making a case for why other approaches are not sufficient, is counterproductive and counterintuitive. It encourages advocacy for a preferred option rather than a systematic evaluation of all reasonable options. This is not good evaluation practice because:</p> <ul style="list-style-type: none"> <li>• A sound and robust evaluation compares each option against agreed criteria (effectiveness, efficiency, equity, feasibility, risk, and implementation), rather than constructing a case to dismiss alternatives. It could introduce bias and risks turning evaluation into justification rather than evaluation, undermining transparency and the integrity of policy design.</li> <li>• It makes it harder to identify the most appropriate instrument (e.g., land-use controls, input controls, performance standards, or non-regulatory methods) to achieve the outcomes for the problem context.</li> <li>• The provisions should be chosen based on the resource-use problem and the behaviour change sought to achieve the outcomes, not based on a predetermined list of policy options set in a hierarchy. Each option, including choice between standardised provisions, should be assessed as a policy instrument on its merits, with the most effective and efficient option selected. A hierarchical or pre-determined or of policy instruments or tools is inconsistent with sound, evidence-based policy design.</li> <li>• Further, we note that there is very limited direction within the Planning Bill as to the detail required in “options assessment reports” for regional spatial plans. If there is insufficient evaluation of provisions and options in the higher-order documents, this may make it difficult for regional councils to meaningfully evaluate provisions in proposed natural environment plans.</li> </ul>	<p>Amend clause 106(4) to require an evaluation of each option against agreed criteria, rather than justifying why other approaches are not sufficient.</p>
176.	108 – Requirements for justification reports	<p>The Bills require a justification report for bespoke provisions. While clause 108 sets out the required components of a justification report, it does not detail the threshold for necessity of a bespoke provision. It is unclear if local environmental differences are sufficient justification or if a stricter test applies.</p>	<p>Amend clause 108 to provide more clarity on the threshold for justifying the inclusion of a bespoke provision.</p>

Submission point	Clause	Submission	Amendments sought
177.	111 – Obligations relating to regulatory relief in Schedule 3 of Planning Act 2025	The Council has significant concerns with the proposed regulatory relief system – please refer to our comments in Part 2 of this submission.	
178.	117 – Statutory acknowledgements to be attached to natural environment plans	Clause 117(1) states that <i>“Every statutory acknowledgement that applies in a region must be attached to the natural environment plan for that region.”</i> It is not fully clear what “attaching” statutory acknowledgments means. We assume this is referring to a map of the area to which the statutory acknowledgement applies. We note there are approximately 120 statutory acknowledgements in the Waikato region and likely also large numbers in other regions. Attaching such large numbers of maps to the natural environment plan seems onerous and unnecessary.	Amend clause 117(1) to: “A list of every statutory acknowledgment that applies in a region, must be attached to the natural environment plan for that region. The list shall include: (a) The relevant settlement legislation and the specific statutory reference to the statutory acknowledgment provisions of the legislation; (b) A reference or link to the SO map reference of every statutory area concerned; (c) The tribal entity to which the statutory acknowledgment is made.”
179.	118 – Disputes relating to whether natural environment plan implements national instrument or regional spatial plan	The clause concerns “disputes” as to whether a natural environment plan implements a national instrument or regional spatial plan. It is not clear from this clause whether a dispute is different from an appeal and if so, what the process for a dispute is. It is also not clear at what points in the plan development process a dispute can be raised.	Amend clause 118 to clarify whether a “dispute” is different to an appeal, and if so, provide more detail on the process for disputes.
180.	120 – Regional council must comply with and enforce natural environment plan	Subclause (2) specifies that <i>“No purported grant of a natural resource permit, and no waiver from a plan or rule in a proposed plan that has legal effect, whether written or otherwise, has effect to the extent that it is contrary to subsection (1).”</i> However, we note that clause 199 explicitly provides for consent authorities to treat certain activities as permitted activities where there is <i>“marginal or temporary non-compliance”</i> with a plan. Subclause (2) should therefore be qualified accordingly.	Amend clause 120(2) to align with clause 199.

Submission point	Clause	Submission	Amendments sought
181.	121 – Boundary adjustments	The current drafting of clause 121(2) does not make sense, as all land is part of one region or another.	Correct the phrasing of clause 121(2).
<b>Part 4 - Natural resource permits</b>			
<i>Subpart 1—Types of permit</i>			
182.	127 – Meaning of natural resource permit	This clause establishes the term “permit” (as compared with “resource consent” under the RMA). We suggest reversion to either “resource consent” or “consent” would be clearer. The term “permit” is likely to cause confusion and ambiguity, (and already does so in places within the Bill) as the terms “permit” and “permitted activity” mean quite different things. A “permit” (previously a resource consent) is an authorisation granted by the council at its discretion, whereas a “permitted activity” is allowed as of right. We consider the use of distinctive terminology would better avoid ambiguity.	Change the term “permit” throughout the Bill to either “resource consent” or “consent”.
183.	128 – Natural resource permit may include wildlife approval	<p>This clause provides that a natural resource permit <i>“may include a wildlife approval”</i> that would otherwise be required under the Wildlife Act 1953. The Council has a number of concerns with this clause and does not support its inclusion within the Bill.</p> <ul style="list-style-type: none"> <li>• The meaning of “include” is unclear within this clause. The clause suggests that regional councils are to act as a wildlife approval authority or that the permit granted obviates the need for a wildlife approval. However, the clause specifies no process or guidance as to how this is to occur. There is no detail with regard to the roles and responsibilities that regional councils and the Department of Conservation would have, or how this process would operate.</li> <li>• There are no amendments to the Wildlife Act proposed via this Bill (or the Planning Bill). Under the Wildlife Act only the Director-General of Conservation is authorised to issue approvals.</li> <li>• There is no indication in clauses 221-230 (Functions and responsibilities of regional councils) that regional councils have any functions in regard to the Wildlife Act.</li> <li>• Given the significant lack of clarity and certainty around this clause, we are concerned it could have negative impacts for the management of threatened species.</li> </ul>	Delete clause 128.

Submission point	Clause	Submission	Amendments sought
<i>Subpart 2 - Applying for natural resource permit</i>			
184.	130 – Applying for natural resource permit	The Council particularly supports subclauses (3) and (4) of this clause.	Retain clause 130(3) and (4).
185.	131 – Activity classification to remain the same	<p>Subclause (2) applies when a new rule is proposed that has a different activity status for an activity for which permit application has been made. This specifies: <i>“The application must continue to be processed, considered, and decided as if the activity had the same activity classification that it had when the application was first lodged.”</i></p> <p>We understand the focus of this clause is on preserving the activity status, however it is unclear what practical difference this will make given that “regional” rules in a proposed plan or the decisions version of a plan also have effect and a permit is required under them (refer to Part 2, Subpart 2 of the Natural Environment Bill and Schedule 3, Part 3 of the Planning Bill) .</p> <p>That means if an activity is a restricted discretionary activity at the time of application, but a proposed discretionary activity rule comes into effect, a permit is required under both rules. The assessment of the proposal against the discretionary activity rule is not restricted, so it is unclear what purpose is served by retaining a restricted discretionary activity status. Likewise, for the converse situation (a proposed restricted discretionary activity rule where there is an existing discretionary activity rule for same activity), no purpose seems to be served because, in order for a permit to be granted, both rules must be satisfied.</p>	Consider deleting clause 131.
186.	135 – Permit authority may return incomplete application	<ul style="list-style-type: none"> <li>Subclause (2) states <i>“If the permit authority decides that the application is incomplete, it must immediately return the application to the applicant with written reasons for the decision.”</i> Given that applications are now lodged digitally, the meaning of “return” is unclear, and this is unnecessary.</li> <li>Subclause (3) enables an applicant to have an “incomplete/rejection” decision reviewed in the Planning Tribunal. This replaces the RMA process which provides for “objection” to the consent authority itself. We consider that this escalation is counter to the reform objective of speeding up and</li> </ul>	Amend clause 135(2) to remove the requirement to “return” an application and replace it with a requirement that the permit authority must notify the applicant that the application has been deemed incomplete and is not accepted.

