Submission on Exposure Draft of Natural and Built Environments Bill 2021

To the Environment Committee

1. This is a joint submission from officers of the councils of the Wellington Region listed below and Horowhenua District Council:
    - Carterton District Council;
    - Greater Wellington Regional Council;
    - Hutt City Council;
    - Kāpiti Coast District Council;
    - Porirua City Council;
    - South Wairarapa District Council;
    - Upper Hutt City Council.
2. The councils are partners with iwi/Māori and Government on the Wellington Regional Growth Framework, delivered as part of the Government's Urban Growth Partnership programme. Horowhenua District Council is a partner in the Wellington Regional Growth Framework due to strong housing, social and economic links with the Wellington Region.
3. Our point of contact is:

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4. Thank you for the opportunity to submit on the Exposure Draft of the Natural and Built Environments Bill 2021.
5. We note the Committee's Terms of Reference are as follows:

    1. *The purpose of the inquiry is to provide feedback to the government on the extent to which the provisions in the exposure draft of the Natural and Built Environments Bill will support the resource management reform objectives to:*
        (a) protect, and where necessary, restore the natural environment, including its capacity to provide for the well-being of present and future generations
        (b) better enable development within environmental biophysical limits including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure
        (c) give effect to the principles of Te Tiriti o Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori
        (d) better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change
        (e) improve system efficiency and effectiveness, and reduce complexity, while retaining appropriate local democratic input.

2. *The select committee is asked to pay particular attention to objective (e) when providing their feedback on point 1.*
3. *The select committee is also asked to collate a list of ideas (including considering the examples in the parliamentary paper) for making the new system more efficient, more proportionate to the scale and/or risks associated with given activities, more affordable for the end user, and less complex, compared to the current system.*

6. This submission presents:

- Overview comments, with references to the resource management reform objectives;
- Comments on specific draft provisions, with references to the resource management reform objectives;
- Ideas for system improvement, including comments on some of the examples in the Parliamentary Paper.

Overview

7. We support resource management law reform and welcome Government's intention to work closely with iwi/Māori and local government to achieve a robust and effective new system.

8. Our comments at this point are relatively brief, reflecting the level of information and clarity provided by the exposure draft. At times we have taken the opportunity to express our views on matters raised in the RM Review Panel report but not yet set out in draft legislation.

9. We generally endorse the submission of Taituarā.

10. We support the five key resource management reform objectives listed in the Committee's Terms of Reference.

11. We accept that Government intends to progress resource management reform via three new Acts; the Natural and Built Environments Act, the Strategic Planning Act and the Climate Change Adaptation Act. We support the natural and built environments being managed in an integrated manner in a single piece of legislation. We support introducing requirements for spatial planning and climate change adaptation.

12. Resource management reform must also mesh with related areas of reform including Three Waters and the Future for Local Government. The new legislation and structural frameworks must integrate cohesively.

13. The new resource management legislation to implement the objectives needs to be a strongly integrated package, with relationships and priorities clearly set out and clear pathways for decision-making. The new system should not be rolled out in a piecemeal fashion, with uncertainty around timing, sequencing, roles and responsibilities and transitional provisions. NBA plans need to be developed with regional spatial strategies and a comprehensive National Planning Framework already in place – "as early as possible" in the words of the Parliamentary Paper (paragraph 66). This should be mandated in the Act. As intimated in the Parliamentary Paper (paragraph 65) we have learned the hard way through

the implementation of the RMA that without higher level direction in place, plan making, implementation and outcomes are inefficient and ineffective, and matters are continually relitigated at the regional and local level across the country, often through the consent process.

14. Having a comprehensive NPF and regional spatial plan in place would provide a strong framework to support the development of NBA plans including for issues that have proven difficult to resolve at the local level, such as biodiversity identification and protection, residential intensification and response to coastal hazards. The NPF also needs to set out how conflicting outcomes will be resolved, for example, competing priorities for housing growth and protection of wetlands or heritage buildings.

15. We support clear and well-tested national direction being incorporated into plans without undue administrative burden. Again, we have seen the fallout of national direction and guidance being unnecessarily relitigated at a regional and local level.

16. Local government needs to be closely engaged in the preparation of the NPF so that national direction is fit for purpose. As applied practitioners there is a wealth of knowledge and experience to draw on.

17. We support the requirement for a combined regional NBA plan and are well placed to move forward in a new system. We collaborate extensively across the region as evidenced by, for example, the Wairarapa Combined District Plan and the Wellington Regional Growth Framework (which includes Horowhenua District due to strong housing, social and economic links. We suggest a “region” should be able to be defined by its housing and employment market not water catchments). Our collaboration includes our partnerships with iwi/Māori and Central Government agencies.

18. Despite our strengths and experience in working collaboratively, there will be significant challenges ahead to deliver a combined plan that reflects and is owned by iwi/Māori and our diverse and widespread communities, and has the support of Government. There will also be challenges to establish and implement consistent capability in resource consent processing, development engineering and compliance with the desired focus on outcomes.

19. We understand that Government is looking to work closely with a region that is ready and willing to model the new approach. While there are risks in being an early adopter, we would welcome the opportunity to collaborate with Government and iwi/Māori on this. Such collaboration would need to be underpinned by clarity in respect of the Strategic Planning Act and regional spatial strategies, the Climate Change Adaptation Act, the National Planning Framework and the Future Development Strategy requirements of the NPSUD.

20. We support the new focus on outcomes and look forward to a regime where the emphasis for planners is on adding value to environmental outcomes rather than on administrative processes. We note the list of outcomes is extensive and prioritisation has not been provided at this stage. Prioritisation will be critical to the success of the new system.

21. We are of the view there is also an opportunity for Government to resolve integration issues with existing legislation including the Building Act and the Heritage NZ Pouhere Taonga Act.

Plan-making

22. The move to a combined regional NBA plan will provide for opportunities for local solutions to local problems, supported by clear national direction. The process needs to enable broad and meaningful community involvement, which is the best path to a robust, collective vision for the management of high quality environments. Such involvement is time- and resource-intensive and needs mechanisms that empower communities to engage.

23. The new combined plans are each to encompass a 'region', but how input on the content of plans will be enabled from territorial authorities and their communities is not clear. There is the potential that regionalisation will reduce opportunities for local input into decision-making. There may also be less local willingness to engage due to perceptions of complex, regional processes run by a remote organisation that lacks local knowledge and understanding. Releasing a draft plan is now commonplace in the plan making process in an effort to start engagement conversations early. Porirua City Council's Plan Change 18 and Proposed District Plan and Horowhenua District's Proposed Plan Change 4 processes have found making available a "Friend of Submitters" well received by, and of great assistance to, lay submitters.

24. At a technical level, local authority staff not only have specific expertise on regional, district and urban planning matters, they also hold a wealth of local knowledge about issues and conditions for developing and refining plan content that is practical, relevant and locally workable. From the scope and level of detail in the exposure draft do not make clear what functional arrangements may need to be put in place to supporting the proposed Planning Committee and its secretariat in providing adequate opportunities for local input at the plan development stage. There are not yet any details on the scope of function and duties of the secretariat, which will need to operate in a collaborative, effective and efficient way, with minimal duplication across local authorities.

25. Encouraging and empowering participation in the preparation of spatial plans under the Strategic Planning Act will also be critical to subsequent community support of NBA plans and consent processes. Landowners will need to understand that their key opportunity to influence say the location and extent of six storey residential development may be in the spatial plan process rather than the NBA plan development or consent process, if the NBA plan is required to give effect to the spatial plan (as we recommend). The spatial planning process will need merits appeal rights and efficient processes to resolve appeals. Our current experience (including with the recently prepared Wellington Regional Growth Framework) is that achieving meaningful community involvement in strategic or spatial planning exercises is even more challenging than district planning processes because people do not perceive sufficient direct relevance to them.

26. We welcome a strengthened role in the system for iwi/Māori. We support the RM Review Panel's recommendation that direction will be required on how to give effect to the principles of Te Tiriti. This should include explicit clarification of how local authorities relate to the role of the Crown as partner.

27. To achieve resource management reform objective (e), Government will need to invest in both local government and iwi/Māori to build shared understanding and capacity and capability in engagement, plan making, governance, implementation and monitoring that

reflect partnership. Iwi that have yet to complete Te Tiriti settlements are often significantly disadvantaged in their ability to participate at a partnership level, even with the efforts of councils to support them. The new system should enable all Iwi to participate and not further marginalise those that are yet to settle.

28. We support the RM Review Panel report's recommendation that plan making follows the Auckland Unitary Plan process, with appeals being essentially limited to matters where the planning committee departs from the recommendation of the independent hearing panel. In the Wellington region, we have seen the advantage of this approach with the Streamlined Planning Process used for Porirua's Plan Change 18 Plimmerton Farm. The 'no appeals' process provided submitters with the impetus to 'put their cards on the table' during the pre-Hearing and Hearing processes, rather than wait until appeals as some may otherwise have done.

29. We see strengths and weaknesses in the proposal that the panels be chaired by Environment Court judges. A judge may increase the robustness of recommendations and limit appeals, as participants perceive that they are already before the Court-level authority. On the other hand, the proceedings would inevitably become more costly, more formal and less accessible to lay submitters. Evidence thresholds would likely be higher. We also have reservations about the capacity of the Environment Court to deal with combined plans for the entire country at the same time. A possible alternative is to use the Plan Change 18 approach, in which the Minister for the Environment required the chair to be a senior RMA legal practitioner with extensive experience as chair, supported by a panel of qualified, independent commissioners covering a range of specifically required skills including Te Ao Māori and mātauranga Māori.

Capacity and Capability

30. We support Government's intention to appropriately staff and resource the Ministry for the Environment to lead resource management reform and participate in the new system including in national guidance, regional spatial planning and monitoring.

31. Government investment will be required to achieve the objective of appropriate Māori participation in the new system. This goes beyond funding alone to training and capacity development in iwi/Māori. The Wellington Regional Growth Framework has a project exploring options to assist in building long term people/skills capacity in local tangata whenua/mana whenua organisations. Government collaboration in this work would be timely if our region is chosen to test application of the new model.

32. In our experience, there are widespread general capacity and capability shortages in the resource management sector and competition to secure skilled people. These shortages are likely to be exacerbated in the development and implementation of the new system. Government (in partnership with professional bodies) will need to invest more broadly in training and development across the resource management/planning sector to not only ensure understanding of the new laws and planning framework, but also to deliver on the step change needed in planning practices from practitioners to implement the intended outcomes on the ground. This needs to be a full capability building programme targeting all practitioners rather than a limited, short-term rollout focussed only on local government. As

the Parliamentary Paper notes (paragraph 67) "culture change will be essential to the transformation required".

33. Another practical response for Government would be to set timeframes in legislation, for example for the delivery of regional spatial strategies and combined plans, that recognise the capacity and capability shortages in the sector. Providing realistic and practicable timeframes for implementation is a point that holds true across the Government's entire programme of change.

Comments on Specific Draft Provisions

Part, Section	Provision	Specific comments
Part 1 - Preliminary Provisions		
Section 3	**Interpretation –** In this Act, unless the context otherwise requires **–**	• We suggest that careful attention is paid to the terms used. RMA terms that are well established, well understood and often well traversed in case law should be continued unless there is good reason to depart from them to establish new terms. For example "adverse effects" on the environment is a well-established term. The exposure draft introduces several new equivalent terms including "stress" and "harm". The definition of 'limit' is also different from that used in the 2020 NPS-FM. Given that all regional councils will be introducing freshwater limits by 2024 this could be immensely problematic and open new rounds of litigation to test the meaning of these terms • The exposure draft also uses apparently interchangeable terms such as "improve" and "enhance". A single term should be chosen and used consistently throughout unless different, defined meanings are intended.
	abiotic means non-living parts of the environment	
	biotic means living parts of the environment	
	coastal water means seawater within the outer limits of the territorial sea and includes— (a) seawater with a substantial freshwater component; and (b) seawater in estuaries, fiords, inlets, harbours, or embayments (retained RMA definition).	
	cultural heritage — (a) means those aspects of the environment that contribute to an understanding and appreciation of	• This definition should include cultural landscapes and clarify whether "surroundings associated with those sites" are or are not cultural landscapes.