Submission point	Clause	Submission	Amendments sought
		<p>simplifying processes. Rather, it would be more efficient to provide the option for objection (as per the RMA) to the permit authority first, with recourse to the Planning Tribunal if necessary. The option of direct recourse to the Planning Tribunal (bypassing objection rights) should also be available if that is the applicant's preference.</p> <p>This comment also applies to all other instances where the Bill provides for review of consent-related decisions in the Planning Tribunal (including clause 137).</p>	<p>Amend clause 135(3) to provide an option for objection to the permit authority first, with recourse to the Planning Tribunal if necessary.</p> <p>Amend all other clauses of the Bill that provide for review of consent-related decisions in the Planning Tribunal consistent with the amendment to clause 135(3).</p>
187.	136 – Priority of competing applications	We consider subclause (1) to be blunt and unhelpful as currently drafted. We suggest this would be improved if it were to better reflect case law relevant to competing applications, which we understand is not only about date of lodgement but an application being in a state that is able to be determined.	Amend clause 136(1) as follows: "...must determine the applications in the order in which they reach the point of being able to be determined, having regard to any further information requests, deferment while further applications are lodged or other relevant matter".
188.	137 – Deferral pending application for additional permits	Clause 137(1)(a) states <i>"A permit authority may determine not to proceed with the notification or hearing of an application for a natural resource permit if it considers on reasonable grounds that (a) other permits under this Act will also be required in respect of the proposal to which the application relate..."</i> . We query whether this should be extended to "under this Act or the Planning Act...". Otherwise, there are very likely to be situations where permits/consents are required under both Acts, but there will be no integration of either process or how certain overlapping issues (e.g. natural hazards) are considered.	Amend clause 137(1)(a) as follows: "other permits under this Act <u>or the Planning Act...</u> "
189.	138 – Permit processing time frames	Subclause 2(a) states that <i>"For the purposes of this section, the processing of an application begins on the date that the application is lodged..."</i> While this makes sense, it leaves the question of how working days are counted unclear. Under the RMA, "Day 1" is the day after lodgement. It would therefore be preferable if clause 138 provided clarity on that point.	Add a new subclause: <u>"Despite subsection 2(a), for the purpose of determining compliance with the processing timeframes in subsection (3), Day 1 is the first working day after the date of lodgement."</u> or wording to the same effect.

Submission point	Clause	Submission	Amendments sought
190.	139 – Certain permits must be processed and decided no later than 1 year after lodgement	It is not clear whether clause 139 applies instead of, or in addition to, clause 138. If the former, then the one-year time period for the specified application types is the only requirement. If the latter, then both the one-year overall time period and the relevant timeframe (measured in working days and taking account of any excluded time periods) applies. We consider the relationship between clauses 138 and 139 should be explicitly clarified.	Amend clauses 138 and 139 to explicitly clarify the relationship between these clauses.
191.	140 – Request for further information	<ul style="list-style-type: none"> <li>• Clause 147(2)(a) indicates that timeframes for response to requests for information will be set by regulations, not by the permit authority. The Council opposes this. The appropriate time period for response to a request for information requires case-by-case consideration; specifying a blanket timeframe in regulations is not workable. We instead recommend an amendment to 140(3) to require that the permit authority must specify a timeframe after consultation with the applicant.</li> <li>• We are concerned that a requirement to consider “cost and feasibility” under clause 140(2)(a) will require authorities to undertake some form of cost assessment of this, which in many cases, will be time-consuming and potentially complex. Despite this concern, we support the position reflected elsewhere in the Bill that the information required to support an application should be “proportionate”, having regard to the scale and significance of likely effects. We recommend a redraft of clause 140(2)(a) to reflect this.</li> <li>• Currently there is no provision that states that a request under clause 140 is subject to challenge in the Planning Tribunal (refer to clause 15, Schedule 10 of the Planning Bill). This should be made explicit.</li> </ul>	<p>Add the following to the end of clause 140(3):  “and must specify a timeframe for providing the information after consultation with the applicant.”</p> <p>Replace clause 140(2) with the following:  “The permit authority may make a request under subsection (1) <u>only if it is satisfied that obtaining the information will ensure that the permit authority has enough information to understand the implications of its decision and that the information requested is proportionate, having regard to the scale and significance of the matter to which the decision relates.</u>”</p> <p>Amend clause 140 to make it explicit that a request under this clause is not subject to challenge in the Planning Tribunal.</p>
192.	141 – Request for report	Currently there is no provision that states that a request to commission a report under clause 141 is subject to challenge in the Planning Tribunal. This should be made explicit.	Amend clause 141 to make it explicit that a request to commission a report under this clause is not subject to challenge in the Planning Tribunal.
193.	143 – Consequences of applicant’s failure	Clause 143(1) includes reference to the provision of written approvals by an “agreed date”; being a date agreed to by the applicant and permit authority. We consider this opens the door for gaming by an applicant to cause unreasonable	Amend clause 143(1)(a)(iv) as follows: “to give the permit authority written approval for a proposed activity under <u>section 149 of</u>

Submission point	Clause	Submission	Amendments sought
	to respond to requests, etc	delay in the processing of an application (where that benefits the applicant). We suggest that, in order to ensure no unreasonable delays, the permit authority should have the power to specify a date for provision of written approvals.	<u>the Natural Environment Act by a date specified by the permit authority after consultation with the applicant.</u>
<i>Subpart 3 - Notification, submissions, and hearings</i>			
194.	<i>General comments – notification clauses</i>	We consider that, overall, the clauses relating to notification are complex and ambiguous and would benefit from clearer redrafting. We make some recommendations for changes to specific clauses below.	
195.	145 – Mandatory public notification in some circumstances	We support the decision not to carry the “special circumstances” provisions of the RMA (as they applied to both public and limited notification) through to the Natural Environment Bill. These introduced complexity and uncertainty into the statutory assessments required, particularly in relation to limited notification.	Retain the decision not to include “special circumstances” provisions for targeted or public notification in this Bill.
196.	146 – Notification requirements if section 145 does not apply	<p><u>“Significant adverse effects”</u></p> <p>The Council is concerned that the statutory threshold for public notification under clauses 146(6)(a) and 148 of whether the activity “<i>will have or is likely to have significant adverse effects on natural resources or people</i>” is a major increase from the “more than minor” threshold in the RMA. The threshold for “significant” has not been defined and will cause uncertainty and legal debate. This is also inconsistent with notification requirements for land use consents under clause 125(7) of the Planning Bill, which sets the threshold at “more than minor” effects where there are no affected persons or it is not possible to identify them. Overall, we query whether this increase in threshold is necessary, given that only 2-3% of applications are currently publicly notified.</p> <p><u>Effects on “natural resources”</u></p> <p>The test in subclause (6)(a) relates to effects on “natural resources” and so departs from the RMA test of effects on the “environment”. Considering effects on natural resources would appear to be more limiting than considering effects on the environment (because natural resources are a sub-set of the environment), but it is not clear how that distinction would manifest in practice. In this regard, there is significant existing jurisprudence that applies to determining effects on the environment but none relevant to the question of effects on “natural resources” per se. Furthermore, in terms of substantive</p>	<p>Replace the threshold for public notification under clauses 146(6)(a) and 148(1) with “more than minor”.</p> <p>Amend clause 146(6)(a) by replacing “natural resources” with “natural environment”.</p> <p>Amend either clause 146 or clause 149 to exclude trade competition from both public and targeted notification assessments.</p> <p>Amend clause 146(2) to clarify how the notification provisions will accommodate statutory acknowledgements in new Acts passed after the Natural Environment Bill is enacted.</p> <p>Amend clause 146 to make it explicit that a public notification decision under this clause is not subject to challenge in the Planning Tribunal.</p>

Submission point	Clause	Submission	Amendments sought
		<p>decision-making, the permit authority is required to have regard to effects on the “natural environment” (under clause 156(1)(a)(ii)).</p> <p>For all of these reasons, we recommend that effects on the natural environment should also be the basis for the statutory test in clause 146.</p> <p><u>Other comments</u></p> <ul style="list-style-type: none"> <li>• We suggest that either clause 146 or 149 should, for the avoidance of doubt, clarify whether the matters in clause 148(2) apply to an assessment of whether effects on persons are more than minor for targeted notification, specifically with regard to trade competition and its effects (given that clause 152(3) excludes submissions on these effects).</li> <li>• Clause 146(2)(b)(i) refers to the effect of statutory acknowledgements on notification decisions and cross-references to the Acts specified in Schedule 6. As this list is of existing Acts that specify statutory acknowledgements, it is not clear how or whether the notification provisions will accommodate statutory acknowledgements in new Acts passed after the Bill is enacted.</li> <li>• Currently there is no provision that states that a public notification decision under clause 146 is subject to challenge in the Planning Tribunal (refer to clause 16, Schedule 10 of the Planning Bill). This should be made explicit.</li> </ul>	
197.	147 – Public notification of permit application after request for further information or report	<p>The Council opposes the mandatory public notification of an application if an applicant fails to adequately respond to a request for further information or a request to commission a report. It does not make sense to publicly notify an application that lacks appropriate supporting information. This risks further unnecessary time and costs for all parties involved, including third parties who may feel compelled to make a submission.</p> <p>It would make more sense for the permit authority to have the option to proceed to process the application on the basis of what is available. If there is genuinely insufficient information to enable a permit to be granted, the application will be declined as is explicitly provided for by clause 165(4).</p>	Delete clause 147.