	New Zealand's history and cultures, deriving from any of the following qualities: (i) archaeological: (ii) architectural: (iii) cultural: (iv) historic: (v) scientific: (vi) technological; and (b) includes— (i) historic sites, structures, places, and areas; and (ii) archaeological sites; and (iii) sites of significance to Māori, including wāhi tapu; and (iv) surroundings associated with those sites	
	district, in relation to a territorial authority, means the district of the territorial authority as determined in accordance with the Local Government Act 2002	
	ecological integrity means the ability of an ecosystem to support and maintain— (a) its composition: the natural diversity of indigenous species, habitats, and communities that make up the ecosystem; and (b) its structure: the biotic and abiotic physical features of an ecosystem; and (c) its functions: the ecological and physical functions and processes of an ecosystem; and (d) its resilience to the adverse impacts of natural or human disturbances	• Consistency: • How does 'support and maintain' relate to 'protect and enhance/improve' (s8) • Is "natural diversity" the same thing as "biological diversity"? • This states "biotic and abiotic *physical features* of an ecosystem". Compare to "living parts" and "non-living parts" in the definitions of *biotic* and *abiotic*. S7 says "biophysical means biotic or abiotic physical features".
	ecosystem means a system of organisms interacting with their physical environment and with each other	• We support this amended definition, which excludes 'people and communities'.
	environment means, as the context requires,— (a) the natural environment: (b) people and communities and the built environment that they create: (c) the social, economic, and cultural conditions that affect the matters stated in paragraphs (a) and (b) or that are affected by those matters	• 'Urban form' is defined. How does 'urban form' relate to 'built environment'? A definition of 'built environment' instead may be more appropriate and would relate directly to the title of the Act. • We support deleting 'amenity values' and 'aesthetic' conditions on the basis that the components of amenity, such as noise, odour and light, are able to be considered directly as effects to ensure that appropriate outcomes are achieved, whereas the more nebulous concept of 'amenity' is often used by opponents of a proposal.
	environmental limits means the limits required by section 7 and set under section 12 or 25	• Needs to align with the terminology in 2020 NPS-FM.
	environmental outcomes means the outcomes provided for in section 8	

	fresh water means all water except coastal water and geothermal water (retained RMA definition).	
	geothermal water— (a) means water heated within the earth by natural phenomena to a temperature of 30 degrees Celsius or more; and (b) includes all steam, water, and water vapour, and every mixture of all or any of them that has been heated by natural phenomena.	
	infrastructure [placeholder]	• Network infrastructure such as roads and pipes are fundamentally different to and should be defined separately from social or community infrastructure.
	infrastructure services [placeholder]	
	kaitiakitanga means the exercise of guardianship by iwi, hapū and whanau of an area in accordance with tīkanga Māori in relation to the natural and built environment.	• The RM Review Panel's report included 'whānau' repeatedly but this has been discontinued by the exposure draft except in this definition. We suggest 'whānau' is also removed from the definition.
	lake means a body of freshwater that is entirely or nearly surrounded by land.	
	land— (a) includes land covered by water and the airspace above land; and (b) includes the surface of water	
	mineral has the same meaning as in section 2(1) of the Crown Minerals Act 1991	
	Minister means the Minister of the Crown who, under any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act	
	Minister of Conservation means the Minister who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of the Conservation Act 1987	
	mitigate, in the phrase "avoid, remedy, or mitigate", includes to offset or provide compensation if that is enabled— (a) by a provision in the national planning framework or in a plan; or (b) as a consent condition proposed by the applicant for the consent	• Effects-management hierarchies (for example, in the NPSFM) deal with offsetting and compensation on the basis that they are not mitigation of effects – they kick in to deal with residual effects after *avoid, remedy, mitigate* have been exhausted. There are differing views among the councils on whether or not the simpler approach proposed here is better.
	national planning framework means the national planning framework made by Order in Council under section 11	
	natural environment means	

	(a) the resources of land, water, air, soil, minerals, energy, and all forms of plants, animals, and other living organisms (whether native to New Zealand or introduced) and their habitats; and (b) ecosystems and their constituent parts	
	natural hazard means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment (retained RMA definition).	
	person includes — (a) the Crown, a corporation sole, and a body of persons, whether corporate or unincorporate; and (b) the successor of that person	
	plan — (a) means a natural and built environments plan made in accordance with section 21; and (b) includes a proposed natural and built environments plan, unless otherwise specified	
	planning committee means the planning committee appointed for a region for the purpose of section 23	
	precautionary approach is an approach that, in order to protect the natural environment if there are threats of serious or irreversible harm to the environment, favours taking action to prevent those adverse effects rather than postponing action on the ground that there is a lack of full scientific certainty	• This is not defined in the RMA. The NZCPS uses: "Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse". • Should the precautionary approach cover both taking action and not taking action?
	public plan change [placeholder]	• A definition of private plan change would also be useful.
	region, in relation to a regional council, means the region of the regional council as determined in accordance with the Local Government Act 2002	• Needs to align with Local Government Reform. Is this definition still fit for purpose? For example, Horowhenua District is a participant in the Wellington Regional Growth Framework.
	regional council — (a) has the same meaning as in section 5 of the Local Government Act 2002; and (b) includes a unitary authority	
	regional spatial strategy, in relation to a region, means the spatial strategy that is made for the region under the Strategic Planning Act 2021	
	river— (a) means a continually or intermittently flowing body of freshwater; and (b) includes a stream and modified watercourse; but	

	(c) does not include an irrigation canal, a water supply race, a canal for the supply of water for electric power generation, a farm drainage canal, or any other artificial watercourse	
	structure— (a) means any building, equipment, device, or other facility that is made by people and fixed to land; and (b) includes any raft	
	territorial authority means a city council or a district council named in Part 2 of Schedule 2 of the Local Government Act 2002	
	unitary authority has the same meaning as in section 5(1) of the Local Government Act 2002	
	urban form means the physical characteristics that make up an urban area, including the shape, size, density, and configuration of the urban area	
	water— (a) means water in all its physical forms, whether flowing or not and whether over or under the ground: (b) includes freshwater, coastal water, and geothermal water: (c) does not include water in any form while in any pipe, tank, or cistern	
	well-being means the social, economic, environmental, and cultural well-being of people and communities, and includes their health and safety.	
Section 4	**How Act binds the Crown** [Placeholder.]	
Part 2 Purpose and related provisions		
Section 5	**Purpose of this Act** (1) The purpose of this Act is to enable— (a) Te Oranga o te Taiao to be upheld, including by protecting and enhancing the natural environment; and (b) people and communities to use the environment in a way that supports the well-being of present generations without compromising the well-being of future generations. (2) To achieve the purpose of the Act,—	• The Bill moves away the RM Review Panel report's suggested use of Te Mana o te Taio to Te Oranga o te Taio. The concept of Te Oranga o te Taiao is central to the purpose of the Act, therefore its meaning should be clearly set out rather than leaving that inevitable task to the Environment Court. *Incorporates* (s5(3)) implies there is more to the concept than stated. Avoiding setting out the meaning would work against resource management reform objective (e) of reducing complexity - it would in fact increase complexity. By way of example, the NPSFM initially introduced the concept of Te Mana o Te Wai without adequate description, later

	(a) use of the environment must comply with environmental limits; and (b) outcomes for the benefit of the environment must be promoted; and (c) any adverse effects on the environment of its use must be avoided, remedied, or mitigated. (3) In this section, **Te Oranga o te Taiao** incorporates— (a) the health of the natural environment; and (b) the intrinsic relationship between iwi and hapū and te taiao; and (c) the interconnectedness of all parts of the natural environment; and (d) the essential relationship between the health of the natural environment and its capacity to sustain all life.	requiring an amendment to that document to better spell it out. • Te Oranga o te Taiao should be clearly reflected in the provisions of the Bill. For example, is *ecological integrity*, a key element of environmental limits (s7(1)(a)), incorporated in Te Oranga o te Taiao? • The purpose of the Act does not adequately reflect the title of the Act: *natural* and *built* and immediately fails to deliver resource management reform objective (b). While (1)(a) is squarely and appropriately about the natural environment, (1)(b) needs to more explicitly cover the built environment. • Terms need to flow consistently through the Act. (1)(a) uses *protecting and enhancing.* Section 8 uses *improved* rather than *enhanced*. The definition of ecological integrity means the ability of an ecosystem to *support and maintain.* (1)(a) uses *upheld,* Sections 8, 18 and 22 use *promote.*
Section 6	**Te Tiriti o Waitangi** All persons exercising powers and performing functions and duties under this Act must give effect to the principles of te Tiriti o Waitangi.	• We support the RM Review Panel's recommendation that direction will be required on how to give effect to the principles of Te Tiriti. This should include explicit clarification of how local authorities relate to the role of the Crown as partner. Central Government will need to invest in both local government and iwi/Māori to build capacity and capability in engagement, plan making, governance, implementation and monitoring that reflect partnership.
Section 7	**Environmental Limits** (1) The purpose of environmental limits is to protect either or both of the following: (a) the ecological integrity of the natural environment: (b) human health. (2) Environmental limits must be prescribed— (a) in the national planning framework (see **section 12**); or (b) in plans, as prescribed in the national planning framework (see **section 25**). (3) Environmental limits may be formulated as— (a) the minimum biophysical state of the natural environment or of a specified part of that environment: (b) the maximum amount of harm or stress that may be permitted on the natural environment or on a specified part of that environment. (4) Environmental limits must be prescribed for the following matters: (a) air:	• There are differing views on whether councils should be able to set environmental limits that are more stringent than national limits. There may be some environmental limits that should be set nationally, e.g. limits to soil contaminants, and others that are appropriately set in the context of local catchments or areas. • Local government should be involved in the setting of environmental limits through the National Planning Framework. We support the Parliamentary Paper's (paragraph 168) intention to provide for early engagement with local government. • Discussions on environmental limits invariably use water quality as an example. Limits can clearly be prescribed at a catchment level, monitored, and used to inform decision making. Less clear is how limits can be prescribed for the other matters listed, especially at a macro scale, and how they would be monitored and used to inform decision making. More information is required to understand how