Submission point	Clause	Submission	Amendments sought
198.	148 – Whether significant adverse effects on natural resources or people	We note that subclauses (2)(b) and (3) which address the “permitted baseline” are contradictory. The former states that the permitted baseline must be applied, whereas the latter states that it may. This drafting needs to be reconciled.	Delete clause 148(2)(b).
199.	149 – Whether person is affected person	<ul style="list-style-type: none"> <li>• Subclause (2)(a) refers to “affected” protected customary rights groups and “affected” customary marine title groups. We assume that clause 149 should equally apply to that category of potentially affected persons.</li> <li>• Subclause (1)(a)(ii) seems to inappropriately confuse the concepts of effects on persons with effects on the environment. This was avoided in the RMA.</li> <li>• There is no definition of a person who “resides” within a management unit. We suggest this could be similar to the definition of ‘qualifying resident’ that includes “a natural person whose main place of residence is within...”</li> <li>• Subclauses(3)(a) and (4) are contradictory in that the former mandates the application of the “permitted baseline” in respect of effects on persons, whereas the latter makes it discretionary. While (3)(a) is “subject to” (4) – and is therefore prevailed over by it – the drafting is unnecessarily confusing. A solution would be to amend (3)(a) to “...may disregard...” and delete (4).</li> <li>• Currently there is no provision that states that a targeted notification decision under clause 149 is subject to challenge in the Planning Tribunal (refer to clause 16, Schedule 10 of the Planning Bill. This should be made explicit.</li> </ul>	<p>Amend clause 149 as follows: “(1) For the purpose of section 146(2)(a)(i) and (ii), <u>146(2)(b)(ii) and (4)...</u>”</p> <p>Amend 149(1)(a) so that effects on persons and effects on the environment are not confused.</p> <p>Add a definition for a person who “resides within a management unit”.</p> <p>Amend 149(3)(a) to “may disregard...” and delete 149(4).</p> <p>Amend clause 149 to make it explicit that a targeted notification decision under this clause is not subject to challenge in the Planning Tribunal.</p>
200.	152 – Submissions on applications	<p><u>“Qualifying resident”</u></p> <p>The Council supports the requirement under clause 152(1) that only a qualifying resident of the region or an affected person under clause 149 may submit on a publicly notified permit application. However, we note the following:</p> <ul style="list-style-type: none"> <li>• As stated in our comments on clause 3, it is important that ‘qualifying resident’ is very clearly defined in the Bill.</li> <li>• It is imperative that the restrictions on submissions do not restrict Treaty settlement obligations in relation to Māori/iwi participation in permitting processes.</li> </ul>	<p>Add a requirement for submitters to provide evidence that they are a ‘qualifying resident’.</p> <p>Redraft clause 152(1)(b) so that the right to submit is clearly defined, and not subject to post-submission decision-making by the council.</p>

Submission point	Clause	Submission	Amendments sought
		<ul style="list-style-type: none"> <li>• We note that the restriction to “qualifying residents” excludes situations where effects extend beyond a regional boundary (or district boundary, in the case of the Planning Bill). We recommend that consideration be given to this.</li> <li>• This clause needs to include a requirement for submitters to provide evidence that they are a “qualifying resident” in relation to the region in which the activity that is the subject of their submission relates.</li> </ul> <p><u>Other comments</u></p> <ul style="list-style-type: none"> <li>• Clause 152(1)(b) provides, in relation to publicly notified applications, that submissions may be made by persons who are qualifying residents or “<i>if that person is an affected person under section 149.</i>” This places councils in the position of having to determine a person’s right to submit, after they have submitted, based on the criteria set out in clause 149(1)(a)(i) and (ii). The Council does not support this. The right to submit should be clearly defined, not subject to post-submission decision-making by the council based on its assessment of the severity of effects imposed on that person. This clause as drafted imposes an inappropriate and unnecessary additional burden on councils in making this assessment (particularly if there are multiple submitters affected) and is likely to give rise to challenges by submitters when status is denied or applicants when status is given. Noting also that challenges could only be made via the High Court, given that only qualifying residents have standing to make an application for review to the Planning Tribunal (under clause 16(8), Schedule 10 of the Planning Bill).</li> <li>• Clause 152 cross-refers to clause 132 of the Planning Bill, which (in clause 132(1)(b)) states that a submission to a permit application must “<i>make a case that is reasonable and relevant to the application that is the subject of the submission...</i>” We suggest the reference to the “reasonableness” of a submission should be deleted as it is entirely subjective and will therefore give rise to legal uncertainty as to the legal validity of a submission in the first place (notwithstanding that the decision-maker may later treat it as “invalid”). Whether a submission is “reasonable” or not is a matter for the</li> </ul>	<p>Amend clause 132(1)(b) of the Planning Bill by deleting the reference to the “reasonableness” of a submission.</p>

Submission point	Clause	Submission	Amendments sought
		<p>decision-maker to consider on the basis of evidence/submissions but should not be a determinant of its legal validity at the outset.</p> <p>The same comments apply to clause 133 of the Planning Bill.</p>	
201.	153 – Hearing of natural resource permit application	<ul style="list-style-type: none"> <li>We note that the RMA provisions relating to prehearing meetings have not been carried through, instead, there is a power (under clause 134 of the Planning Bill) to hold conferences/mediation. We support this change.</li> <li>The hearing provisions exclude a hearing in the scenario where there are no submitters but an applicant and permit authority have opposing views on technical information or how that should be applied in a consent decision, or on the consent duration, where conferencing hasn't been able to resolve this <u>and</u> the applicant has not requested a hearing. In that scenario under the RMA a consent authority may hold a hearing to have an independent commissioner decide the matter. While this doesn't avoid the potential for an appeal, it tends to minimise it. Forcing the consent authority to make a decision without a hearing in this scenario increases the potential for an appeal that may be more costly and take longer to get a decision (at ratepayers' expense for consent authority input), than holding a hearing. To address this, we recommend adding a new clause to allow the hearing of an application to be at the permit authority's discretion where there are no submitters and to address only matters not resolved via a conference. This provides for a decision via an independent hearing but limits the content, and hence time and cost of a hearing, to unresolved matters only, without hearing the entire application.</li> </ul>	Add a new subclause to allow the hearing of an application to be at the permit authority's discretion where there are no submitters and to address only matters not resolved via a conference.
202.	<i>Additional comment</i>	We note the Natural Environment Bill does not contain any equivalent of RMA section 42A (Reports to Local Authority). It is unclear whether this is deliberate or an omission. The Council recommends inclusion of equivalent provisions.	Add provisions equivalent to RMA section 42A to the Natural Environment Bill and Planning Bill.
<i>Subpart 4 - Consideration of application and decision</i>			
203.	<i>General comments – consideration of application</i>	Subpart 4 does not include any requirement or even ability to have regard to iwi management plans. We consider this should be included.	Add a requirement within Subpart 4 to have regard to iwi management plans in permitting decisions.