	(b) biodiversity, habitats, and ecosystems: (c) coastal waters: (d) estuaries: (e) freshwater: (f) soil. (5) Environmental limits may also be prescribed for any other matter that accords with the purpose of the limits set out in **subsection (1).** (6) All persons using, protecting, or enhancing the environment must comply with environmental limits. (7) **In subsection (3)(a), biophysical** means biotic or abiotic physical features.	environmental limits would be developed and applied and used in decision making for the full range of matters listed.
Section 8	**Environmental outcomes** To assist in achieving the purpose of the Act, the national planning framework and all plans must promote the following environmental outcomes: (a) the quality of air, freshwater, coastal waters, estuaries, and soils is protected, restored, or improved: (b) ecological integrity is protected, restored, or improved: (c) outstanding natural features and landscapes are protected, restored, or improved: (d) areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected, restored, or improved: (e) in respect of the coast, lakes, rivers, wetlands, and their margins,— (i) public access to and along them is protected or enhanced; and (ii) their natural character is preserved: (f) the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu, and other taonga is restored and protected: (g) the mana and mauri of the natural environment are protected and restored: (h) cultural heritage, including cultural landscapes, is identified, protected, and sustained through active management that is proportionate to its cultural values: (i) protected customary rights are recognised: (j) greenhouse gas emissions are reduced and there is an increase in the removal of those gases from the atmosphere:	• We support the range of outcomes for environmental protection and use and development., with some specific comments made below. • The outcomes need to be written as such – they read as a mixture of overarching statements and sometimes direction; they are not the same size and they do not have equal weight. No attempt has been made at prioritisation. • A telling criticism of RMA plans is that the opposing sides of a resource conflict can each find support for their positions somewhere in the plan, leading to difficult and protracted arguments at the time of resource consent. Without clear direction in the new system, this longer list of outcomes will perpetuate that problem. The NPF and NBA plans will not be able to foresee and determine all outcome conflicts that may arise but they will need to expressly provide direction for how such conflicts should be assessed and resolved in differing spatial areas, zones and circumstances. We support the intention that the full Bill will “provide mechanisms for decision-makers to resolve conflicts at the consenting stage” (Parliamentary Paper paragraph 122). • We note that only 9 of the 16 outcomes is required by s13(1) to be set out in national direction. All outcomes need to be set out in national direction and included in directions for prioritisation and conflict resolution. • (c) should be nationally or regionally outstanding, not just locally outstanding. • (e) Why is natural character ‘preserved’? While this is a carryover from the RMA, why is it not ‘protected, restored or improved’ like other matters? • (e)(i) should be ‘protected or improved’ not ‘enhanced’ unless ‘improved’ and ‘enhanced’ have different meanings.

	(k) urban areas that are well-functioning and responsive to growth and other changes, including by— (i) enabling a range of economic, social, and cultural activities; and (ii) ensuring a resilient urban form with good transport links within and beyond the urban area: (l) a housing supply is developed to— (i) provide choice to consumers; and (ii) contribute to the affordability of housing; and (iii) meet the diverse and changing needs of people and communities; and (iv) support Māori housing aims: (m) in relation to rural areas, development is pursued that— (i) enables a range of economic, social, and cultural activities; and (ii) contributes to the development of adaptable and economically resilient communities; and (iii) promotes the protection of highly productive land from inappropriate subdivision, use, and development: (n) the protection and sustainable use of the marine environment: (o) the ongoing provision of infrastructure services to support the well-being of people and communities, including by supporting— (i) the use of land for economic, social, and cultural activities: (ii) an increase in the generation, storage, transmission, and use of renewable energy: (p) in relation to natural hazards and climate change,— (i) the significant risks of both are reduced; and (ii) the resilience of the environment to natural hazards and the effects of climate change is improved.	• (f) should be 'protected and restored' so the order is the same as with other matters. • (g) The Bill moves away from the RM Review Panel report's suggested use of Te Mana o te Taio to Te Oranga o te Taio. We support this change. We are unsure whether the use of *mana* and *mauri* in relation to the natural environment is deliberate. • (h) The Heritage NZ Pouhere Taonga Act needs to be aligned with the NPF. Built heritage identified and assessed under the HPT Act as worthy of protection (subject to it being a rigorous process with community involvement) should have that protection conferred without having to rely on NBA plan provisions and an NBA plan change to schedule the building or place. • (j) We support the focus on greenhouse gas emissions rather than the effects of climate change because applicants for consent and processing councils will be able to evaluate the emissions generated by a proposed activity and ways to reduce them. In contrast, evaluating the effects on climate change of a particular activity would be problematic. Tools to support the measuring and monitoring of emissions would be useful. • The Building Act should be amended to encourage greenhouse gas emission reduction through building design and selection of building materials – without increasing the financial risk to consenting local authorities. • (k) We support having outcomes for well-functioning urban areas, presuming this incorporates high quality urban design and approaches such as Crime Prevention Through Environmental Design. We support 'resilient urban form' and 'good transport links' but are unsure why the concepts are linked, which seems to diminish both concepts. Good transport links go well beyond resiliency alone, and the resilience of an urban area involves more than just the transport network. • (m) Development should be 'enabled' rather than 'pursued'. We are unsure why (m)(i) and (ii) apply to rural areas only when they appear relevant to all areas. • (n) How does (n) relate to fisheries legislation, biosecurity legislation? • (o) We support having outcomes for "ongoing provision of infrastructure services to support the well-being of people and communities. The on-going provision of infrastructure services' does not suitably identify or prioritise the essential

		role that infrastructure services provide in supporting a range of social, economic and cultural outcomes. The singular focus on renewable energy in (ii) prioritises renewable energy over all other essential infrastructure. • (p) National direction needs to provide clear direction on what level of risk can be tolerated in areas vulnerable to natural hazards (including earthquake hazard) and what land use responses are appropriate. (p)(ii) may require the explicit mention of 'built environment'.
Part 3 National Planning Framework		
	Requirement for national planning framework	
Section 9	**National planning framework** (1) There must at all times be a national planning framework. (2) The national planning framework— (a) must be prepared and maintained by the Minister in the manner set out in **Schedule 1**; and (b) has effect when it is made by the Governor-General by Order in Council under **section 11**.	• This needs to set a date for the first iteration of the NPF. NBA plans need to wait for the NPF to be completed. • The preparation of NPFs needs to be timebound. • NPF content should be concise and focussed. • NPFs need to be evidence-based with careful assessment of regulatory impact. The approach to assessing regulatory impact should be set out in the Act. We support the intention (Parliamentary Paper paragraph 168) for a s32-type requirement.
Section 10	**Purpose of national planning framework** The purpose of the national planning framework is to further the purpose of this Act by providing integrated direction on— (a) matters of national significance; or (b) matters for which national consistency is desirable; or (c) matters for which consistency is desirable in some, but not all, parts of New Zealand.	• We support the requirement for "integrated direction". As noted in the Parliamentary Paper (paragraph 131) conflicting national direction under the RMA has led to inconsistent approaches and unresolved conflict.
Section 11	**National planning framework to be made as regulations** (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make the national planning framework in the form of regulations. (2) The regulations may apply— (a) to any specified region or district of a local authority; or (b) to any specified part of New Zealand. (3) The regulations may—	