Submission point	Clause	Submission	Amendments sought
204.	155 – Matters that permit authority must disregard	<ul style="list-style-type: none"> <li>• Clause 155(1)(b) mandates the application of the “permitted baseline” whereas clause 156(2) reverses that obligation. If clause 156(2) overrides clause 155(1)(b), then it is more sensible to retain the RMA approach, which is that the permit authority may, at its discretion, apply the permitted baseline.</li> <li>• We note there appears to be no equivalent of RMA section 104(1)(c) within clauses 154 - 169. This enables the consent authority to have regard to “any other matter the consent authority considers relevant and reasonably necessary to determine the application.” This enabled matters not explicitly specified (e.g. iwi management plans) to be brought into account. We note that clause 14(c) of the Bill does however state that persons exercising functions, duties or powers under the Act may consider other effects. If the legislative intent, when making permitting decisions, is to enable consideration of “any other matter” in the same way as section 104(1)(c) of the RMA, that should be made explicit in the permitting provisions themselves.</li> </ul>	<p>Amend clauses 155(1)(b) and 156(2) to allow the permit authority, at its discretion, apply the permitted baseline.</p> <p>If the legislative intent is to enable consideration of “any other matter” in permitting decisions in the same way as section 104(1)(c) of the RMA, amend Subpart 4 to make this explicit.</p>
205.	156 – Consideration of natural resource permit application	<p>Adverse effects are relevant to the determination of an application only where those effects are on a person or the ‘natural environment’ for a permit (under this clause) or the ‘built environment’ for a planning consent (under clause 139 of the Planning Bill). The definitions of these two terms restrict the matters that can be considered for permits/consents (including for notification) under each Bill.</p> <p>The definitions do not seem to reflect the goals or scope of the Bills as set out in clause 11. The definition of “natural environment” is:</p> <p style="padding-left: 40px;"><i>“(a) land, water, air, soil, minerals, energy, plants:  (b) plants (excluding pest species), animals (excluding humans, domesticated animals, or pest species), and their habitats:  (c) ecosystems and their constituent parts.”</i></p> <p>In contrast, clause 11 of the Natural Environment Bill contains goals that also relate to indigenous biodiversity and natural hazards. Meanwhile, clause 11 of the Planning Bill contains goals relating to natural hazards but this is not reflected</p>	<p>Amend the Natural Environment Bill and Planning Bill to ensure that the “environment” under each fully reflects the goals of each Bill, to enable full assessment of effects in permitting processes. We suggest this could be achieved by applying one wider definition of “environment” common to both Bills, with the relevant effects for a consent or permit assessment being those in scope of the particular Bill.</p> <p>We note that this would require consideration of amendments to other clauses across both Bills, to ensure an aligned approach.</p>

Submission point	Clause	Submission	Amendments sought
		<p>in clause 14 of that Bill, neither is indigenous biodiversity which may be affected by land use activities.</p> <p>It is not clear why the same “environment” cannot be relevant to both Bills, with the relevant effects being those within the scope of the particular Bill.</p>	
206.	<i>Potential new clause</i>	<p>The concept of the ‘existing environment’ as the starting place for assessing environmental effects in the consent process, although not directly mentioned in the RMA, has been established via substantial case law.</p> <p>It would be useful, given that the ‘existing environment’ concept has been well established, for the Natural Environment Bill to codify the existing environment principles in legislation to avoid a lack of certainty and possible re-litigation of that concept in the new system due to new definitions and permitting mechanisms. We assume because the concept of assessing effects of an activity for a permit under the Natural Environment Bill is essentially aligned with RMA consenting, that unless new case law demonstrates otherwise, the existing principles defined by RMA case law would apply.</p>	Add a new clause to codify the ‘existing environment’ principles established in RMA case law within the Natural Environment Bill.
207.	160 – Matters relevant to application relating to wastewater network	Clause 160(2)(b) begins “ <i>Except as expressly otherwise provided in this Act...</i> ” In its current drafting, the Bill does not appear to “expressly otherwise provide”. This phrase is therefore unnecessary and gives rise to avoidable uncertainty.	Delete the phrase “ <i>Except as expressly otherwise provided in this Act...</i> ” from clause 160(2)(b).
208.	161 – Matters relevant to application relating to stormwater network	The comments on clause 160 above equally apply to clause 161(2)(b).	Delete the phrase “ <i>Except as expressly otherwise provided in this Act...</i> ” from clause 161(2)(b).
209.	163 – Land use permit may be refused or granted with conditions if risk from natural hazards	Clause 163(1) enables the permit authority to decline a land use permit where there is a significant risk from natural hazards. The Council suggests that this power be extended to include all permits for which the regional permit authority has responsibility. There are instances where damming of water, diversion of	Amend clause 163 to extend the power to decline land use permits where there is a significant risk from natural hazards to include all permits for which the regional permit authority has responsibility.

Submission point	Clause	Submission	Amendments sought
		<p>water (including from stopbanks which may not require land use consent), and discharges to water may also be subject to risks from natural hazards.</p> <p>We also note that this clause states the council “may refuse to grant” a permit in certain circumstances. In the previous clause, the words “may decline” are used. It is clear they mean the same thing; we suggest that consistent terminology be employed. The terms are used interchangeably throughout the Bill, so this point applies generally.</p>	<p>Replace the phrase “may refuse to grant” with “may decline” in clause 163 and throughout the Bill.</p>
210.	164 – Matters for which permit must not be granted	<p><u>Situations where a limit is already breached</u></p> <p>While the Council supports clause 164(c) which prohibits the granting of a permit where “<i>the permit would result in the breach of an environmental limit</i>”, we consider it should also address the situation where there is already a breach of a limit, and a discharge permit is sought for a discharge activity containing contaminants which might potentially exacerbate that breach. This is akin to the problem under RMA section 107 which was addressed recently by amendments to that section. We consider the permit authority should not be prohibited from granting a permit in those circumstances so long as an approach akin to that in RMA section 107(2A) is taken.</p> <p><u>Cumulative and temporary effects</u></p> <p>Where clause 164(c) acts to prevent the breach of an environmental limit for all other activities, and where the limit hasn’t been reached yet, it would provide clarity if cumulative effects were referred to, that is including consideration of the effects of that activity in combination with any other activity, in the same way that RMA section 107 does. Although clause 15 of the Natural Environment Bill requires consideration of cumulative effects in the determination of less than minor effects in general, clause 164 deals with any level of effect that might breach an environmental limit. It should be made clear that potential breach should be in considered in light of all effects contributing to a breach.</p> <p>RMA section 107 provides that certain effects are able to be granted if they are temporary or associated with “necessary maintenance”. Those provisions also do</p>	<p>Amend 164(c) as follows:</p> <p>“(c) granting the permit would result <u>(either by itself or in combination with any other activity)</u> in the breach of an environmental limit, unless the breach is <del>authorised by</del>—</p> <ul style="list-style-type: none"> <li>(i) <u>authorised by national standards made under section 86 and imposes conditions on the permit that will contribute to a reduction of effects over the duration of the permit;</u> or</li> <li>(ii) <u>authorised by a water services standard;</u> or</li> <li>(iii) <u>a temporary activity.</u>”</li> </ul> <p>Add a new subclause to clause 164 as follows:</p> <p><u>“Despite sub-section (c), a permit authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 21 or 22, that may allow the breach of an environmental limit if the permit authority—</u></p> <ul style="list-style-type: none"> <li><u>(a) is satisfied that, at the time of granting, the environmental limit is already breached;</u> and</li> </ul>

Submission point	Clause	Submission	Amendments sought
		<p>not appear in clause 164. The inability to cause temporary effects could lead to significant numbers of permits being declined; for example, if there is an environmental limit for colour or clarity of water and a temporary effect of construction breaches this.</p> <p><u>Exceptions</u> The Council is concerned about clause 164(c), which provides an automatic right to breach an environmental limit where the activity is authorised by a national standard made under clause 86 (significant infrastructure) or a water services standard (municipal wastewater or stormwater standard). This allows granting of a permit for those activities to breach any environmental limit, including human health and ecosystem health limits. While significant infrastructure activities that may breach an environmental limit must only be (under clause 86) for categories of infrastructure with significant public benefit, there is therefore also potential for adverse effects on human health to be authorised.</p> <p>Section 86 contains a number of caveats to the establishment of a national standard consenting pathway, but a standards will provide for a “category” of infrastructure activity, presumably nationwide and not considered at a site specific scale, and then when evaluation of a permit application is undertaken this will be through the lens of infrastructure enabling national instrument policies and the enabling pathway.<sup>3</sup> Therefore, once an enabling pathway for infrastructure is established a very high bar will be set for declining permit applications, despite local adverse effects including breaching of human health or ecosystem environmental limits.</p> <p>When a breach of an environmental limit occurs, the Bill requires regional councils to act under clauses 60-67. The system described in these clauses places</p>	<p><u>(b) imposes conditions on the permit; and</u> <u>(c) is satisfied that those conditions will contribute to a remedying of the breach over the duration of the permit.”</u></p>

<sup>3</sup> The current National Policy Statement for Infrastructure indicates the likely national direction that will be carried over under the new system, and requires decision makers to recognise and provide for “national, regional or local benefits of infrastructure relative to any localised adverse effects” and to “enable new infrastructure or major upgrades of existing infrastructure activities in all environments”.