	(a) set directions, policies, goals, rules, or methods: (b) provide criteria, targets, or definitions. (4) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).	
	Contents of national planning framework	
Section 12	**Environmental limits** (1) Environmental limits— (a) may be prescribed in the national planning framework; or (b) may be made in plans if the national planning framework prescribes the requirements relevant to the setting of limits by planning committees. (2) Environmental limits may be prescribed— (a) qualitatively or quantitatively: (b) at different levels for different circumstances and locations.	
Section 13	**Topics that national planning framework must include** (1) The national planning framework must set out provisions directing the outcomes described in— (a) **section 8(a)** (the quality of air, freshwater, coastal waters, estuaries, and soils); and (b) **section 8(b)** (ecological integrity); and (c) **section 8(c)** (outstanding natural features and landscapes); and (d) **section 8(d)** (areas of significant indigenous vegetation and significant habitats of indigenous animals); and (e) **section 8(j)** (greenhouse gas emissions); and (f) **section 8(k)** (urban areas); and (g) **section 8(l)** (housing supply); and (h) **section 8(o)** (infrastructure services); and (i) **section 8(p)** (natural hazards and climate change);. (2) The national planning framework may also include provisions on any other matter that accords with the purpose of the national planning framework, including a matter relevant to an environmental outcome provided for in **section 8**. (3) In addition, the national planning framework must include provisions to help resolve conflicts relating to the environment, including conflicts between or	• We note that only 9 of the 16 outcomes is required by s13(1) to be set out in national direction. All outcomes need to be set out in national direction and included in directions for prioritisation and conflict resolution. • The national planning framework must go further than providing ‘help’ to resolve conflicts between competing environmental outcomes. It must provide clear direction on how plan users should resolve such conflicts in plan making and resource consent processes. • While the NPF content ‘may also include provisions on any other matter’, the key drivers are the environmental outcomes set out in the higher order purposes and principles (specifically section 8), and the terminology used to describe the intended outcomes. This appears to be limiting for some environmental outcomes. For example, the NPF content on Infrastructure Services ‘must set out provisions directing the outcomes described in’ s8(o), which are confined to ‘seeking the ongoing provision of infrastructure services’. This is not particularly aspirational or enabling given the essential nature of infrastructure services. It also suggests that s8(o) needs more consideration.

	among any of the environmental outcomes described in **section 8**.	
Section 14	**Strategic directions to be included** **The provisions required by sections 10, 12, and 13 must include strategic goals such as—** (a) the vision, direction, and priorities for the integrated management of the environment within the environmental limits; and (b) how the well-being of present and future generations is to be provided for within the relevant environmental limits.	• Strategic direction needs to link to giving effect to regional spatial strategies which need to be completed before NBA plans.
Section 15	(1) The national planning framework may direct that certain provisions in the framework— (a) must be given effect to through the plans; or (b) must be given effect to through regional spatial strategies; or (c) have direct legal effect without being incorporated into a plan or provided for through a regional spatial strategy. (2) If certain provisions of the national planning framework must be given effect to through plans, the national planning framework may direct that planning committees— (a) make a public plan change; or (b) insert that part of the framework directly into their plans without using the public plan change process; or (c) amend their plans to give effect to that part of the framework, but without— (i) inserting that part of the framework directly into their plans; or (ii) using the public plan change process. (3) Amendments required under this section must be made as soon as practicable within the time, if any, specified in the national planning framework.	• Directive provisions of the national planning framework should not ever have to be given effect to through plans using the public plan change process because that would be likely to lead to different provisions in different plans, which is one thing the national planning framework is seeking to avoid or limit.
Section 16	**Application of precautionary approach** In setting environmental limits, as required by section 7, the Minister must apply a precautionary approach.	
Section 17	[Placeholders] [Placeholder for other matters to come, including— (i) the role of the Minister of Conservation in relation to the national planning framework; and (ii) the links between this Act and the Climate Change Response Act 2002.]	• As well as the role of the Minister of Conservation, this section may need to set out the role of specific other Ministers, for example, Housing and Transport. This is acknowledged in the Parliamentary Paper (paragraph 170).

Section 18	[Placeholder for implementation principles. The drafting of this clause is at the indicative stage; the precise form of the principles and of the statutory functions they apply to are still to be determined. In paras (b) and (e), the terms in square brackets need to be clarified as to the scope of their meaning in this clause.] [Relevant persons must]— (a) promote the integrated management of the environment: (b) recognise and provide for the application, in relation to [te taiao], of [kawa, tikanga (including kaitiakitanga), and mātauranga Māori]: (c) ensure appropriate public participation in processes undertaken under this Act, to the extent that is important to good governance and proportionate to the significance of the matters at issue: (d) promote appropriate mechanisms for effective participation by iwi and hapū in processes undertaken under this Act: (e) recognise and provide for the authority and responsibility of each iwi and hapū to protect and sustain the health and well-being of [te taiao]: (f) have particular regard to any cumulative effects of the use and development of the environment: (g) take a precautionary approach.	
Part 4 National Planning Framework	**Natural and built environments plans** *Requirement for natural and built environments plans*	• We support the move to fewer plans for the region. While this will use plan making resources more efficiently in the long term, it will require additional resources in the short term and place additional demands on a sector already under pressure. • Clear transitional arrangements for existing plans, resource consents and designations should be worked out with local government. • Is 'region' defined by current regional council boundaries, which are largely based on water catchments rather than communities of interest or can other arrangements be made? Horowhenua District Council is a participating council in the Wellington Regional Growth Framework due to strong housing, social and economic links. We suggest a "region" should be able to be defined by its housing and employment market not water catchments. There would also need to clear direction on how cross-boundary issues are to be managed.
Section 19	**Natural and built environments plans** There must at all times be a natural and built environments plan (a plan) for each region.	
Section 20	**Purpose of plans** The purpose of a plan is to further the purpose of the Act by providing a framework for the integrated management of the environment in the region that the plan relates to.	
Section 21	**How plans are prepared, notified, and made** (1) The plan for a region, and any changes to it, must be made— (a) by that region's planning committee; and (b) using the process set out in Schedule 2. (2) [Placeholder for status of plans as secondary legislation.]	

	Contents of plans	
Section 22	**Contents of plans** (1) The plan for a region must— (a) state the environmental limits that apply in the region, whether set by the national planning framework or under section 25; and (b) give effect to the national planning framework in the region as the framework directs (see section 15); and (c) promote the environmental outcomes specified in section 8 subject to any direction given in the national planning framework; and (d) [placeholder] be consistent with the regional spatial strategy; and (e) identify and provide for— (i) matters that are significant to the region; and (ii) for each district within the region, matters that are significant to the district; and (f) [placeholder: policy intent is that plans must generally manage the same parts of the environment, and generally control the same activities and effects, that local authorities manage and control in carrying out their functions under the Resource Management Act 1991 (see sections 30 and 31 of that Act)]; and (g) help to resolve conflicts relating to the environment in the region, including conflicts between or among any of the environmental outcomes described in section 8; and (h) [placeholder for additional specified plan contents]; and (i) include anything else that is necessary for the plan to achieve its purpose (see section 20). (2) A plan may— (a) set objectives, rules, processes, policies, or methods: (b) identify any land or type of land in the region for which a stated use, development, or protection is a priority: (c) include any other provision.	• (d) Plans should be required to 'give effect to' regional spatial strategies, not merely 'be consistent with'. Spatial consideration and identification of areas for protection and areas for infrastructure and development will be a key way in which competing environmental outcomes can be prioritised, limits can be achieved and cumulative effects can be managed. • (g) Plans should be required to contain clear direction for how conflicts between environmental outcomes are to be resolved when they arise. • 2(c) Allowing 'any other provision' leaves room for uncertainty and unnecessary variation between plans. The RM Review Panel suggested the new system should standardise as much as possible – this open-endedness seems at odds with that. • Currently, only rules relating to historic heritage and natural resources have immediate legal effect upon plan notification. We suggest that proposed plans in their entirely have legal effect upon notification, as per the current approach with regional plans.
	Planning committees	
Section 23	**Planning committees** (1) A planning committee must be appointed for each region. (2) The committee's functions are—	• Members of planning committees should be required to have an appropriate level of training in resource management so

	(a) to make and maintain the plan for a region using the process set out in **Schedule 2;** and (b) to approve or reject recommendations made by an independent hearings panel after it considers submissions on the plan; and (c) to set any environmental limits for the region that the national planning framework authorises the committee to set (see **section 7**). (3) Provisions on the membership and support of a planning committee are set out in **Schedule 3.**	they clearly understand their role, functions and responsibilities. • The planning committee's membership is to include representatives from iwi/Māori and the Department of Conservation. Central Government needs to provide funding to the committee secretariat to support the committee's breadth of membership and scope of work. • The planning committees should have a wider brief with responsibilities for the regional spatial plan under the Strategic Planning Act, the combined plan under the NBA and the regional land transport plan under the Land Transport Act. A single secretariat could support all of this. The approach would provide for much greater integration, efficiency of processes and alignment between urban planning and transport. A straightforward legislative basis for establishing (and making simple changes to) the committee and its terms of reference would need to be put in place.
Section 24	Considerations relevant to planning committee decisions (1) A planning committee must comply with this section when making decisions on a plan. (2) The committee must have regard to— (a) any cumulative effects of the use and development of the environment: (b) any technical evidence and advice, including mātauranga Māori, that the committee considers appropriate: (c) whether the implementation of the plan could have effects on the natural environment that have, or are known to have, significant or irreversible adverse consequences: (d) the extent to which it is appropriate for conflicts to be resolved generally by the plan or on a case-by-case basis by resource consents or designations. (3) The committee must apply the precautionary approach. (4) The committee is entitled to assume that the national planning framework furthers the purpose of the Act, and must not independently make that assessment when giving effect to the framework. (5) [Placeholder for additional matters to consider.] (6) In **subsection (2)(d), conflicts**— (a) means conflicts relating to the environment; and (b) includes conflicts between or among any of the environmental outcomes described in **section 8**.	• We support the direction given by s24(4) in terms of the cascade from the Act to the NPF to the plan. The direction should be strengthened to read "The committee must assume…" • We presume there will be the kind of evaluation required currently by s32 & s32AA RMA. The RM Review Panel (p255) suggests continuing to use evaluation reports but not as s32 is now worded. We support a simplified evaluation requirement.

Section 25	**Power to set environmental limits for region** (1) This section applies only if the national planning framework— (a) specifies an environmental limit that must be set by the plan for a region, rather than by the framework; and (b) prescribes how the region's planning committee must decide on the limit to set. (2) The planning committee must— (a) decide on the limit in accordance with the prescribed process; and (b) set the limit by including it in the region's plan.	• Transitional arrangements are key here. Direction is required on the limits that are included in existing plans.
Schedule 1	**Preparation of national planning framework** [placeholder]	
Schedule 2	**Preparation of natural and built environments plans** [placeholder]	
Schedule 3	**Planning Committees** *Membership*	
Clause 1	**Membership of planning committees** (1) The members of a region's planning committee are— (a) 1 person appointed under clause 2 to represent the Minister of Conservation: (b) mana whenua representatives appointed under clause 3: (c) either— (i) 1 person nominated by each local authority that is within or partly within the region; or (ii) [placeholder for appropriate representation if the regional council is a unitary authority]. (1) Despite subclause (1)(c), the same person may be nominated by more than 1 local authority for the purpose of that paragraph.	• Planning committees have the challenge of providing satisfactory representation without becoming unwieldy. Each constituent council needs to feel suitably represented and that the system provides opportunities for the local voice to determine local solutions for local issues. The role of individual councils in contributing to the plan making process including community engagement needs to be clarified. • Councils that feel underrepresented on the planning committee and disagree with the direction of travel of plan provisions may seek to find a voice by lodging submissions to the independent hearing panel or voting against panel recommendations, thereby enabling appeal opportunities. • Central Government involvement in decision making should also include Central Government funding.
Clause 2	**Appointment of member to represent Minister of Conservation** [Placeholder.]	
Clause 3	**Appointment of mana whenua members** [Placeholder] This section sets out— (a) how many mana whenua representatives may be appointed to a planning committee; and (b) how those representatives are selected and appointed.	
Clause 4	**Appointment of planning committee chairperson** [Placeholder.]	
	Support	
Clause 5	**Planning committee secretariat**	