Submission point	Clause	Submission	Amendments sought
		<p>obligation on the regional council to take actions and interventions to try and return the system to within environmental limits and (via clause 164) prohibits permits being granted to other users. Therefore, the Council is concerned that the pathways for significant infrastructure and water services activities inevitably result in significant issues of natural justice. Other users of the environment will be unduly penalised and may have allocation removed at permit replacement, or existing permit conditions reviewed, due to effects from infrastructure or water services activities. The cost to manage the breach of the environment limit and to try and reestablish the environment within the limit will fall on the regional council, its community, and disadvantage other resource users including those already operating at the time the breach is allowed and preventing new resource users in the breached management unit.</p> <p>Additionally, subclause(c) does not require the exception activities in (i) and (ii) to contribute to reduce, offset, or compensate for the effects they cause, either at the outset of the activity or over time. This means a breach of environmental limit by infrastructure or water services activity may be permanent.</p> <p>While wastewater and stormwater will meet the exception only when managed via standardised regulations (currently the recent 2025 wastewater standards), water quality in the receiving environment will be allowed to be degraded by this clause. National standards made under clause 86 relate to infrastructure and therefore have the potential for a wide range of effects that are as yet unknown. While clause 86 requires users of any future infrastructure permitting pathway to <i>“minimise any breach of environmental limits as much as reasonably possible”</i>, as noted above there is no ongoing responsibility on the infrastructure provider to reduce this over time or to contribute to the cost of reestablishing the environment within the limit.</p>	
211.	165 – Determination of natural resource permit	The reference to section 169 within clause 165(2)(b) should be changed to “sections 168 and 169” as both sections address the imposition of conditions on a permit.	Replace the reference to “section 169” within clause 165(2)(b) with “sections 168 and 169”.

Submission point	Clause	Submission	Amendments sought
212.	167 – Permit authority may grant application with adaptive management approach	<ul style="list-style-type: none"> <li>• We consider the list of requirements in clause 167(2) to be overly prescriptive. Adaptive management approaches can be different in their make-up and some of the mandatory requirements in (2) may not be appropriate when considered on a case-by-case basis. For example, it may be possible to set trigger/alarm levels at the outset without the additional collection of baseline data (an example being for reinjection consents for Wairakei Geothermal Steamfield in the Waikato region). We therefore suggest that (2) should be amended to a list of considerations rather than a list of mandatory matters.</li> <li>• Subclauses (3)(a) and (e) are largely duplicative and should be reconciled.</li> <li>• Subclause (4)(d) states “any effects that might arise can be remedied before they become irreversible.” We suggest this be amended to “any unacceptable effects that might arise...” Otherwise, the threshold of “any effects” is inappropriately low and does not align with the requirements of subclause (3).</li> </ul>	<p>Amend clause 167 to make the list in subclause (2) matters that must be considered, rather than mandatory requirements for an adaptative management approach.</p> <p>Reconcile the drafting of clauses 167(3)(a) and (e).</p> <p>Amend clause 167(4)(d) to “any unacceptable effects that might arise...”</p>
<i>Subpart 5—Conditions and other requirements for decisions</i>			
213.	168 – General requirements before conditions may be included	<ul style="list-style-type: none"> <li>• We recommend that subclause (1)(b) be deleted. The reference to section 169 does not make sense in this context, as clause 169 is a list of types of conditions than can be imposed but does not contain “requirements” that must be “complied with” before imposing a condition on a permit.</li> <li>• We consider clauses 168(2)(a) and (b) together to be unreasonably limiting on the ability to impose suitable conditions because: <ul style="list-style-type: none"> <li>○ Subclause (a) only allows such conditions to be imposed where they are agreed to by an applicant. Subclause (a)(ii) is especially concerning as it requires the applicant’s approval for conditions that seek to avoid, minimise, remedy, offset, or provide compensation for, any adverse effects. It is very difficult to understand the rationale for such a limiting condition. Unless it is changed, the permit authority’s ability to appropriately manage effects will be severely constrained. There should be no restriction on a council’s ability to impose a relevant and proportionate condition on a permit in order to avoid, remedy or mitigate unacceptable adverse effects.</li> <li>○ Subclause (b) only allows such conditions to be imposed if they are “directly connected to (i) an applicable provision in the natural</li> </ul> </li> </ul>	<p>Delete clause 168(1)(b).</p> <p>Amend clause 168 as a whole to enable conditions to be imposed that are proportionate, that relate to adverse effects that are within the scope of regional councils and that, in the case of a restricted discretionary activity, are within the rule’s specified matters of discretion.</p>

Submission point	Clause	Submission	Amendments sought
		<p><i>environment plan or national rule; or (ii) a water services standard</i>". Sub-clause (5) then states that <i>"a provision is applicable if the application of the provision to the activity is the reason, or one of the reasons, that a natural resource permit is required for the activity."</i> This drafting is legally ambiguous and is therefore likely to result in litigation.</p> <p>The Council recommends that this clause be redrafted as whole, enabling conditions to be imposed that are proportionate, that relate to adverse effects that are within the scope of regional councils and that, in the case of a restricted discretionary activity, are within the rule's specified matters of discretion.</p>	
214.	172 – Right to appeal	<p>We note there is misalignment between the instances in the Natural Environment Bill where recourse to the Planning Tribunal is provided for, and the listing of review powers in clause 14 Schedule 10 of the Planning Bill.</p> <p>Clause 172(3) states that the rights in this clause are <i>"in addition to the rights provided for in clause 14 of Schedule 10 of the Planning Act 2025 (which provides for a right of review by the Planning Tribunal)..."</i> However, there are no rights in clause 14, Schedule 10 of the Planning Bill that address the subject matter of clause 172 (namely, right of appeal against decisions on permit applications, changes or review).</p>	Amend clause 14, Schedule 10 of the Planning Bill to align with clause 172 and other relevant clauses of the Natural Environment Bill.
<i>Subpart 6—Nature of permits, commencement, duration and review</i>			
215.	178 – Duration of natural resource permit	<p>Clause 178 limits the duration of any land use consents (which includes clause 17 and 19 activities) to 35 years unless the consent is for a reclamation. There are other scenarios that currently receive unlimited durations under the RMA. These include activities that involve permanent changes to the land, such as permits to drill/use wells. We consider that the option for unlimited terms should apply to clause 17 activities (as is currently the case in the RMA for section 9 land use).</p>	Amend clause 178 to provide the option for natural resource permits for clause 17 activities to be granted for an unlimited term.
216.	182 – When sections 183 and 184 apply and when they do not apply	<ul style="list-style-type: none"> <li>The meaning of the term "allocated" in clause 182(2) is unclear. It is not clear whether, in this context, "allocation" means the plan has specified that some or all of the available resource is to be "allocated" to a particular type of use or activity (as suggested by clause 182(3)(a)(i)), or whether "allocation" in this context is a reference to the amount of the resource that has already been</li> </ul>	Amend clause 182(2) to better clarify the intended meaning of the term "allocated".

Submission point	Clause	Submission	Amendments sought
		<p>allocated by way of the granting of permits (as suggested by clause 182(3)(b)(ii). The term “allocation” seems to be employed in both ways, and the intended meaning is therefore unclear.</p> <ul style="list-style-type: none"> <li>• The term “existing permit application” is confusing because any permit application is “existing” once it is lodged, including a completely new one. We consider a clearer term such as “replacement permit application” would be helpful here and throughout clauses 182-185.</li> </ul>	<p>Replace the term “existing permit application” with “replacement permit application” throughout clauses 182-185.</p>
217.	184 – Applications by person who is not existing permit holder	<p>This clause is onerous and unworkable (as is the corresponding provision under the RMA). It is very unclear how these provisions are intended to work, particularly where there are multiple permit holders, all with different durations and expiry dates, in relation to a single resource.</p> <ul style="list-style-type: none"> <li>• It is not clear whether subclause (3) refers to a replacement application immediately or in due course (i.e. nearer to when the permit expires). It is assumed, but not entirely clear, that (3) in effect means that the existing permit holder notifies the permit authority that it does not intend to replace its permit at all in the period before its expiry or after its expiry. It also does not make clear that in notifying the permit authority of not proposing to make an application, the permit holder loses their right to make an “existing permit application” (clause 182) and entitlement to priority over other applications (clause 183(2)). That is, while a permit holder can presumably change their mind and re-apply for the same activity despite a notice of their proposal not to do so, it will be treated as a new application in terms of priority and resource. We recommend this section (and any notice sent to an existing permit holder) should make this consequence very clear.</li> <li>• Nothing in clause 184 as drafted requires the permit holder to notify the permit authority regarding its intentions, in response to a notification under clause 184(2)(b).</li> <li>• Subclauses (4) and (5) require different things depending on whether or not existing permit holders make an existing permit application more than 3 months before the expiry of the permit. If they don’t, the permit authority must process the new application. If they do, the permit authority must hold the new application and only process it after the incumbent’s application</li> </ul>	<p>Redraft clause 184 to address clarity issues.</p>