	(1) [Placeholder] Each planning committee must establish and maintain a secretariat. (2) The function of the secretariat is to provide any advice and administrative support that the committee requires to help it carry out its functions under this Act, including, for example, to— (a) provide policy advice: (b) commission expert advice: (c) draft plans and changes to plans: (d) coordinate submissions. (3) [Placeholder: policy intent is that local authorities support secretariat.]	
Clause 6	**Local authorities must fund secretariat** [Placeholder.]	

Ideas for System Improvement

Example in the Parliamentary Paper	Related Ideas and Comments
Increased central direction and tools, for example: • greater accountability mechanism for councils in exercising governance of their planning functions • centralised digital tools and platforms including providing national data sets, standardised methods and models (eg natural hazard data, water allocation) • developing controls through national standards where these are more appropriate than bespoke planning controls (eg silt control for subdivisions and roads) • developing template standards that are available for councils to adopt as appropriate • standardised methods for assessing significance or determining technical matters (eg the interaction between natural character, indigenous biodiversity and outstanding natural landscapes)	• Council online mapping systems should be set up so they are able to show individual property owners the NBA land use provisions that apply (as current RMA e-plans do) as well as the spatial plan context and desired strategic outcomes for the area the individual property sits in. Up to date monitoring information could also be linked. • Centralised digital tools and platforms would be efficient and cost-effective and avoid the need for repeated reinventing of wheels. Central tools should include e-plan platforms and Housing and Business Capacity assessment modelling tools. • National standards need to avoid becoming New Zealand Standards that are copyright and paywalled, which work strongly against widespread adoption and access. • We support template standards being available. • We support standardised methods for assessing significance or determining technical matters. • We support having economic instruments available and national direction about their use. They may be more readily employed to achieve environmental outcomes rather than avoid adverse effects. For example, economic instruments may be useful in a suite of methods to protect indigenous biodiversity, by providing landowners with recognition of the public good they may provide in foregoing development opportunities.

Efficiency in NBA plan development and content, for example: • streamlined and more flexible consultation requirements for plan development • requiring written submissions rather than oral • standardised templates for residential zones • limiting detailed amenity/urban design rules such as centres policies and business zone restriction • setting a minimum enabled development capacity within residential zones (eg under the National Policy Statement for Urban Development 2020) • stricter controls on the use of expert evidence • stricter controls on information requirements, including when (RMA section 37 equivalent) requests are used (eg request for further information and time waivers) • robust processes for managing complaints • greater accountability mechanism for councils in exercising governance of their planning functions	• We support the RM Review Panel report's recommendation that plan making follows the Auckland Unitary Plan process, with appeals being essentially limited to matters where the planning committee departs from the recommendation of the independent hearing panel. . In the Wellington region, we have seen the advantage of this approach with the Streamlined Planning Process used for Porirua's Plan Change 18 Plimmerton Farm. The 'no appeals' process provided submitters with the impetus to 'put their cards on the table' during the pre-Hearing and Hearing processes, rather than wait until appeals as some may otherwise have done. • The new system needs to also enable minor changes to be made to plans without going through the formal public plan change process. • Plan-making would also be considerably streamlined by removing the further submissions step. • We suggest that proposed plans in their entirety have legal effect upon notification, as per the current approach with regional plans. This would remove the need to apply to the Environment Court. • The Building Act should require residential building floor levels to be above the 1 in 100 year flood event rather than the 1 in 50 year flood event. This would simplify the management of flood hazard in NBA plans by reducing the need for consultative plan-making processes that are often contentious.
Reframing the RMA definition of 'adverse effects', including strengthened proportionality requirements for obligations to avoid, remedy or mitigate adverse effects on the environment	• We support having strengthened proportionality requirements, with clear guidance on assessing the significance of effects.
Enabling simplified resource consent processes, for example: • limits on the information that can be requested in consent applications • deemed permitted activities and less use of discretionary activity status • national consenting pathways • standardising consent conditions • design guidelines and use of urban design panels for medium and high density developments • pre-consented model or multiple-use house/townhouse designs • enabling better evaluation of the national or regional opportunity costs	• The exposure draft does not address resource consent activity status. The RM Review Panel Report recommended the following: permitted, controlled, restricted discretionary, discretionary and prohibited, with non-complying being discontinued. • We support having a reduced number of resource consent activity categories. • Councils often commission review reports on every technical report that accompanies a resource consent application. This adds considerably to timeframes and to the applicant's costs, because they are paying and waiting for the reviews. The processing planner is incentivised to seek such reviews because they shield the planner from responsibility. The reviewer is incentivised to find issues because they need to

	justify their input. The planner needs to be incentivised to accept, without review, technical reports that are prepared by suitably qualified, accredited professionals using industry-standard methodology, at least for simple consent applications. • We support having standard consent conditions to draw from as appropriate.
Enabling more effective dispute resolution and participation, for example: • reviewing the role and processes of the Environment Court and appeal rights in planning and consenting processes • simplifying formal first instance processes such as Board of Inquiry, direct referral to Environment Court, and Freshwater Commissioners • use of inquisitional rather than adversarial proceedings in forums • effective support for iwi, hapū and Māori participation	•
Measures to speed up the delivery of infrastructure, for example: • removing statutory hurdles to designations and consents • classifying specified infrastructure as a 'controlled' activity (eg for climate change mitigation and adaptation, to comply with health and safety requirements) • streamlining the Public Works Act objections process and designations appeal processes • alternative funding mechanisms for infrastructure (wider than development contributions)	•