Submission point	Clause	Submission	Amendments sought
		has been processed. But as noted, there is no requirement for the incumbent to tell the permit authority in advance what it plans to do. Whether (4) or (5) applies might take years to determine depending upon when the incumbent permits expire. Further to this, in many situations there are multiple incumbents, all with different terms and expiry dates, making the provisions unworkable. The times at which incumbents would need to re-apply so as to fall within the scope of this subclause, are therefore likely to be staggered over years.	
218.	188 – Public notification, submissions, and hearing, etc	It is not clear what is meant by the wording of clause 188(3): <i>“If a plan states that a rule will affect the exercise of existing natural resource permits that are subject to review...”</i>	Amend clause 188(3) to make the meaning clear.
219.	194 – Transferability of coastal permits	Clause 194(2) states that the transfer <i>“has no effect until written notice of the transfer is given to the permit authority that granted the permit.”</i> This is inconsistent with the corresponding provisions in clauses 195 and 196 in which the take-effect date is when <i>“written notice of the transfer is received by the permit authority”</i> . We consider these provisions should be consistent and that the latter approach provides more administrative certainty and is therefore preferable.	Amend clause 194 to state that the transfer has no effect until “written notice of the transfer is received by the permit authority”, for consistency with clauses 195 and 196.
220.	195 – Transferability of water permits	The Council does not support the transfer of water permits within a geothermal field being a permitted activity. Effects on the field will differ with vertical and lateral location of a water take (including subsidence, such as at Ohaaki geothermal field).	Amend clause 195 to exclude the transfer of water permits within a geothermal field.
221.	197 – Surrender of permit	Clause 197(4) states that <i>“A surrender of a natural resource permit takes effect on receipt by the holder of a notice of acceptance of the surrender from the permit authority.”</i> However, subclause (2) makes it clear that the council cannot refuse to accept the surrender of a consent except where it is a part surrender. That caveat should therefore be expressed in the drafting of subclause (4).	Amend clause 197(4) as follows: <u>“Except as provided for by sub-section (2), a surrender of a natural resource permit takes effect...”</u>
222.	202 – Notification and registration of activity subject to	As detailed in relation to clause 39, the Council is concerned with the concept of written approvals for permitted activities under the Natural Environment Bill, and particularly with the resourcing implications of the registration of permitted activities and the subsequent required monitoring. If this monitoring is required	Delete subclauses (3) and (4) and replace with:

Submission point	Clause	Submission	Amendments sought
	permitted activity rule	at scale, it will potentially overwhelm permit authorities and impose unnecessary requirements on people undertaking permitted activities.	“(3) The permit authority must acknowledge receipt of the notification within 10 working days of receipt and register the activity.”
223.	206 – When right to apply lapses	Clause 206(1)(b) as drafted does not provide for the scenario in clause 206(2)(b)(i) where the regional council has not made a decision. We recommend this clause be amended to clarify the legal position of the right holder in this scenario.	Amend clause 206(1)(b) to account for the scenario in clause 206(2)(b)(i).
224.	208 – Defined terms	The Council is concerned that there is no definition or guidance of the term “merits” for the purpose of applying clause 214. “Merit” can invoke a potentially wide range of considerations including economic, social, cultural and environmental matters or any combination of these. We recommend the inclusion of a definition of “merit” for the purpose of this clause, or other guidance to assist in its application.	Amend clause 208 to provide a definition of “merit” for the purpose of implementing clause 214; or Provide guidance on the application of “merit” when using the comparative consenting process.
225.	218 – Ministers may direct commencement of review	This clause enables the Minister to direct a regional council to commence a review of the whole or any part of its natural environment plan. Given the significant workload and cost implications of this for the regional council, we recommend that there be requirements added for Minister to engage with the regional council, including on the costs and scope of the review, before exercising this power.	Add requirements to clause 218 for the Minister to engage with the regional council, including on the costs and scope of the review, before exercising this power.
226.	221 – Overview of responsibilities of regional councils	<ul style="list-style-type: none"> <li>As discussed in relation to clauses 11 and 14, the Council is concerned that the separation of responsibilities under the Bills as drafted does not sufficiently allow regional councils to manage effects in the CMA or on physical features valued outside of their resource provision (e.g. wetlands, coastal features and geothermal features), despite this being an important part of managing the “<i>use, protection and enhancement of the natural environment</i>” as stated in the Bill’s purpose, and despite the fact that a land use consent will not always be triggered under the Planning Bill in relation to these matters. To address this, we recommend that management of the following matters should be explicitly listed as responsibilities of regional councils in clause 221:</li> </ul>	Add the following as additional responsibilities of regional councils under clause 221(2): <ul style="list-style-type: none"> <li>“<u>outstanding natural features and landscapes within the coastal environment, wetlands, lakes, rivers, and their margins, and geothermal surface features:</u>”</li> <li><u>areas of high natural character within the coastal environment, wetlands, lakes, rivers, and their</u></li> </ul>

Submission point	Clause	Submission	Amendments sought
		<ul style="list-style-type: none"> <li>○ Outstanding natural landscapes and features within the coastal environment, wetlands, lakes, rivers, and their margins and geothermal surface features;</li> <li>○ Areas of high natural character within the coastal environment, wetlands, lakes, rivers, and their margins and geothermal surface features; and</li> <li>○ Public access within the coastal marine area.</li> <li>● Clause 221 as drafted is unclear as to the responsibilities of regional councils in relation to contaminated land, particularly compared to the current wording in RMA section 30(1)(ca). ‘Soil conservation’ (referred to in clause 221(3)) as defined in the Bill includes soil contamination, which indicates that regional councils do have a role in relation to contaminated land under the Natural Environment Bill, however the extent of that role is unclear.</li> <li>● Additionally, clause 184(3) of the Planning Bill makes it clear that regional councils have the responsibility to regulate and manage contaminated land that is wholly within the coastal marine area. It would therefore be useful to provide some cross reference within clause 221 of the Natural Environment Bill regarding this responsibility.</li> </ul>	<p><u>margins, and geothermal surface features:</u></p> <ul style="list-style-type: none"> <li>● <u>public access within the coastal marine area.”</u></li> </ul> <p>Amend clause 221 to explicably clarify the responsibilities of regional councils under the Natural Environment Bill in relation to contaminated land, including within the coastal marine area.</p>
227.	225 – Obligations relating to statutory acknowledgements	The Council considers the wording of this clause to be ambiguous and recommends that it be redrafted.	<p>Replace the wording of clause 225 with the following:</p> <p>“Every regional council shall, in undertaking its planning and other functions and responsibilities under this subpart, comply with its obligations relating to any statutory acknowledgements applying within, or in any part of, its region.”</p>
<i>Subpart 3 – Transfer and delegation of powers</i>			
228.	231 – Transfer of powers	The Council notes that the definition of “public authority” has been narrowed in scope compared to the equivalent definition under the RMA. Since 2020, Tūwharetoa Māori Trust Board has had responsibility for water quality monitoring functions around Lake Taupō. These powers were transferred using section 33 of the RMA and were done so following a full public consultation	Amend clause 231 to insert “iwi authority” into the definition of “public authority”. If this is not supported then the Council seeks clarity from government in regard to the ongoing status of the transfer of powers,

Submission point	Clause	Submission	Amendments sought
		process as required by the Local Government Act 2002. The Council recommends that this power is retained under the new Bills to enable the continuation of this arrangement.	and/or the process that government determines is needed to review the operation of this transfer.
<b>Part 6 - Enforcement and other matters</b>			
<i>Subpart 1 – Enforcement</i>			
229.	278 – Offences against this Act	Regulations are not mentioned in this clause, so it is unclear whether breaches of regulations constitute an offence. An example is regulations promulgated in respect of Freshwater Farm Plans (refer Schedule 5). Failure to comply by parties affected by those regulations appears to have no enforcement remedy available in the legislation.	Amend clause 278 to clarify if breaches of regulations promulgated under this Bill constitute an offence.
<i>Subpart 2 – Emergency works</i>			
230.	301 – Emergency works and power to take preventative or remedial action	As noted, the Council supports provisions under both Bills for designating authorities to undertake emergency works for preventative or remedial action. This enhances the Council’s ability to respond effectively to natural hazard events. However, the Council is concerned that the Bill imposes a higher standard than the RMA via the requirement to “minimise” rather than “mitigate” adverse effects, which could be very problematic in an emergency works context.	Replace the term “minimise” with “mitigate” in clause 301.
231.	302 – Natural resource permits for emergency works	There should be recognition that some emergency works can take some time to complete (sometimes weeks for remedial works), but that notification should occur early on. However, the deadline for making an application is a period after conclusion of the works. We suggest amending this clause to provide flexibility for these instances.	Amend clause 302(1) and (2) as follows: (1) “Where an activity is undertaken under section 301, the person (other than the occupier), authority, network utility operator, or lifeline utility who or which undertook the activity must advise the appropriate permit authority, within 7 days, that the activity has been, <u>or is being</u> , undertaken. (2) Where such an activity, but for section 301, contravenes any of sections 17, 18, 19, 12, and 20 and the adverse effects of the activity continue, then the person (other than the occupier), authority,

Submission point	Clause	Submission	Amendments sought
			network utility operator, or lifeline utility who or which undertook the activity must apply in writing to the appropriate permit authority for any necessary natural resource permits required in respect of the activity within 30 working days of <u>completion of the work notified notification</u> under subsection (1)."
232.	303 – Emergency works under Civil Defence Emergency Management Act 2002	<p>The concerns stated above in relation to the word “minimise” in clause 301 equally apply to clause 303.</p> <p>There should be recognition that some emergency works can take some time to complete (sometimes weeks for remedial works), but that notification should occur early on. However, the deadline for making an application is a period after conclusion of the works. We suggest amending this clause to provide flexibility for these instances.</p>	<p>Replace the term “minimise” with “mitigate” in clause 303.</p> <p>Amend clause 303(2) and (3) as follows:  “(2) If an activity is undertaken to which subsection (1) applies, the person who authorised the activity must advise the appropriate permit authority, within 7 days, that the activity has been, <u>or is being undertaken.</u>  (3) If such an activity, but for this section, would contravene any of sections 17, 18, 19, 12, and 20 and the adverse effects of the activity continue, the person who authorised the activity must apply in writing to the appropriate permit authority for any necessary natural resource permits required in respect of the activity, within 60 working days of <u>completion of the work notified notification</u> under subsection (2).”</p>
233.	304 – Reimbursement or compensation for emergency works	The use of the word “default” is unclear and this has not been used elsewhere in the Bill. We recommend replacing it with consistent wording.	Amend clause 304(1) to replace the word “default” with “any failure of a person to abide by his or her duties under the Act”.

Submission point	Clause	Submission	Amendments sought
234.	319 – Requirements for waivers and extensions	<p>The Council considers that there are a number of scenarios where it is in the interests of the applicant to extend timeframes and doing so is relatively common, particularly for larger scale and infrastructure related permits. Enabling the ability to extend the maximum time limit has no procedural downside if the applicant agrees. We recommend that clause 319 be amended to allow for a longer extension of a time limit where it is agreed to by the applicant.</p> <p>Subclause (6) disallows special circumstances to include the <i>“lack of availability of, or access to, experts.”</i> This has potential to compromise appropriate processing of permits with complex effects requiring expert consideration. New Zealand has limited resources in some areas of expertise and people are not always available at the time an application is lodged. Furthermore, expert availability will be exacerbated by the common expiry dates of consents that have received expiry extensions under the recent RMA amendment and may get further extension under the Bills’ transitional provisions. By design of the reform system, the activities requiring permits under the new system will be more complex in terms of their effects and effects management requirements and will therefore require careful expert consideration for conditions and appropriate monitoring etc. Common expiries and large numbers of applications being made at the same time will place significant pressure on expert availability.</p>	<p>Amend clause 319(2) as follows:  <u>“A time period that is extended under section 318 must not exceed twice the maximum time period specified in this Act, unless a longer extension is agreed to by the applicant.”</u></p> <p>Delete clause 319(6).</p>
<b>Schedule 2 – Information required in application for natural resource permit</b>			
235.	5 – Information required in assessment of environmental effects	<p>We note that clause 5 refers in multiple places to effects on the “environment”, particularly in subclause (2). However, there is no definition of “environment” in the Bill. This is also inconsistent with the way the rest of the Bill has been drafted. We therefore recommend replacing all references to “environment” with ‘natural environment’ within this clause.</p>	<p>Amend Schedule 2 clause 5 by replacing all references to “environment” with ‘natural environment’.</p>
<b>Schedule 5 – Freshwater farm plans</b>			
236.	6 – Main duties of farm operators	<p>Clause 6 sets out the main duties of farm operators. However, there is no corresponding infringement penalty for failure to comply. We submit that any requirements of farm operators in Schedule 5, including any requirements in</p>	<p>In drafting the infringement regulations, include an offence for failure to comply with the main duties of farm operators as set out in Schedule 5 clause 6.</p>

Submission point	Clause	Submission	Amendments sought
		regulations developed in accordance with clause 15, should include a corresponding offence in the infringement regulations.	
237.	7 – Contents of freshwater farm plan	<p><u>Clause 7(a) – Identification of adverse effects</u></p> <p>The requirement under clause 7(a) for freshwater farm plans to “<i>identify any adverse effects of the activities carried out on the farm on freshwater and freshwater ecosystems</i>” is inconsistent with the existing freshwater farm plan regulations, which require rural professionals to assess the <i>risk</i> of contaminant loss, not the actual <i>adverse effects</i> on waterbodies. Farm plan certifiers are not trained, qualified, or resourced to undertake ecological or hydrological effects assessments. Requiring them to assess “adverse effects” introduces methodology and expertise beyond the role of plan certifiers and risks inconsistent, low-quality, or non-credible assessments across regions. The phrase “limits to which those adverse effects...may contribute” is also unclear and creates confusion about causality. The intent is better reflected by referring to limits that <i>are affected by</i> farm-scale risks.</p> <p><u>Clause 7(b)(i)</u></p> <p>We support the wording “and enabled in a plan” in clause 7(b)(i). Retaining this wording is necessary to ensure regional councils retain an appropriate degree of control over when and how offsetting or compensation can be used within freshwater farm plans. Without this qualifier, offsetting or compensation could become a default tool available to farm plan certifiers or farmers, reducing the council’s ability to regulate or limit its use through the natural environment plan. Retaining the phrase preserves the role of the natural environment plan as the mechanism for authorising whether offsetting or compensation is appropriate in the first place. This position is consistent with the wider legislative structure, including Schedule 5 clause 15(e), which anticipates regulations supporting offsetting or compensation <i>where enabled in a plan</i>.</p>	<p>Amend Schedule 5 clause 7(a) as follows:</p> <p>“identify any <u>risk of</u> adverse effects of activities carried out on the farm on freshwater and freshwater ecosystems and any relevant human health or environmental limits <u>which are affected by those adverse effects to which those adverse effects on freshwater may contribute</u>; and...”</p> <p>Retain the words “and enabled in a plan” in Schedule 5 clause 7(b)(i).</p>
238.	8 – Certification of freshwater farm plan	The Council has explicit statutory responsibilities to monitor compliance by farmers with their duties, which includes complying with their freshwater farm plans. As drafted, the onus is on councils to individually request such under	Amend Schedule 5 clause 8(3) by inserting an additional subclause as follows:

Submission point	Clause	Submission	Amendments sought
		clause 10(2). We recommend that certified freshwater farm plans should be required to be provided to councils.	“(iii) The certifier must provide a copy of the certified plan change to the regional council.”
239.	9 – Audit of farm for compliance with freshwater farm plan	There is no explicit requirement for auditors or farmers to provide the audit report to the council – this should be made explicit.	Amend Schedule 5 clause 11 by inserting an additional subclause as follows: “(4) The farm operator must provide a copy of the results of the audit to the regional council.”
240.	10 – Functions of regional councils	<ul style="list-style-type: none"> <li>• The exact scope of auditor functions as they relate to assessing compliance with the freshwater farm plan is unclear, as is the overlap and relationship with the compliance, monitoring and enforcement functions of regional councils – we consider this should be clarified.</li> <li>• With regard to councils’ potential compliance, monitoring and enforcement role, we have concerns regarding the admissibility of evidence obtained by the auditor given that they are not warranted as an enforcement officer. This should also be clarified.</li> </ul>	<p>Clarify the scope of auditor functions as they relate to assessing compliance in relation to regional councils’ role in compliance, monitoring and enforcement.</p> <p>Clarify the admissibility of evidence obtained by the auditor in enforcement actions taken by the regional council.</p>
241.	11 – Records that must be kept by regional council	Under clause 11, regional councils are required to keep certain records in relation to <i>“each farm in its jurisdiction.”</i> It is suggested that for clarity, this be amended to <i>“each farm in its jurisdiction which requires a freshwater farm plan under this Schedule.”</i>	Amend Schedule 5 clause 11 as follows: “A regional council must keep and maintain, in relation to each farm in its jurisdiction <u>which requires a freshwater farm plan under this Schedule</u> a record of...”
<b>Additional comments</b>			
242.		We note the Bill does not contain equivalent clauses to section 2A of the RMA relating to successors or section 3A “Persons acting under resource consent with permission”. We consider these are useful clarifications of how these matters apply in consenting and should be carried over into the new Bill.	Add clauses equivalent to sections 2A and 3A of the RMA to the Natural Environment Bill.



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29 January 2026

Hon Simon Watts, Minister of Local Government,  
Hon Chris Bishop, Minister Responsible for RMA Reform,  
Parliament Buildings  
Wellington 6160

Tēnā kōrua Minister Watts and Minister Bishop,

### **Local Government Reform – Waikato Mayoral Forum**

Thank you for the opportunity to engage constructively with the Government's local government reform programme. The Waikato Mayoral Forum sees this reform as a once-in-a-generation opportunity to address long-standing systemic issues, strengthen local democracy, and ensure local government can continue to deliver for its communities into the future.

The Forum would like to highlight the following matters in relation to our region.

### **The Waikato region is central to New Zealand's economic performance and long-term resilience.**

Projected rapid population growth across Hamilton, Waikato and Waipa, peri-urban settlements, rural towns and villages, and coastal communities will require coordinated and well-funded long-term planning. The region's location as a critical national transport, freight, and logistics corridor supports a diverse economy spanning agriculture, advanced manufacturing, technology, renewable energy, aquaculture, tourism, healthcare, and forestry. Waikato also manages significant natural resources, including river catchments, geothermal assets, 10,000 km<sup>2</sup> of coastal marine area, 1,200 km of coastline, and \$1.1B in flood protection infrastructure. Our strengths are further supported by a growing Māori economic base and the longstanding cultural and regional leadership of the Kingitanga.

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**A focus on partnerships, relationships and collaboration support the current complexity of the region's governance.**

The region's governance environment comprises 12 local authorities, over 40 iwi including six large iwi groups, and more than 200 hapū. Waikato has demonstrated an enduring desire and ability to work collaboratively with central government, including through the Future Proof partnership. We are demonstrating leadership through the formation of two water service entities in response to Local Waters Done Well legislation. Existing regional governance structures such as the Waikato Mayoral Forum, the CE Forum and the Iwi Governance Forum, illustrate proven leadership and implementation capability.

The Forum urges you to consider the following critical points as you progress with this programme of reform.

**Waikato is ready to partner on nationally aligned, enduring reform.**

The government's reform agenda requires a whole-of-government approach with clear alignment across legislative changes, clarity of functions at all levels, and localised decision-making preserved where it best serves communities. Long-term planning for growth, infrastructure, and climate adaptation must be supported.

The Waikato CE Forum has already initiated work on the unique value proposition of local government, its' form and function, and how this can best support communities within an aligned national system.

**Effective reform requires genuine partnership.**

Recent reform processes have at times, minimised local government's role. A bipartisan national vision, shared governance responsibilities, and recognition of the value of local government assets are essential. The Waikato seeks a reset based on trust, shared outcomes, and an equitable partnership.

**Effective reform requires a whole of system approach**

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Reform will only succeed if it is considered as a whole system and not as individual parts. The reform programme will have a significant impact on local government and communities, however it is not clear that a whole of systems approach is being adopted. We urge the government to reconsider the timing, varied decision-making models and funding and financing impacts associated with each element of the reform programme so local government can implement reforms effectively. We also urge the government to consider the overall financial impact on communities as the reform programme includes additional responsibilities for local government, and any move away from LGFA funding is likely to increase the financial burden on communities.

**Transition costs will be significant.**

To ensure successful implementation, central government will need to provide additional funding, enable new financing tools, and allow councils to pause major statutory processes such as long-term plans, audits, and representation reviews, to be able to meet the costs of reform. DIA (Ministry of Cities, Environment, Regions and Transport – MCERT) will also need to be adequately resourced to work closely with the regions on this reform.

Transitioning to a new system for local government and resource management will be complex and resource intensive. Transitional support will be required to assist the sector to deliver transformation at scale. Any changes to form and functions should be aligned and well sequenced, with implementation timing coordinated so benefits can be realised. Transition timeframes should also take account of significant events such as local and national elections and be clearly communicated so communities and ratepayers understand when changes will occur. Ideally the timeframe would ensure that the reorganisation is concluded within the next triennium, to avoid the risk of re-litigation and re-education of new elected members.

**Longstanding issues on funding of local government must be addressed.**

The purpose of local councils is to do the things that their communities want them to do and are prepared to pay for. Councils should be accountable to those affected by their decisions and from whom they can require funds. Where legislation (including statutory

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national direction) creates functions of national benefit, those mandates should be recognised and funded by central government.

Unfunded mandates, the absence of GST on rates being returned to councils, the lack of Development Contributions/Levies and rates paid by central government on Crown property, needs addressing so there is equitable Crown contribution to local government activity from which it directly benefits.

Reform should also enable a wider set of financial levers and tools, in addition to rates, to improve transparency, efficiency and affordability while maintaining strong local accountability. Without new tools and equitable Crown support, councils will face unsustainable pressures, especially for infrastructure essential to supporting regional and national growth.

**Iwi partnership is fundamental to current and future governance, and decision-making must occur at scales that strengthen democratic practice.**

Te Tiriti obligations must be embedded consistently across the reform programme. Te Tiriti settlements have marked a new era in relationships between the Crown, Mana Whenua and iwi. These relationships, supporting statutory obligations, and Te Ture Whaimana o Te Awa o Waikato are integral to local government in the Waikato and must be given effect to in the new system.

Nationally supported tools for participatory and deliberative democracy will help ensure communities remain engaged and represented and allow room for a community voice in decision-making. This is an opportunity to improve community engagement, enable a strong local voice, and lift efficiency and transparency across the system.

**Protecting and restoring the natural environment is a long-term investment.**

Resource management must reflect rural and urban interests, catchment-scale needs, and Treaty settlement arrangements. Durable, evidence-based, and integrated decision-making frameworks are required.

Protecting and restoring the natural environment is not a cost; it is an investment in New Zealand's long-term economic resilience and prosperity, human health, and international

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standing. Ensuring local government is equipped to safeguard these assets is essential for maintaining prosperity and cultural identity that are inseparable from the natural world. Resource management decisions involve competing demands and must enable local solutions within a nationally consistent framework. Consideration of appropriate catchment management needs to be made, as the legislation is progressed.

**Investment in national standards and systems would reduce fragmentation and inefficiency.**

Central government can materially improve system performance through national technical standards, methodologies, and consistent systems—particularly in consenting.

Under-investment in standards has also increased litigation risk for local decision makers. National standardisation does not automatically mean operational delivery must shift to a national agency; rather it can enable more efficient and consistent local delivery.

To enable more efficient delivery, and therefore better value for ratepayers, standardised tools across the local government sector are essential. Nationally consistent system-design tools – such as shared templates, digital platforms, and standardised operational models would ensure all councils are working from the same foundations, reduce variability, and streamline the transition process.

Shared national systems such as common asset-management platforms, consistent financial and rating system templates, and unified customer-service or digital engagement tools would substantially reduce duplication and improve accuracy and productivity. Sector-wide standardisation is a practical and high-impact way to lift efficiency, lower system costs, and support councils to deliver core services more effectively

**Crown and iwi representation on the Combined Territory Boards is essential.**

The Forum supports Crown representation on the Combined Territories Board through Commissioners with expertise in both local and central government. To uphold a genuine partnership, Commissioners should hold voting rights consistent with other members. Iwi representation on the Board and involvement of the Regional Council Chair will also be essential.

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The Waikato region is committed to working constructively with central government to achieve a resilient, connected Waikato that underpins national prosperity. The Forum is keen to get started.

Nāku iti noa, nā

On behalf of the Waikato Mayoral Forum / Waikato Region

A handwritten signature in black ink, appearing to read 'Tim Macindoe'.

Hon Tim Macindoe  
**Mayor of Hamilton**  
**Chair Waikato Mayoral Forum**

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